






INNER WEST

DEVELOPMENT ASSESSMENT REPORT

| | |
|---|---|
| Application No. | DA/2021/0404 |
| Address | Australia Street NEWTOWN NSW 2042 |
| Proposal | Newtown Community Markets in Newtown Square - 10 stalls for a period of 5-years on Saturday and Sunday. Trading 10:00am to 4:00pm and 10:00am to 7:00pm during Daylight Saving. |
| Date of Lodgement | 25 May 2021 |
| Applicant | Napa Enterprises Pty Ltd |
| Owner | Inner West Council |
| Number of Submissions | Five (5) |
| Value of works | \$2,000.00 |
| Reason for determination at Planning Panel | Conflict of interest – Council is the landowner on which the markets are to take place |
| Main Issues | Compliance with clause 2.8 of the MLEP 2011 |
| Recommendation | Approved with Conditions |
| Attachment A | Recommended conditions of consent |
| Attachment B | Plans of proposed development |



LOCALITY MAP

| | | | | |
|---------------|---|------------|---|---|
| Subject Site |  | Objectors |  |  |
| Notified Area |  | Supporters |  | |

Note: Due to scale of map, not all objectors could be shown.

1. Executive Summary

This report is an assessment of the application submitted to Council for Newtown Community Markets in Newtown Square for 10 stalls for a period of 5-years on Saturday and Sunday. Trading 10:00am to 4:00pm and 10:00am to 7:00pm during Daylight Saving at Australia Street NEWTOWN NSW 2042. The application was notified to surrounding properties and 5 submissions were received in response to the notification.

The main issues that have arisen from the application include:

- Compliance with clause 2.8 of the MELP 2011 – The markets seek to operate more frequently than the maximum 52 days permitted under the temporary land use conditions. A conditioning limiting operation to 52 days within 12 months is recommended for the consent.

The non-compliances are acceptable, subject to conditions and therefore the application is recommended for approval.

2. Proposal

The current application seeks approval for a 5-year consent to operate the Newtown Community Markets in Newtown Square. The proposed markets are to accommodate a maximum of 10 stalls and trade between 10:00am to 4:00pm and 10:00am to 7:00pm during Daylight Savings. The applicant has outlined that there will be no food sold at the proposed markets and that each stall holder is to be responsible for their own displays.

3. Site Description

The site is known as “Newtown Square” and is located on a closed part of Bedford Street that is bounded by Bedford Street to the west, buildings at 1-13 Bedford Street to the north, Australia Street to the north east and the King Street and Enmore Road intersection to the south. The subject site is a public square which contains street furniture including seating, bicycle stands and landscaping.

Newtown Square is surrounded by commercial and retail development along Enmore Road and King Street and is situated between the Enmore Road and King Street shopping strips, with Newtown Station situated opposite the site, approximately 30 metres to the south east of the King Street and Enmore Road intersection. More broadly, the following can be found in the surrounding area:

- The former Newtown Town Hall abuts Newtown Square to the north;
- The Newtown Neighbourhood Centre abuts Newtown Square to the north east;
- The Newtown Police Station and Local Court situated 60 metres to the north of Newtown Square; and
- The Newtown Fire Station situated 100 metres to the north of Newtown Square.

The Newtown Town Hall is a part-Victorian/part-Federation building currently used by the Newtown Neighbourhood Centre and the Beach Burrito Company Restaurant. The Hub Theatre is an Inter-War building in the Moderne style and is not currently operating. 327 King Street a Victorian Bank building now functioning as a Medical Centre. All these buildings are Heritage Items under the MLEP 2011. The site is within the HCA C2.



Figure 1 – Land Zoning

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

| Application | Proposal | Decision & Date |
|--------------------------|--|----------------------------|
| DA201100481 | Application to conduct a weekend community market at Newtown Square | Approved – 9 December 2011 |
| DA20130028 | Application to conduct a weekend community market at Newtown Square for a maximum of 52 days a year on either a Saturday or Sunday for a period of 5 years comprising a maximum of 50 stalls operating between 10.00am and 7.00pm. | Refused – 29 January 2013 |
| DA201300028 – 82A review | Section 82A of the Environmental Planning and Assessment Act 1979 (the Act), to review its decision to refuse DA201300028 to conduct a weekend community market at Newtown Square. | Approved – 15 October 2013 |

4(b) Application history

Not applicable.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 1.15 of the *Environmental Planning and Assessment Act 1979*.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy (Infrastructure) 2007*

The following provides further discussion of the relevant issues:

5(a)(i) *State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure 2007)*

Development with frontage to classified road (Clause 101)

The site has a frontage to Enmore Road, a classified road. Under Clause 101 (2) of *SEPP Infrastructure 2007*, the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development.

