



Mrs C A Johnston
CARE Henly Cox Urban Design Solutions
7 North St
TERALBA NSW 2284

Contact: Mr N F Greenhalgh
Our Ref: DA 8/2009/348/1
Your Ref: DA Factory

Dear Mrs Johnston

**NOTICE OF DETERMINATION OF APPLICATION
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)**

Pursuant to Section 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 8/2009/348/1**, for development on the subject land as described below. The application has been determined by :-

GRANTING OF CONSENT SUBJECT TO CONDITIONS

as specified in **SCHEDULE 1** of this Notice.

Date of Determination:	26/10/2009
Date from which Consent Operates:	26/10/2009
Date from which Consent Lapses:	26/10/2014
Description of Development:	Industrial Workshop Staged Development comprising:- <u>Stage 1</u> - Erection 735m ² Industrial Building, Attached Office and Amenities Building, Fifteen (15) Carparking Spaces and Three (3) Banner Signs <u>Stage 2</u> - Erection 299m ² Attached Industrial Building.

Property Description: LOT: 1 DP: 1128108 1 Styles Street KURRI
KURRI

Zoning: 1(a) / PART 4(a) / PART 6(a)

Applicant: Mrs C A Johnston

Owner: Mrs C A Johnston

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 Council's **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

CONDITIONS OF CONSENT STAGE 1 AND STAGE 2

TERMS OF CONSENT

General

1. For the purposes of describing the staged development the following stages will apply;-

Stage 1 - Erection 735m² Industrial Building, Attached Office and Amenities Building, Fifteen (15) Carparking Spaces and Three (3) Banner Signs

Stage 2 - Erection 299m² Attached Industrial Building.

Reason

To clarify works proposed for the individual stages of the development as required under the provisions of the Environmental Planning and Assessment Act 1979.

2. The erection of a building in accordance with this development consent shall **not** be commenced until:-
- (a) detailed plans and specifications of the building verifying compliance with the Building Code of Australia have been endorsed with a **construction certificate** by:-
 - (i) the Cessnock City Council; or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:-
 - (i) has **appointed a principal certifying authority**, (being Cessnock City Council or an accredited certifier) 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 their intention to commence erection of the building.

Reason

To clarify and advise the applicant that a Construction Certificate must be issued prior to works commencing as required by 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. Prior to commencement of any works within the road reserve for the provision of services, the applicant or their nominated contractor shall obtain a road opening permit from Council's Roads, Bridges and Drainage Section. Reinstatement of the road shall be to the satisfaction of Council's Roads, Bridges and Drainage Manager prior to the issue of an Occupation / Subdivision Certificate.

Reason

To ensure the public road and footpath facilities are reinstated to an appropriate standard as a result of additional requirements of the development.

5. The registered proprietors of the land shall comply with all requirements of the Hunter Water Corporation Ltd.

Reason

To ensure adequate disposal of waste water.

Access, Carparking and Loading Arrangements

6. 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.

Landscaping

7. Landscaping works shall be carried out in accordance with the details indicated on the submitted landscape design plan, except as required to be modified under the terms of this consent.

Reason

To ensure that adequate and appropriate provision is made for landscaping of the site in association with the proposed development, to enhance the external appearance of the premises and to contribute to the overall landscape quality of the locality.

Lighting and Advertising Material

8. 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.

9. 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

Design Considerations/Building Setbacks

10. Lighting of the development shall not project glare onto adjoining properties or roadways. Full details of the lighting illustrating compliance with this requirement shall be submitted to and approved by Council prior to release of the Construction Certificate for the building/s.

Reason

To ensure that lighting of the land does not adversely affect the environmental quality of adjoining land nor create a hazard to motorists.

11. The proposed building/s shall be provided with access and facilities for the disabled in accordance with AS 1428.1. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate for the building/s.

Reason

To ensure there is adequate access and facilities for the disabled.

