



Report of Development Application

Pursuant to Section 79C of the Environmental Planning and Assessment Act 1979

APPLICATION DETAILS

Type of Application	Development Application
Application No.	DA07/1097
Modification No.	N/A
Council File No.	D/2007/1097
Date of Lodgement	13/12/2007
Applicant	TRG Paragon Building Suite 37, 799 Springvale Road MULGRAVE VIC 3170 Ian Williamson
Proposal	Neighbourhood Shopping Centre
Description of Modification	N/A
BCA Classification	6
Development Cost	\$5255720
Other Approvals	Nil
Concurrence Required	Nil
Referrals	Internal Mayor and General Manager Manager Strategic Planning Manager Waste and Stormwater Services Manager Infrastructure Planning Manager Community Services Manager Economic Development Manager Airport and Property Management External Roads and Traffic Authority

Determination Body	Wagga Wagga Interim Joint Planning Panel
Reason	This report will be submitted to the Panel in accordance with State Environmental Planning Policy (Major Development) 2005 Clause 13 D which requires the panel to exercise planning functions of the Council as a consent authority under Part 4 of the Environmental Planning and Assessment Act for development relating to the following: - (1) This Part applies to the following development, if carried out in the area of Wagga Wagga City: (b) development that is for a purpose involving a landuse that is identified in a Landuse Guide in Chapter 6 of the <i>Wagga Wagga Development Control Plan 2005</i> as being a landuse that is generally not suitable in relation to the relevant subzone.
Meeting Date	4/5/2011
Assessment Officer:	Cameron Collins

SITE DETAILS

Subject Land	1 Bourkelands Dr BOURKELANDS NSW 2650 Lot 1 DP 1091164, Lot 10 DP 1017384, Part Lot 23 DP 1156563
Owner	LGM Investments Pty Ltd
Owner's Consent Provided	12/12/2007, 25/10/2010 and 2/11/2010
Location	At the intersection of Bourke Street and Bourkelands Drive, Bourkelands.

STATUTORY CLASSIFICATION

Pursuant to Part 4 (Division 1)

Environmental Planning Instrument	Wagga Wagga Local Environmental Plan 1985 Wagga Wagga Local Environmental Plan 2010
Zoning	Under the Wagga Wagga Local Environmental Plan, 1985 - part Business, part Residential and part Open Space. Under the Wagga Wagga Development

Control Plan, 2005 - part Business 3(b) Neighbourhood Business (Urban Living Area) and part Open Space 6(a) Recreation (Urban Living Area).

Under the Wagga Wagga Local Environmental Plan 2010 - part B1 Neighbourhood Business and part RE1 Public Recreation.

Land Use Definition

retail premises means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

business premises means a building or place at or on which:

(a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or

(b) a service is provided directly to members of the public on a regular basis,

and may include, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, medical centres, betting agencies and the like, but does not include sex services premises.

Statement of Permissibility

Permissible with Consent in the Business, Residential and Open Space zone under the Wagga Wagga LEP 1985.

Prohibited in the B1 and RE1 zones under the Wagga Wagga LEP 2010.

REPORT

PLANNING COMMENTS

Proposal Description

This application is for the development of a shopping centre with associated carparking and landscaping on the subject site. The development will include:

- A 1500 sq.m supermarket tenancy
- 5 smaller retail tenancies totalling 700 sq.m
- A carparking area containing 73 spaces with access to Bourkelands Drive.
- An access driveway from Bourkelands Drive for delivery vehicles serving a loading dock at the rear of the supermarket tenancy.
- Footpaths and landscaping.

The supermarket and retail tenancies will be located within a single building located at the eastern end of the site that will address both Bourkelands Drive and the proposed carparking area to the west. The building will have a zero building line to Bourkelands Drive, with 2 of the tenancies being provided with a shopfront to this street. The supermarket will be accessible from the carpark area via a small internal mall. The remaining 3 tenancies will be provided with a shop front to the proposed carpark.

The loading dock for the supermarket and a central refuse area for the centre will be located along the eastern elevation of the building and away from Bourkelands Drive. These areas will be accessed via a one way driveway (for delivery/service vehicles only) with access from Bourkelands Drive (opposite the Illeura Road intersection) and egress via the proposed carpark driveway.

The building will be single storey construction with the exception of the south eastern corner which will contain the mezzanine floor in the supermarket (containing offices and staff amenities). This 2 storey section will contain a pitched colorbond roof which will reflect a smaller entry turret (with pitched colorbond roof) located at the western end of the building.

The building will be constructed with concrete panel walls and parapet. The main roof (behind the parapet) will be sheeted with zincalume metal decking. Walls will be finished with a textured paint finish.

A verandah with pitched canopies and colorbond roofing will be provided to the street and carparking elevations. The section of the verandah fronting Bourkelands Drive will encroach across the boundary line to provide a protective awning over the footpath.