Vehicular access to the land is not proposed by this application and access by market stall holders to the site is proposed to be provided from Bedford Street which is a road other than the classified road. It is considered that a condition should be imposed on any consent granted for the proposal prohibiting any loading and unloading to be carried out from King Street or Enmore Road. The proposed development is not of a type that is sensitive to traffic noise or vehicle emissions. The application is considered acceptable with regard to Clause 101 of the *SEPP Infrastructure 2007*.

5(a)(ii) *Marrickville Local Environmental Plan 2011 (MELP 2011)*

The application was assessed against the following relevant clauses of the *Marrickville Local Environmental Plan 2011*:

- Clause 1.2 - Aims of Plan
- Clause 2.3 - Land Use Table and Zone Objectives
- Clause 2.8 – Temporary use of Land

(i) Clause 2.3 - Land Use Table and Zone Objectives

The area proposed to be used for the weekend community markets at Newtown Square is partly zoned B2 - Local Centre and partly zoned SP2 - Classified Road under the provisions of MELP 2011.

Under MELP 2011 a “market” is defined as follows:

Market means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis. **Note:** Markets are a type of **retail premises**.

Markets are permissible with Council's consent on land zoned B2 – Local Centre under the provisions of MLEP 2011. However markets are not permissible on land zoned SP2 – Classified Road under the provisions of MLEP 2011.

Notwithstanding the above, Clause 2.8 of MLEP 2011 contains provisions relating to the temporary use of land which are discussed under the heading below.

(ii) Temporary Use of Land (Clause 2.8)

Clause 2.8 of MLEP 2011 prescribes the following provisions relating to the temporary use of land:

- “(1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.*
- (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.*
- (3) Development consent must not be granted unless the consent authority is satisfied that:
 - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*
 - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*
 - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*
 - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.**
- (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.*
- (5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).”*

As subclause 2 states above, Council may grant consent for any development on the land including the proposed temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.

The application currently seeks approval to conduct a weekend community market at Newtown Square on Saturdays and Sundays each weekend. Such operation would exceed the maximum 52 days a year operation permitted under clause 2.8 above and as such is not supported. Instead a condition limiting the markets operation to a maximum of 52 days a year, with the markets only permitted to operate on either a Saturday or Sunday for a period of 5 years, is recommended for the consent.

Providing the markets are not conducted on more than 52 days in any period of 12 months the proposal would satisfy the requirements of Clause 28(2) of MLEP 2011.

The proposed temporary use is considered to satisfy the remaining matters for consideration under subclause (3) above in the following ways:

- a) the temporary use would not prejudice the subsequent carrying out of development on the land in accordance with MLEP 2011, and

- b) the temporary use would not adversely impact on any adjoining land or the amenity of the neighbourhood, and
- c) the temporary use and location of temporary stalls and other structures would not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
- d) at the end of each market day, the land will be restored to the condition in which it was before the commencement of the use.

Given the above, the proposed temporary use of the land is considered acceptable. Consequently, consent may be granted for the temporary use of the land for the proposed markets.

Heritage Conservation (Clause 5.10)

The subject land is not listed as a heritage item under MLEP 2011, but is located within the vicinity of a number of heritage items and is located within a heritage conservation area under MLEP 2011 (Heritage Conservation Area C2 - King Street and Enmore Road Heritage Conservation Area).

The proposed development seeks consent to erect small structures in the form of tables, display stands and marquees to be used as market stalls in Newtown Square. The application does not propose any building work or work associated with any of the heritage items nearby. The proposed structures are all situated a reasonable distance from any of the heritage items. Given the above, the proposal is considered acceptable on heritage grounds.

