

The Manager,  
A.C.M. Landmark Pty. Ltd.,  
P.O. Box 627,  
CESSNOCK. 2325

Contact: Mr. R. Forbes  
Our Ref: D.A. 8/2001/802/1  
Your Ref: C00170A.ML

Dear Sir/Madam,

**NOTICE OF DETERMINATION OF APPLICATION**

**Environmental Planning and Assessment Act, 1979 (as amended)**

Pursuant to Sections 80(3) and 81(1)(a) of the Environmental Planning and Assessment Act, 1979 (as amended) notice is hereby given of the determination by Cessnock City Council of **Development Application Number 8/2001/802/1**, for development on the subject land as described below. The application has been determined by :-

**GRANTING OF "DEFERRED COMMENCEMENT" CONSENT  
SUBJECT TO CONDITIONS**

as specified in SCHEDULE 1 & 2 of this Notice.

<b>Date of Determination:</b>	February 8, 2002
<b>Date from which Consent Operates:</b>	-
<b>Date from which Consent Lapses:</b>	-
<b>Description of Development:</b>	Road Transport Terminal, Bulk Store & Ancillary Offices
<b>Property Description:</b>	Lot 4, D.P.586741, Mitchell Avenue, Kurri Kurri
<b>Applicant:</b>	A.C.M. Landmark Pty. Ltd.
<b>Owner:</b>	Jukar Pty. Ltd.
<b>Building Code of Australia</b>	
<b>Building Classification:</b>	7 (Storage)

Your attention is directed to the provisions of Section 95 of the Environmental Planning and Assessment Act, 1979 (as amended). Should the development not be substantially commenced within five years of the date of determination of this approval, the approval will lapse and a further application will be required.

Should you consider any conditions of consent unreasonable or inappropriate you may apply to have them reviewed. Council provides an internal review process to consider objections to conditions of development approval. An application pursuant to Section 96 of the Environmental Planning & Assessment Act, 1979 (as amended) must be made accompanied by the prescribed fee in accordance with Council's current fees and charges. Applicants who are not satisfied with the results of an internal review may seek to have their conditions of consent reviewed by Councils **Planning Review Committee**.

If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act, 1979 (as amended) gives you the right of appeal to the Land and Environment Court within twelve (12) months from the date of determination.

### **SCHEDULE 1**

#### **TERMS OF "DEFERRED COMMENCEMENT" CONSENT (SECTION 80(3))**

##### **General**

1. The applicant shall provide a report prepared by a suitably Qualified engineer to include, but not limited to:-
  - (a) demonstrate that the proposed development will not increase the flood hazard or flood damage to other properties or adversely affect, flood behavior and will not adversely contribute to erosion and sedimentation in the catchment.
  - (b) detail a "Stormwater Management Plan" for the site, including provisions for the maintenance of site sedimentation control measures.
  - (c) demonstrate the provisions made within the development for the establishment and maintenance of "high hazard" floodway control measures in accordance with Table 6 – "Development Guidelines" – Floodplain Management Manual, N.S.W. Public Works Department (2000). Such control measures include:-
    - (i) details of the use of flood compatible building materials in portions of the development affected by floodwaters.
    - (ii) details of flood proofing to 0.5m above the applied flood level for electrical installations and the storage of hazardous materials such as paints, lubricants, hydraulic fluids and the like.
    - (iii) demonstration that any building or structure (including storage bins) can withstand the force of predicted flood water, including debris and buoyancy forces as appropriate.
    - (iv) Demonstration that permanent, fail-safe, maintenance-free measures are incorporated into the development to ensure the timely, orderly and safe evacuation of people and equipment from the development in the event of flooding.

- (v) Demonstration of the provisions for the drainage of the site where the required six (6) metre landscaped buffer zone, indicated as amendments in red on the approved plan(s), is included within any existing flow path(s).

In accordance with Section 95, Environmental Planning and Assessment Regulation (2000), the report is to provide evidence to the consent authority sufficient to enable it to be satisfied as to those matters specified above prior to the operation of the consent in accordance with the conditions specified under "Schedule 2".