The building will measure approximately 55 metres in width and 50 metres in depth. The bulk of the building will stand 5.5 metres high (top of parapet) with the 2 storey section in the south eastern corner having a height of approximately 9 metres to the cap of the pitched roof.

Signage zones have been provided for all tenancies and for the identification of the centre. No other free standing signage has been proposed as part of this application

The carparking area will be located at the western end of the site and will be accessible from Bourkelands Drive via a single entry/exit driveway. The carparking area will provide spaces for 73 vehicles and comprises a simple design that will aid internal circulation.

Footpaths will be constructed in Bourkelands Drive and around the perimeter to provide for pedestrian access and to link into existing pedestrian facilities.

Landscaping will be provided around the perimeter of the site.

Proposed hours of operation for the centre will be 8:00am to 8:00pm Monday to Sunday inclusive.

Site and Location Description

The site is located at a main entry to the suburb of Bourkelands on the north eastern corner of the intersection of Bourke Street and Bourkelands Drive. Bourkelands Drive provides one of the main entries to Bourkelands and can be described as a minor distributor road carrying mainly local residential traffic. It has a 24 metre wide road reserve and a 12 metre wide carriageway.

Land Ownership

The applicant seeks approval for the development (predominantly for landscaping and carparking) to encroach onto adjoining lands under the ownership of Wagga Wagga City Council (i.e. Lot 10 DP 1017384) and Bourkelands Pty Ltd (i.e. Lot 11 DP 1161198). See comments below.

The site is made up of the following allotments:

Lot 1 DP 1091164

Lot 1 DP 1091164 is under the ownership of LGM Investments Pty Ltd and has a total area of 4000 sq.m. The lot has a 65 metre frontage to Bourkelands Drive.

The site slopes gradually from the south-west (front) to the north-east (rear) where it intersects the bank of an adjoining detention basin (see comments below). The land is void of any structures and significant vegetation.

This allotment constitutes the main part of the site and will contain the entire shopping centre building and the majority of the carparking and vehicular movement areas.

LGM Investments Pty Ltd has provided landowner's consent to the making of this Development Application.

Lot 10 DP 1017384

Lot 10 DP 1017384 is under the ownership of Wagga Wagga City Council. This is a public reserve (community land) with a total area of 3612 sq.m. This allotment adjoins the main allotment (Lot 1 DP 1091164) to the north-west and runs parallel with Bourke Street.

The applicant proposes to utilise approximately 1110 sq.m of the southern section of this allotment for the purpose of construction part of the carpark and landscaping.

With the exception of an entry sign structure and a large real-estate sign located near Bourkelands Drive, this land is void of any structures or vegetation. It is proposed that the signs will be relocated to adjoining open space as part of the development.

The land is classified as 'community land' under the Local Government Act 1993. On 25 October 2010, Council's Acting Director of Commercial and Economic Development wrote to the applicant granting consent to the making of the application over Council owned land. Council also agreed to commence the process of reclassification of this site (i.e. Lot 10 DP

1017384) from Community Land to Operational Land.

1. Prior to the proposed sale of this land by Council to allow for its development as a shopping centre, the land must be reclassified to 'operational land' in accordance with Part 2 of Chapter 6 of the Local Government Act 1993. The applicant was advised that subject to successful reclassification, Council would seek to sell the land to LGM Investments at its fair market value in order for it to be consolidated with Lot 1 DP1091164 (i.e. the shopping centre site).
2. The letter went on to advise that Council may issue a development consent prior to the land being reclassified however Council would not allow the release of a Construction Certificate (or the commencement of any associated works) prior to the land being reclassified.
3. Noting Council's intent to prevent the release of a construction Certificate prior to reclassification of the land, it is recommended that this be 'strengthened' by granting a 'Deferred Commencement Consent' under Section 80(3) of the Environmental Planning and Assessment Act 1979, restricting the consent from becoming operative prior to reclassification.

Lot 11 DP 1161198

Lot 11 DP 1161198 is under the ownership of Bourkelands Pty Ltd. Bourkelands Pty Ltd has provided landowner's consent to the making of this Development Application.

This allotment contains a number of parts that constitute the residue (i.e. undeveloped) land remaining in the Bourkelands neighbourhood with a total area of 21 hectares. The part of Lot 11 adjoining the subject site immediately to the north-east has a total land area of approximately 2.3 hectares. This land currently contains large detention basins that service the Bourkelands neighbourhood.

The application proposes to utilise approximately 900 square metres of this land constituting a strip measuring between 3 metres and 10 metres in width along the north-eastern and south-eastern boundaries of the shopping centre site. This land will be used for the purpose of accommodating part of the service/delivery vehicle driveway, a small section of the carparking area and landscaping.