5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The amended provisions contained in the Draft IWLEP 2020 are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(d) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011.

| MDCP 2011 Part of MDCP 2011 | Compliance |
|--|-------------------|
| Part A.26- Plan of Management (PoM) | Yes |
| Part 2.3 – Site and Context Analysis | Yes |
| Part 2.5 – Equity of Access and Mobility | Yes |
| Part 2.8 – Social Impact | Yes |
| Part 2.9 – Community Safety | Yes |
| Part 2.21 – Site Facilities and Waste Management | Yes |

The following provides discussion of the relevant issues:

Hours of Use

The markets are proposed to operate between the hours of 10.00am to 4.00pm (7.00pm during daylight saving time) on Saturdays and Sundays with bump-in proposed to occur between the hours of 8.00am to 10:00am on those days and bump-out proposed to occur between the hours of 4.00pm to 7.00pm on those days (non daylight saving time). The applicant has not included details of proposed bump-out hours during daylight saving time.

The proposal to bump-in from 8.00am on Saturdays and Sundays is considered acceptable and is in accordance with the bump-in times approved in the previous determination. The bump-out period requested for non daylight saving time is in accordance with the bump-out times approved in the previous determination.

It is considered that the bump-out time during daylight saving time should be restricted to 8.00pm. A condition restricting the use to those hours should be imposed on any consent granted for the proposal.

Acoustic Impacts

The site is not directly adjoined by any sensitive residential land uses although a number of residential properties are situated within close proximity to the site along Bedford Street, Denison Street and Australia Street.

The application does not propose to provide any amplified music or live entertainment during the market operations. The location of the market itself is such that there would be limited potential for the operation of the markets to have any significant acoustic amenity impacts on nearby residential properties. Council's standard noise related conditions should be imposed on any consent granted.

The application indicates that the unloading (bump-in) would be managed by the market organisers through staggering the arrival of stallholders between 8.00am to 10:00am with the organisers meeting with stallholders at the Bedford Street entrance to the site. This is intended to ensure that the arrival of stallholders and unloading activities does not cause any significant amenity impacts on the residential properties in Bedford Street.

As part of any consent granted for the proposal, it is considered that a condition should be imposed requiring all loading and unloading to take place between the approved hours and in such a manner so as to not interfere with the amenity of the surrounding area.

Parking/Traffic Impacts

Given the site's proximity to alternate forms of transportation and the community focus of the markets, it is considered unlikely that the market itself would become a destination venue in its own right for visitors. Rather, it is envisaged that many patrons attending the markets would also attend other venues in the area including the many hotels, bars, entertainment venues, cafés, restaurants and the like.

Given the restricted availability of on-street car parking and the general on-street parking restrictions in the surrounding area, it is considered unlikely that many patrons would choose to travel to the venue by car. Furthermore, having regard to the types of goods to be offered for sale at the market stalls including art, craft, clothing, jewellery, books, CDs, DVDs, bric-a-brac and the like, it is unlikely that the use of vehicles would be required to transport purchased goods from the market stalls thereby reducing the need to travel to the markets by car.

Given all of the above, the proposal is considered acceptable on traffic and parking grounds.

Minimising Crime Risk

The structures and markets are proposed to be situated within a public square which is well exposed and illuminated by existing street lights in the vicinity of the site. The application was referred to the Police for comment and in response Newtown Police have outlined no objection to the proposal, subject to compliance with the provided plan of management.

The proposal is considered satisfactory having regard to surveillance, access control, territorial reinforcement and place management. Conditions relating to the comments from the Police are imposed in the recommended conditions of consent.

Location of Structures

In determining whether the location of the structures are appropriate, the proposed distance of the structure from public roads and property boundaries, the location of underground or overhead utilities and vehicular and pedestrian access need to be considered.

The temporary structures are proposed to be spread throughout the square in one (1) main location being:

- The area between the former Newtown Town Hall building and the site's boundary with Enmore Road; and

The structure locations are all accessible for pedestrian access and there are no known underground or overhead utilities within close enough proximity to be impacted by the proposed location of the structures. Vehicular access to the site is not currently available or proposed as part of this application.

The previous approvals have permitted the current location of the stall structures. These locations are considered acceptable as there is sufficient space within those areas to ensure that the erection of temporary structures would not interfere with pedestrian and emergency vehicle movements throughout the square. To ensure that the emergency vehicle access driveway remains clear at all times, a condition requiring the driveway and surrounding area to be kept clear at all times should be imposed on any consent granted.