Building Construction

12. Plans showing the extent of excavation and/or filling together with details of the method of retaining, draining and stabilising the disturbed areas shall be submitted to and approved by the PCA prior to issue of the Construction Certificate.

Reason

To determine that satisfactory arrangements have been made to reduce environmental and building damage.

13. The excavation/fill is to be retained by a retaining wall designed by a Practising Structural Engineer. The structural engineer's design shall be submitted to and approved by the PCA prior to issue of the Construction Certificate.

Reason

To ensure adequate provision is made to retain excavations and fill.

Access, Carparking and Loading Arrangements

14. The Registered Proprietors shall construct a reinforced concrete access crossings in Styles Street and Mitchell Avenue from the kerb and gutter to the property boundary, including a layback in the kerb, 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 to and approved by Council prior to release of the s138 Roads Act 1993 approval for works within the existing road reserve.

Reason

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

15. The registered proprietor of the land shall construct the following works along the property frontage in accordance with Council's 'Engineering Requirements for Development'. The design is to be submitted on a set of plans, four (4) copies of which shall be submitted to and approved by the Council prior to release of the S138 Roads Act 1993 approval for works within the road reserve.
- i) Construct concrete kerb and gutter.
 - ii) Construct and gravel road shoulders.
 - iii) Place 2 coat bitumen seal on road shoulders.
 - iv) Form/topdress/grass seed footpath.
 - v) Construct drainage works where necessary.

Reason

To ensure that adequate provision is made for vehicular and pedestrian movements to meet expected demand generated by the development, in accordance with current Council

16. On-site car parking shall be provided for a minimum of fifteen (15) vehicles and such being set out generally in accordance with Council's DCP. Full details shall be submitted to and approved by the PCA prior to release of the Construction Certificate for the building.

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

17. All driveways, access corridors and carparking areas are to be designed in accordance with AS2890.1 & 2 - Parking Facilities. The carparking areas, including the manoeuvring areas for the largest vehicles expected to enter the industrial buildings, shall be constructed with a base course of adequate depth to suit design traffic loadings with a sealed surface treatment or with reinforced concrete, graded and drained in accordance with Council's 'Engineering Requirements for Development'.

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.

Drainage and Flooding

18. 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. Full details shall be submitted to and approved by the PCA prior to release of the Construction Certificate for the building/s.

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.

19. Any alterations to existing surface levels on the site shall be undertaken in such a manner as to ensure that no additional surface water is drained onto or impounded on adjoining properties. Full details of existing and proposed surface levels shall be submitted to and approved by the PCA prior to release of the Construction Certificate for the building/s.

Reason

To ensure that such alterations to surface levels do not disrupt existing stormwater flows in the vicinity.

20. The registered proprietor of the land 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 of on-site storage and the method of controlled release from the site and connection to an approved drainage system in accordance with Council's 'Engineering Requirements for Development'.

The detailed plans, specifications and copies of the calculations, including existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development prepared by an engineer suitably qualified and experienced in the field of hydrology and hydraulics. Full details shall be submitted to and approved by the PCA prior to release of the Construction Certificate

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

Reason

To ensure that the development is adequately drained and will not increase the flood hazard or flood damage to other properties or adversely affect flood behaviour.

Site Works

21. 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.

Environmental Controls

22. Prior to the issue of the Construction Certificate the beneficiary of the consent shall comply with all recommendations listed being 1 to 9 as detailed in Reverb Acoustics Noise and vibration consultants Noise Impact Assessment Report dated October 2008. Details shall be provided with the Construction Certificate application which demonstrate full compliance with items 1 to 9 of the said report.

Reason

To ensure that the use and operation of the factory does not adversely impact on the amenity of the surrounding residential and industrial/commercial occupancies by way of noise.

DURING CONSTRUCTION

General

23. 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.

24. If the soil conditions require it:-
- a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
 - b) adequate provision must be made for drainage.