Reason

*To ensure the development will not increase the flood hazard or flood damage to other properties or adversely affect flood behaviour.*

**SCHEDULE 2**

**TERMS OF CONSENT**

General

- 2. The erection of a building in accordance with a development consent shall **not** be commenced until:-
  - (a) detailed plans and specifications of the building have been endorsed with a **construction certificate** by:-
    - (i) the consent authority; or
    - (ii) an accredited certifier, and
  - (b) the person having the benefit of the development consent:-
    - (i) has **appointed a principal certifying authority**, and
    - (ii) has notified Council of the appointment, and
  - (c) the person having the benefit of the development consent has given at least 2 days notice to the Council of the persons intention to commence erection of the building.

Reason

*To ensure the applicant complies with the provision of the Environmental Planning and Assessment Act, 1979 (as amended).*

- 3. The development being undertaken strictly in accordance with the details set out on the application form, any information submitted with the application and the plans submitted, as amended in red by Council, or as modified by these further conditions.

**Note:** Any proposal to modify the terms or conditions of this consent, whilst still maintaining substantially the same development to that approved, will require the submission of a formal application under Section 96 of the Environmental Planning and Assessment Act 1979 for Council's consideration. If amendments to the design result in the development not remaining substantially the same as that approved by this consent, a new development Application will have to be submitted to Council.

Reason

*To confirm and clarify the terms of Council's approval.*

4. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Reason

*To ensure that the development, when constructed, will comply with the Environmental Planning and Assessment Act, 1979.*

5. The registered proprietors of the land shall comply with all requirements of the Hunter Water Corporation Ltd. The applicant shall submit to Council details of the Hunter Water Corporation's requirements together with a copy of the Corporation's Certificate of Compliance prior to release of the release of a Construction Certificate

Reason

*To ensure that adequate facilities are available for the disposal of sewage waste and to ensure observance of appropriate health standards.*

6. No portion of the premises shall be used for the display or sale of goods on a retail basis.

Reason

*To confirm the terms of consent.*

Access, Carparking and Loading Arrangements

7. All access crossings and driveways shall be maintained in good order for the life of the development.

Reason

*To ensure that a safe adequate all-weather access is available to the development*

8. No goods or advertising signs shall be displayed or allowed to stand on the public footpath or street.

Reason

*To avoid interference with pedestrian traffic flow and to protect the visual amenity of the neighbourhood.*

Landscaping

9. The landscape proposal for the site shall be modified, as shown on red upon the approved plan, to provide for increased width of six (6) metres adjacent to the site boundary, sufficient to accommodate suitable taller growing trees and/or screening shrubs.

Reason

*To ensure that site landscaping works include appropriate tree planting and screening adjacent to the said boundary in order to provide visual relief to the paved areas and increased privacy to adjacent premises.*

### Advertising Structures

10. No advertising structure shall be erected and no advertising sign or material shall be affixed or displayed on any building or land without the prior development approval of the Council. A separate application is to be made on the prescribed form.

#### Reason

*To ensure that the applicant is aware that Council approval is required prior to the erection of any advertising structure or display of any advertising sign.*

11. All vegetation cleared from the site is to be contained within the site unless otherwise approved by Council.

#### Reason

*To ensure noxious weeds identified on the site are not transferred.*

### Lighting and Advertising Material

12. Any proposed floodlighting of the premises shall be so positioned, directed and shielded so as not to interfere with traffic safety or detract from the amenity or project glare onto the adjacent premises.

#### Reason

*To ensure that the proposal does not interfere with traffic safety and to protect the existing amenity of the neighbourhood.*

13. No flashing, chasing or scintillating lighting or promotional material of a visually intrusive nature shall be installed or displayed on the exterior of the premises.

#### Reason

*To protect the existing amenity of the neighbourhood.*

### PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

#### General

14. The Applicant shall provide the Principle Certifying Authority with a certificate from a practising structural engineer, indicating that the proposed building or structure has been designed to comply with Australian Standard 1170, SAA Loading Code, *Minimum design loads on structures, Part 4: Earthquake Loads*.