The owners of The Hub have lodged a submission opposed to the proposed development. That submission reads (in part) as follows:

As one of the owners of 7-13 Bedford St, Newtown I oppose the application to hold Newtown Community Markets in front of my property.

We are currently in plans to reopen as a live entertainment venue/brewery and cocktail bar. As we expect a lot of foot traffic to enter the venue we feel the markets would be a hindrance to people trying to enter our property. In terms of fire safety, having market stalls outside our property would interfere with evacuation of patrons.

The current application does not propose to place stalls against the property known as The Hub and seeks to only place 1 stall in proximity to the building, with the remainder of the stalls located in front of the Newtown Town Hall. This placement of stalls is not expected to hinder pedestrian movements to The Hub. The current application seeks consent for 10 stalls and provides a significant expanse of open space for pedestrian movements throughout the square.

With regards to concerns about patron evacuation from The Hub, this matter has been reviewed by Council's Building Surveyor who outlined no objection to the placement of the markets and stated that:

egress from the Hub is not considered to be an impediment to the determination of the markets as the requirement for egress from a class 9b building is to a public open space and there is adequate room around the Hub for this to occur.

The proposed placement of stalls is considered to be acceptable and is recommended for support.

Heritage Impacts

- (a) *an item of environmental heritage that is listed on the State Heritage Register, or that is subject to an interim heritage order, under the Heritage Act 1977.*

The site does not contain any heritage items of state significance or any items that are the subject of an interim heritage order.

(b) a place, building, work, tree, relic or Aboriginal object that is described as an item of environmental heritage or as a heritage item in another environmental planning instrument.

The subject site is not listed as a heritage item under MLEP 2011. However, the subject site is situated within the vicinity of a number of heritage items including:

- No. 1 Bedford Street, Newtown known as the former “Newtown Town Hall” situated on the northern boundary of Newtown Square;
- No. 325 King Street, Newtown known as the “Former CBC Bank” building situated to the east of Newtown Square;
- No. 327 King Street, Newtown known as the “Former ANZ Bank” building situated to the east of Newtown Square; and
- No. 218 Australia Street, Newtown known as the “Courthouse and former Police Station” situated to the north of Newtown Square.

The heritage impacts of the proposal are discussed under the provisions of Marrickville Local Environmental Plan 2011.

(c) land identified as a heritage conservation area, an archaeological site or a place of Aboriginal heritage significance in another environmental planning instrument.

The subject site is located within the King Street and Enmore Road Heritage Conservation Area (Heritage Conservation Area C2) under Marrickville Local Environmental Plan 2011. The heritage impacts of the proposal are discussed under the provisions of Marrickville Local Environmental Plan 2011.

Duration which the Temporary Structures should be permitted to remain on the land

The temporary structures are proposed to be placed on the site on the morning of the markets and dismantled and removed by 6.00pm at the end of the same day (during non daylight saving time). As stated previously it is considered that a condition should be imposed on any consent granted restricting the bump-out time during daylight saving time to be carried out no later than 8.00pm. The duration for which the structures would be on the site is considered acceptable. However, to ensure the use of the square is available in a reasonable time after the markets, it is considered that appropriate conditions should be imposed on any consent granted for the proposal requiring the dismantling and removal of any structures and cleaning works to be completed with the Square being made available to Council by no later than 6.00pm on each day (non daylight savings time) and 8.00pm during daylight saving time.

Conditions required in relation to the removal of the structures

It is considered that suitable conditions should be imposed on any consent granted requiring the structures to be erected and dismantled in accordance with WorkCover requirements.

5(f) The suitability of the site for the development

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(g) Any submissions

The application was notified in accordance with Marrickville Development Control Plan 2011 for a period of 14 days to surrounding properties. Five (5) submissions were received in response to the initial notification. Of these five submissions, four were in support of the markets and one in objection. The matters raised in objection to the markets have been outlined and assessed above in the assessment section of this report.

5(h) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Building Certification – No objection subject to suitable conditions of consent, regarding public liability and management.
- Environmental Health - No objection subject to suitable conditions of consent.
- Resource Recovery - No objection subject to suitable conditions of consent.