Reason

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

25. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, however must be removed when the work has been completed.

Reason

This is a prescribed condition under Section 80A(11) of the Environmental Planning and Assessment Act, 1979.

26. Toilet facilities are to be provided prior to works commencing, 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 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.

Reasons

To ensure that suitable and environmentally sustainable toilet facilities are provided for all persons employed or visiting the site. To ensure that the development, when constructed, will comply with the Environmental Planning and Assessment Act, 1979.

27. Construction, demolition and associated work shall be carried out only between the times stated as follows:-

Mondays to Fridays	7.00a.m. to 6.00p.m.
Saturdays	8.00a.m. to 1.00p.m.
Sundays & Public Holidays	No construction work to take place.

Reason

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

28. 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.

29. 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.

30. 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.

Building Construction

31. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

Reason

To ensure that all excavations on the site are maintained in a safe condition.

Site Works

32. 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.

Scheduling of Inspections

33. The applicant is to advise Council at least 48 hours prior to commencement of any construction works within the existing road reserve approved under s138 of the Roads Act 1993, together with the approved contractor's name and address.

Reason

To enable orderly scheduling of inspections

Site Management

34. 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", 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.

Reason

To ensure protection of the environment by minimising water pollution, erosion and sedimentation.

35. No obstruction is to be caused to Council's footpaths, roads and/or other public area 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.

Reason

To ensure that construction activity does not interfere with the orderly use of public footpaths, roads or places, or Council owned property.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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 the Occupation Certificate has been issued.

Reason

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

Environmental Controls – Noise controls

37. Prior to the issue of any occupation certificate the beneficiary of the consent shall provide certification to the Principle Certifying Authority verifying the control measures outlined in report Noise Impact Assessment prepared by Reverb Acoustics date October 2008 have been incorporated in the stages 1 and 2 of the development..

Reason

To ensure required noise control measure are implemented to mitigate any potential impact of the amenity of surrounding occupancies.

Drainage and Flooding

38. The registered proprietor of the land shall submit a report and a works-as-executed (WAE) drawing of the stormwater detention basin(s) and stormwater drainage system. The WAE drawings shall be prepared by a registered surveyor and shall indicate the following as applicable:

- * invert levels of tanks, pits, pipes and orifice plates
- * surface levels of pits and surrounding ground levels
- * levels of spillways and surrounding kerb
- * floor levels of buildings, including garages
- * top of kerb levels at the front of the lot
- * dimensions of stormwater basins and extent of inundation
- * calculation of actual detention storage volume provided

The plan shall be accompanied by a report from the designer stating the conformance or otherwise of the as constructed basins in relation to the approved design.

39. The WAE plan and report shall be submitted to and approved by the PCA prior to Occupation Certificate.

Reason

To ensure the stormwater detention system has been constructed in accordance with the design plans.

40. The registered proprietor of the land shall prepare a Plan of Management for the on-site stormwater detention facilities within the development. The Plan of Management shall set out all design and operational parameters for the detention facilities including design levels, hydrology and hydraulics, inspection and maintenance requirements and time intervals for such inspection and maintenance. The plan shall be submitted to and approved by the PCA for approval prior to the issue of an Occupation Certificate.

Reason

To ensure the on-going maintenance and operation of the on-site stormwater detention facilities in accordance with the approved design.

Fees, Development Contributions, Monetary Bonds, Dedication of Land

41. The registered proprietors of the whole of the land shall, prior to endorsement and release of the Occupation Certificate at their costs and expense, enter a positive covenant over all of the land comprised in the development providing as follows:-

- a) *Covenanting with the Council (the prescribed Authority) to at all times at their costs maintain, repair and keep the on-site stormwater detention facilities in a good and safe condition and state of repair in accordance with the approved design to the reasonable satisfaction at all times of the said Council having due regard to the Plan of Management for the operation and maintenance of the on-site stormwater detention facilities in accordance with Condition No (16), and*
- b) *Providing that the liability under the said Covenant will jointly and severally bind the registered proprietors of the proposed development, and*
- c) *Providing that the Cessnock City Council (the prescribed Authority) will be the person entitled to release or modify the Covenant.*

All costs associated with the Covenant, including any legal costs payable by Council, are to be paid by the owner on whose behalf the applicant has lodged the application.