#### Reason

*To ensure that the proposed building, when constructed, will comply with the relevant Australian Standards relating to Earthquake loads.*

15. The applicant shall provide the Principle Certifying Authority with the design and construction details for disabled access and facilities demonstrating compliance with the building Code of Australia and Australian Standard 1428 to be included with the application for a Construction Certificate.

#### Reason

*To ensure that provision is made for disabled persons using the building.*



Access, Carparking and Loading Arrangements

16. The Registered Proprietors of the land shall construct a bitumen sealed access crossing from the edge of the road formation to the property boundary. The construction of the access crossing shall be in accordance with Council's 'Engineering Requirements for Development' (available at Council's offices) and Australian Standard 2890.1 & 2 with respect to location, size and type of driveway. Full details shall be submitted with the application for a Construction Certificate.

**Note:** Construction shall be completed prior to the release of an Occupation Certificate.

Reason

*To ensure the provision of safe, adequately defined and properly constructed means of vehicular access from the road to the development.*

17. On-site car parking shall be provided for a minimum of fourteen (14) cars in accordance with Council's Car Parking Code.

**Note:** Construction shall be completed prior to the release of the Occupation Certificate.

Reason

*To ensure that adequate provision has been made for manoeuvring and parking of vehicles within the development or on the land, to meet the expected demand generated by the development.*

18. All driveways, access corridors and carparking areas are to be designed in accordance with AS2890.1 & 2 - Parking Facilities. The carparking areas shall be constructed with a base course of adequate depth to suit design traffic loadings with an all weather surface treatment, graded and drained in accordance with Council's 'Engineering Requirements for Development.'

- (a) Full details shall be provided with an application for a Construction Certificate for the driveways, access corridors and carparking areas.

**Note:** Construction shall be completed prior to the release of the Occupation Certificate.

Reason

*To ensure the orderly and efficient use of on-site parking facilities and ensure that adequate provision is made on-site for the loading and unloading of goods.*

19. 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.

Reason

*To ensure the orderly and efficient use of on-site parking facilities and that loading and unloading of vehicles does not interfere with the use of public footpaths and roadways.*

### Site Works

25. A construction management plan shall be submitted with the application for the Construction Certificate. The management plan shall include:
- (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 Requirements for Development", 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'.

#### Reason

To reduce the environmental impact on the site during the construction period.

### Landscaping

26. The landscape proposal for the site shall be modified to provide for supplementary taller growing trees and/or screening shrubs adjacent to the western site boundary. Full details shall be submitted to and approved by the Principle Certifying Authority prior to release of the Construction Certificate for the building/s.

#### Reason

*To ensure that site landscaping works include appropriate tree planting and screening adjacent to the said boundary in order to provide visual relief to the paved 5 areas and increased privacy to adjacent premises.*

## DURING CONSTRUCTION

### General

27. If the excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:-
- (a) must preserve and protect the building from damage, and
  - (b) if necessary, must underpin and support the building in an approved manner, and

- (c) 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.

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 clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, **allotment of land** includes a public road and any other public place.

Reason

*To ensure that the development, when constructed, will comply with the Environmental Planning and Assessment Act, 1979.*

28. If the work involved in the erection or demolition of a building:-

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

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

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

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

Reason

*To ensure that the development, when constructed, will comply with the Environmental Planning and Assessment Act, 1979.*

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

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

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

This clause does not apply to:

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



Reason

*To ensure that the development, when constructed, will comply with the Environmental Planning and Assessment Act, 1979.*

30. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- (a) must be a standard flushing toilet, and
- (b) must be connected:
  - (i) to a public sewer, or
  - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
  - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

Reason

*To ensure that the development, when constructed, will comply with the Environmental Planning and Assessment Act, 1979.*

31. A container of at least one (1) cubic metre capacity shall be provided and maintained from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste.