6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

- NSW Police Force – No objection to the proposal, subject to compliance with the provided plan of management.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions/7.12 levies are not payable for the proposal.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Marrickville Local Environmental Plan 2011* and Marrickville Development Control Plan 2011.

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2021/0404 for Newtown Community Markets in Newtown Square for 10 stalls for a period of 5-years on Saturday and Sunday. Trading 10:00am to 4:00pm and 10:00am to 7:00pm during Daylight Saving. at Australia Street NEWTOWN NSW 2042 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

| Plan, Revision and Issue No. | Plan Name | Date Issued | Prepared by |
|------------------------------|------------------------------------|-------------|------------------|
| Drawing No. 1 | Site Plan | 21/5/2021 | Olive Designdraw |
| - | Plan of Management Newtown Markets | 21/5/2021 | Olive Designdraw |

As amended by the conditions of consent.

GENERAL CONDITIONS

2. Temporary Stalls

Prior to operating at the event, the Council must be provided with the completed Temporary Business Forms for each business operating at the event. The event organiser or nominated representative is responsible for submitting the completed Forms to Council twenty-one (21) days prior to the event.

Note: Temporary Business Form is available on Council's website.

3. Complaints Management

A complaints register shall be maintained and provided to Council Officers upon their request. The complaints register is to include (but not limited to):

- Contact details of all complainants
- Time and date the complaint is received
- Description of the complaint
- Description of the activities occurring which gave rise to the complaint
- Action taken to resolve the issue/complaint.

4. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

5. Lapsing of Consent

This development consent is limited to a period of five (5) years from the date that approval is obtained under Section 139 of the Roads Act 1993 to use Newtown Square for community markets. A new Development Application is required to be submitted and approved by Council for the continuation of the development approved by this development consent beyond the date specified in this condition. Such application should be made in the prescribed manner before the expiry of this development consent.

6. Frequency of Markets

The markets are only permitted to operate a maximum of fifty two (52) days in any period of 12 months. The market manager is responsible to keep a register of the days on which the markets are conducted with such register being maintained at all times and being made available for inspection upon request from a Council officer.

7. No food sales

The sale of food from the markets is prohibited no food is to be cooked or sold in the markets.

8. Loading

All loading and unloading in connection with the markets being carried out during the approved hours of operation and in such a manner as not to cause inconvenience to the public.

9. BCA and WorkCover

The installation and dismantling of temporary structures and stalls and use of equipment must be carried out in accordance with the provisions of the Building Code of Australia, relevant Australian Standards, manufactures specifications and the requirements of WorkCover.

10. Amplified Music or Live Entertainment

This consent does not authorise any amplified music or live entertainment during the market operations.

11. Terms of Approval

The person acting on this consent and/or the organisers of the markets shall comply with the following terms of approval:

- a) No vehicles, structures (including stalls and goods) or equipment are permitted in garden or mulched areas (plants/shrubs beds), along the emergency vehicle access driveway between King Street and Australia Street or along any common boundary with adjoining private properties;
- b) No excavation of any nature is permitted on the entire site; and
- c) No vehicles of any nature are permitted on the entire site.???????
- d) No injury being caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.
- e) A separate application is to be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures.
- f) The sale/service and consumption of alcohol is prohibited on the entire site. The person acting on this consent and/or the organisers of the markets should monitor market attendees to ensure that the alcohol is not being consumed on site. Any non compliance with the alcohol free zone should be reported to Newtown Police.

12. Terms of Approval 2

The person acting on this consent and/or the organisers of the markets shall comply with the following terms of approval:

- a) Any structures, stall fixtures, displays and products erected as part of the stalls along the kerb of King Street are not to obstruct the vision of emergency vehicles using the emergency driveway between Australia Street and King Street;
- b) All stall holders are encouraged to implement sound cash control measures to prevent theft including securing money out of reach of the public preferably in a 'bum bag' style pouch on their person;
- c) Valuable and desirable products should be either kept out of reach or appropriately secured to deter theft. The use of display boxes, etc should be considered to store valuable items;
- d) Stalls should not be left unattended at any time; and
- e) Pedestrian traffic shall not impede the flow of pedestrians throughout Newtown Square or at the traffic light controlled pedestrian crossing at the King Street and Enmore Road intersection.