Reason

To ensure that on-site stormwater detention facilities are maintained to an appropriate standard.

Noise Control

42. The use and occupation of the site including construction plant and equipment installed thereon, shall not give rise to any offensive noise or vibration within the meaning of the Protection of the Environment Operations Act, 1997.

Reason

To ensure that the environmental quality of adjoining land is not adversely affected by the generation of excessive noise levels.

43. 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.

44. 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.

45. Appropriate acoustic treatment shall be implemented in accordance with the recommendations set out in the report prepared by Reverb Acoustics dated October 2008.

Written certification from the said consultant confirming that the recommended acoustic treatment has been implemented in accordance with the requirements is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Reason

To ensure that appropriate noise control measures are implemented in order to protect the amenity of the neighbourhood.

POST OCCUPATION OPERATIONAL REQUIREMENTS

Environmental Controls - Air quality

46. Within 6 months from the commissioning of each individual furnace, air quality emission monitoring shall be carried out on each stack source during normal operations. The monitoring shall provide data on all emissions nominated in the Air quality impact assessment prepared by ENSR Australia Pty Ltd dated 20 October 2008 document number N4086601_AQIA_RPT_Oct2008.
47. The report shall note the level of emission and where levels exceed recommend emission levels reference in the above-mentioned report, shall include recommendations on what measures are to be applied to bring the emission into compliance with referenced emission standards.

Reason

To ensure the proposed development operates consistent with the proposed air quality outlined in ENSR Australia Pty Ltd dated 20 October 2008 document number N4086601_AQIA_RPT_Oct2008 so as to ensure and maintain public health and safety.

Environmental Controls - Air quality

48. Where post commissioning air quality monitoring identifies required modifications the recommended works/actions shall be implemented within 90 days from the date of the monitoring report.

Reason

To ensure the proposed development operates consistent with the proposed air quality outlined in ENSR Australia Pty Ltd dated 20 October 2008 document number N4086601_AQIA_RPT_Oct2008 so as to ensure and maintain public health and safety.

ADVICE

1. The applicant shall lodge payment of fees and contributions as follows:-

Based on a road length of approximately 40 metres. Final bond amounts will be levied on accurate dimensions contained within the engineering plans.

- (i) Road fees - engineering plan checking and supervision of \$909.00.
- (ii) A performance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (transferable).
- (iii) A road maintenance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater (refundable).

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. If no contract price is submitted, Council will estimate the value of construction works.

The fees and bonds shall be payable prior to release of the s138 Roads Act 1993 approval and shall be in accordance with Council's adopted fees and charges current at the time of payment.

Reason

To meet costs associated with the approval of engineering plans and inspection of construction works.

2. If Council is the PCA then the applicant shall pay Detention Basin(s) engineering checking and site supervision fees in accordance with Council's adopted fees and charges prior to release of a Construction Certificate for the site. Council's current fee is \$738.00 per basin for basins less than 50m³. Final fee amounts will be levied on accurate dimensions contained within the engineering plans and in accordance with Council's adopted fees and charges current at the time of payment.

Reason

To ensure that the developer meets all costs associated with the approval of engineering plans and the inspection of detention basin works associated with the development.

If you have any further enquiries regarding this approval, please contact Council's City Planning Department on (02) 4993 4100.

Yours faithfully

A large, bold, red stamp with the word 'COPY' in a stylized, slightly irregular font. The letters are thick and have a slight shadow effect.

N F GREENHALGH
For CESSNOCK CITY COUNCIL

26 October 2009

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