Reason

*To ensure that waste generated by the building works is contained and does not pollute the surrounding environment.*

32. All building materials, plant and equipment is 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.

Reason

*To ensure pedestrian and vehicular access is not restricted in public places.*

33. The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. Council and other service authorities should be contacted for specific requirements prior to commencement of any works.

Reason

*To ensure that any required alterations to utility infrastructure are undertaken to acceptable standards at the developer's cost.*

### Design Considerations/Building Setbacks

34. The floor level of the proposed buildings shall be certified by a registered surveyor as being not less than the 100 year Average Recurrence Interval (ARI) flood level of RL 12.5m Australian Height Datum (AHD). The evidence shall be submitted to the Principle Certifying Authority prior to pouring the slab of the proposed development and provided with the application for a Compliance Certificate.

#### Reason

*To minimise the extent of property damage and the risk of injury in the event of flooding of the site.*

### Site Works

35. The control of erosion and the prevention of silt discharge into drainage systems and waterways will be necessary in accordance with Council's "Engineering Requirements for Development", 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'. 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.

#### Reason

*To ensure protection of the environment by minimising erosion and sediment.*

### PRIOR TO OCCUPATION

#### General

36. Occupation or use of premises for the purposes approved by this consent shall not commence until all conditions of this consent have been complied with and a Compliance Certificate has been issued to the Consent Authority for all works and conditions prior to occupation of the premises.

#### Reason

*To ensure compliance with the provisions of the Environmental Planning and Assessment Act, 1979, and Council's terms of consent*

#### Fire Safety

37. Bollards/approved barriers shall be provided adjacent to egress doors and paths of travel that are likely to be obstructed by vehicles, plant or equipment associated with the use of the premises.

#### Reason

*To provide the occupants with a safe passage from the building.*

### Access, Carparking and Loading Arrangements

38. All redundant vehicular accesses shall be removed and the footpath, road shoulders and kerb and gutter, where applicable, restored to match existing conditions at no cost to Council prior to use of the building or issue of an Occupation Certificate for the building.

Reason

*To ensure that vehicular access to the development occurs efficiently and safely in accordance with approved plans and unnecessary accesses are restored at no cost to Council.*

39. Vehicle washdown bays shall be connected to the sewer of the Hunter Water Corporation in accordance with their requirements. Evidence that such connection complies with the Corporation's requirements is to be submitted to Council prior to the Occupation Certificate being issued.

Reason

*To protect the quality of waterways and the environment by ensuring that waste water is discharged in accordance with recognised requirements.*

40. Proposed parking areas, service bays, truck docks, driveways and turning areas shall be maintained clear of obstructions and be used exclusively for purposes of car parking, loading/unloading, and vehicle access respectively for the life of the development. Under no circumstances are such areas to be used for the storage of goods or waste materials.

Reason

*To ensure that the proposed/required parking, loading/unloading facilities and associated driveways are able to function efficiently for their intended purposes.*

**POST OCCUPATION OPERATIONAL REQUIREMENTS**

**Access, Carparking and Loading Arrangements**

41. The vehicular entrance and exit driveways and the direction of traffic movement within the site shall be clearly indicated by means of reflectorised signs and pavement markings for the life of the development.

Reason

*To ensure that clear direction is provided to the drivers of vehicles entering and leaving the premises in order to facilitate the orderly and efficient use of on-site parking spaces and driveway access and in the interest of traffic safety and convenience.*

42. Any vehicle or plant owned or operated by the occupants of the premises in connection with the conduct of their business shall be parked within the confines of the site in spaces designated on the submitted plans, or otherwise provided in accordance with the conditions of this consent.

Reason

*To ensure that the proposed development does not give rise to the parking of commercial vehicles within the adjacent public road with consequent reduction in road efficiency and increased accident potential.*

43. The landscaped areas shall be kept free of parked vehicles, stored goods, garbage or waste material and be permanently maintained for the life of the development.