- f) The person acting on this consent and/or the organisers of the markets being responsible to ensure that an adequate number of waste and recycling bins are provided for the markets and distributed in suitable and accessible locations throughout the Square. All waste and recycled materials being collected, sorted and stored in accordance with details submitted to Council with the application for development consent. The existing bins in the square are not to be used by stallholders at the markets.

ON-GOING

13. Waste Management

The Waste Management Plan, Newtown Markets, 21 May 2021 to be implemented. Market management to be responsible for ensuring the site is free of waste throughout the market day and at the conclusion of the market. Market management will be responsible for the cost associated with the collection and disposal of any waste generated from the market.

14. Noise General

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

15. Noise (7am – 12midnight)

The LA10 noise level emitted from the premises, measured between the hours of 7am and 12 midnight, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive) by more than 5 dB, when measured at the boundary of any adjoining residence.

16. Plan of Management - Operation

The operation of the premises complying at all times with the approved Plan of Management. The Plan of Management is not to be further amended without the prior written approval of the Council. If there is any inconsistency between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.

17. Hours of Operation

The markets and preparation works being restricted to the following days and hours:

- a) Deliveries and erection of infrastructure being carried out from 8.00am on Saturdays or Sundays;
- b) The hours of the markets during non daylight saving times being restricted to between the hours of 10.00am to 4.00pm Saturdays or Sundays. The markets must finish by 4.00pm with dismantling and removal of infrastructure to continue no later than 6.00pm on those days;
- c) All remaining dismantling, removal of infrastructure and cleaning of the square being completed by 6.00pm on Saturdays or Sundays during non daylight saving time with the Square being fully available, to Council's satisfaction, from 6.00pm on those days; and
- d) The hours of the markets during daylight saving times being restricted to between the hours of 10.00am to 7.00pm Saturdays or Sundays. The markets must finish by 7.00pm with dismantling and removal of infrastructure to continue no later than 8.00pm on those days;
- e) All remaining dismantling, removal of infrastructure and cleaning of the square being completed by 8.00pm on Saturdays or Sundays during daylight saving time with the Square being fully available, to Council's satisfaction, from 8.00pm on those days; and

- f) The organisers are to ensure that the approved hours are adequately advertised and adhered to at all times by all contractors, service providers and stallholders of the markets.

ADVISORY NOTES

Temporary Food Stalls

All temporary food stalls are to be operated and constructed in accordance with the following:

- a. *Food Act 2003*;
- b. *Food Regulation 2010*;
- c. Australia and New Zealand Food Standards Code; and
- d. NSW Food Authority Guidelines for Businesses at Temporary Events.

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Storage of Materials on public property

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent;
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

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 Environment Protection Authority Environmental Noise Control Manual.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Useful Contacts

| | |
|---|--|
| BASIX Information | 1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au |
| Department of Fair Trading | 13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance. |
| Dial Prior to You Dig | 1100 www.dialprior toyoudig.com.au |
| Landcom | 9841 8660 To purchase copies of Volume One of "Soils and Construction" |
| Long Service Payments Corporation | 131441 www.lspc.nsw.gov.au |
| NSW Food Authority | 1300 552 406 www.foodnotify.nsw.gov.au |
| NSW Government | www.nsw.gov.au/fibro www.diySAFE.nsw.gov.au Information on asbestos and safe work practices. |
| NSW Office of Environment and Heritage | 131 555 www.environment.nsw.gov.au |
| Sydney Water | 13 20 92 www.sydneypwater.com.au |
| Waste Service - SITA Environmental Solutions | 1300 651 116 www.wasteservice.nsw.gov.au |
| Water Efficiency Labelling and Standards (WELS) | www.waterrating.gov.au |
| WorkCover Authority of NSW | 13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal. |