Reason

*To ensure that the proposed/required site landscaping works are conserved and properly maintained so as to enhance the overall appearance of the premises and add to the landscape quality of the locality.*

Noise Control

44. Following commencement of occupation, the premises shall operate or trade only between the times stated as follows:-

Mondays to Fridays	6.30a.m.	to	5.00p.m.
Saturdays	6.30a.m.	to	1.00p.m.
Sundays & Public Holidays	No Operation		

Reason

*To ensure that the environmental quality of adjoining land is not adversely affected, such as by the generation of excessive noise levels outside ordinary business hours.*

45. Any proposed mechanical ventilation and/or air conditioning systems, or other mechanical services, shall be operated in a manner which does not give rise to "offensive noise", as defined under the Protection of the Environment Operations Act, 1997, as amended.

Reason

*To ensure compliance with the provisions of the Protection of the Environment Operations Act, 1997, as amended, and to protect the existing amenity of the neighbourhood.*

46. There being no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise" or vibration as a result of the proposed development.

Reason

*To prevent environmental pollution, to ensure observance of appropriate public health standards and to protect the existing amenity of the neighbourhood.*

Site Management

47. Any liquid wastes from the premises, other than stormwater, shall be discharged to the sewers of the Hunter Water Corporation Ltd. in accordance with that authority's requirements.

Reason

*To prevent environmental pollution and to ensure observance of appropriate public health standards.*

48. Any washing, degreasing or steam cleaning of vehicles, plant, engines, mechanical equipment or parts shall be carried out within the proposed workshop or otherwise within the vehicle washdown bay and such activity under no circumstances be carried out elsewhere on site.

Reason

*To ensure that any washing or degreasing of vehicles or mechanical parts takes place within a properly constructed and drained facility and does not give rise to environmental pollution.*

49. Under no circumstances shall hazardous or offensive chemicals or materials be stored externally and/or in a location subject to stormwater inundation.

Reason

*To confirm the terms of consent, to prevent environmental pollution and to ensure observance of appropriate public health and safety standards.*

50. Safe storage and handling information cards for hazardous materials shall be prominently displayed near any hazardous or offensive chemical which may be stored on or within the premises.

Reason

*To assist in the safe storage and handling of hazardous materials in the public interest.*

51. A current hard copy inventory of the contents of the proposed flammable liquids store shall be kept in an appropriate secure area (eg. office).

Reason

*To assist staff and emergency services personnel in the event of accident or emergency.*

**ADVICE**

1. The applicant is advised that assessment and approval of this application by Council does not guarantee that the development will comply with the provisions of the Federal *Disability Discrimination Act*. The applicant should ensure that investigations are carried out to determine liability under this Act.

Australian Standard 1428 Parts 1, 2, 3, 4 - Design for Access and Mobility is a comprehensive guide on disability access.

2. Where the Consent Authority is Principle Certifying Authority, the specifications and plans accompanying the Application for a Construction Certificate for this development are to demonstrate compliance with the Building Code of Australia in the following areas:-
- i. Swinging Doors (D2.20)
  - ii. Operation of Latch (D2.21)
  - iii. Disabled Carparking (D3.5)
  - iv. Hydrants (E1.3)
  - v. Hose Reels (E1.4)
  - vi. Construction of Sanitary Compartments (F2.5)
  - vii. A list of fire safety measures that are proposed to be implemented in the building, and the standard of performance to which they are applicable.
3. Where Council is the Principal Certifying Authority, the applicant shall pay engineering site supervision fees in accordance with Council's current fees and charges with the application for a Construction Certificate for the site. Initially, one (1) site visit only is expected for the proposal, however should further inspections become necessary as a result of incomplete works, then those site supervision fees will be separately invoiced. Council's current engineering site supervision fee is \$165.00.



Reason

*To ensure that the developer meets all costs associated with the inspection of necessary works associated with the development.*

If you have any further enquiries regarding this approval, please contact Council's Corporate & Regulatory Services Department on (02) 4993 4300.

Yours faithfully,

R.I. FORBES,  
For CESSNOCK CITY COUNCIL

February 6, 2002  
3-15.mh