Attachment B – Plans of proposed development

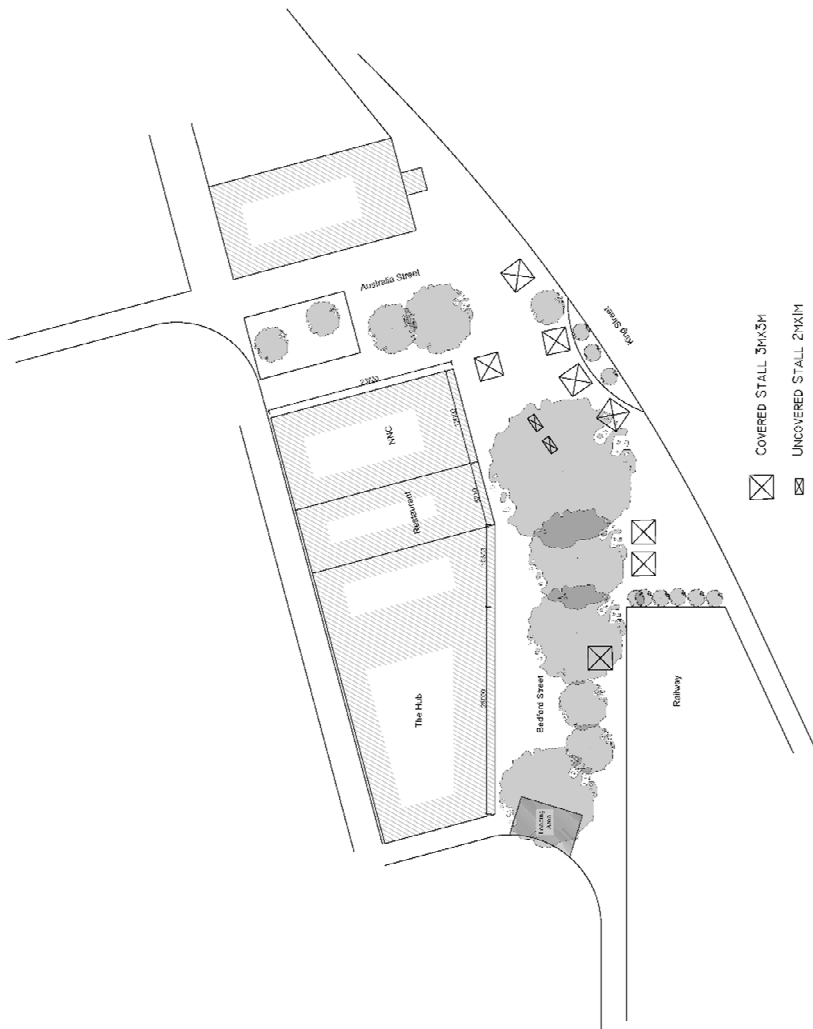
NEWTOWN MARKETS
NEWTOWN SQUARE

1 - SITE PLAN

Application to run a Street Market of up to ten (10) stalls every weekend for a period of 5-years. The proposal is for stalls to trade between the hours 10am to 4pm during AEST and 10am to 7pm during Daylight Saving.

Loading/Unloading

Market bump-in 8:00am-10:00am: stall-holders arrive at the loading area for stall set-up under the direction of the market site-manager.
Stall-holders park their vehicles in the unlimited parking zones located throughout the local precinct for the remainder of the market day.
Market bump-out 4:00pm-5:00pm or 7:00pm-8:00pm (depending on season): stall-holders pack up their stalls and load their vehicles at the loading area, under the direction of the market site-manager.



SITE PLAN

| | | | | | | | |
|--|---|-------------------------|----------------------------|---|----------------|-------------|-------------------------|
| | CLIENT: | DESIGNER: | PROJECT: | ALL BUILDING WORK TO BE DONE TO NATIONAL CONSTRUCTION CODE AND AUSTRALIAN STANDARDS. | DRAWING TITLE: | SCALE: | DATE: |
| | PANA MIYA LANA ENTERPRISES PTY (ACN) 611 241 111 | PETER OLIVE (Y ARCH) | NEWTOWN SQUARE, NEWTOWN | TO BE DONE IN ACCORDANCE WITH THE NATIONAL CONSTRUCTION CODE AND AUSTRALIAN STANDARDS. TO BE DONE IN ACCORDANCE WITH THE NATIONAL CONSTRUCTION CODE AND AUSTRALIAN STANDARDS. | SITE PLAN | 1:500 @ A3 | 2/05/21 |
| | | | | | | DRAWN BY: | REVISION: |
| | | | | | | G. LIU | FOR INFORMATION REQUEST |
| | | | | | | DRAWING NO: | 1 |