As identified above, this land contains large storm water detention structures which occupy the majority of the site. The strip of land required for the shopping centre will encroach onto the outer bank of the basins. It is expected that the proposed landscaping will encroach onto the bank of the basins but will not affect their capacity or operation.

Upon completion of the final stage of subdivision within Bourkelands, this land and the detention basin infrastructure will be dedicated to Council. The requirement to dedicate this land is stipulated as a condition of development consent DA09/0511 (for a 53 Lot Residential Subdivision on part Lot 17 DP 1138474, Kaloona Drive, Bourkelands, as modified by application to modify consent ADA11/0025 issued on 20 May 2011).

It is necessary that any consent granted ensures that the acquisition of this land for the purpose of the shopping centre development is not contrary to the requirements of the preceding development consent DA09/0511 (as modified) issued for the final stages of the Bourkelands subdivision. It is therefore recommended that a 'Deferred Commencement Consent' be granted under Section 80(3) of the *Environmental Planning and Assessment*

Act 1979, requiring approval of an application to modify development consent DA09/0511 (as modified) to alter the area of the residue land to be dedicated so as to exclude that part of the land intended to be acquired for the proposed shopping centre development site, prior to the consent becoming operative.

Consolidation of Development Site

In addition to the recommendations relating to the need for the reclassification of the Council owned land to 'operational land' and the modification of development consent DA09/0511 (as modified) in relation to the land area to be dedicated as drainage reserve, it is also recommended that a 'Deferred Commencement Consent' be granted under Section 80(3) of the *Environmental Planning and Assessment Act 1979*, requiring the development site comprising Lot 1 DP 1091164, part of Lot 10 DP 1017384 and part of Lot 11 DP 1161198, be consolidated into one allotment of land, prior to the consent becoming operative.

Surrounding Area

The site is located at the entry to the Bourkelands residential neighbourhood. Bourkelands Drive one of the main feeder road into the residential neighbourhood. Bourkelands is dominated by single storey detached dwellings located on allotments generally ranging in area from 750 sq.m to 1200 sq.m.

Residential properties exist to the south and south west of the site. Five residential properties front directly onto Bourkelands Drive immediately opposite the development site. Further residential properties are located to the east and northeast beyond the adjoining detention basins.

Bourke Street is located to the north west of the site with public sporting grounds and facilities (Jubilee Park and Connolly Park) located beyond.

Matter for consideration under Section 79(c) of the Environmental Planning and Assessment Act

(a) the provisions of

(i) any environmental planning instrument,

Wagga Wagga Local Environmental Plan (LEP) 2010

Clause 1.8A - Savings provision relating to pending development approvals

This clause states that if a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

As the application was made on 12 December 2007, prior to 16 July 2010 (the Gazettal date), the application is to be assessed under the provisions of the Wagga Wagga Local Environmental Plan 1985 (whilst the LEP 2010 is to be considered as a draft EPI only). However, the fact that 2010 LEP has been made ensures that the plan is deemed to be certain and imminent.

With respect to this clause, the question of the weighting applied to the LEP 2010 (as a draft EPI) in the determination of the application must be answered. In *MA Projects Pty Ltd & Ors v Wagga Wagga City Council* [2010] NSWLEC 1212, Pearson states:

The 2010 LEP includes the savings provision in cl1.8A. In Blackmore Design Group Pty Ltd v North Sydney Council [2001] NSWLEC 279, Lloyd J summarised the authorities on the weight to be given to a draft LEP, particularly in the circumstances where it was a draft when an application was lodged and has since been gazetted with a transitional provision. The fact that 2010 LEP has been made ensures that the plan is certain and imminent and accordingly, must be given significant weight in the determination of the application. However, due to the savings provision, the inquiry does not stop there. In *Blackmore* at [30], Lloyd J stated:

30. Whether one applies the test of “significant weight”, or “some weight”, or “considerable weight” or “due force” or “determining weight” to the later instrument is not, however, the end of the matter. The savings clause still has some work to do. The proposed development is a permissible development by dint of the savings clause. In giving the 2001 LEP the weight of being imminent and certain, that does not mean that there is no further inquiry. It is necessary to look at the aims and objectives of the later instrument and then see whether the proposed development is consistent therewith. Various expressions have been used to define this concept, but the approach which has been favoured in the Court of Appeal is to ask whether the proposal is “antipathetic” thereto (*Coffs Harbour Environment Centre Inc v Coffs Harbour City Council* [1991] 74 LGRA 185 at 193).

The first issue to be considered in determining whether the proposed development is consistent with the aims and objectives of the LEP 2010 is whether the proposed development would be permissible under the LEP 2010.

The site is zoned B1 Neighbourhood Centre and RE1 Public Recreation under the LEP 2010. The proposed development is for the purpose of ‘retail premises’ and/or ‘business premises’. These land uses are defined as follows:

retail premises means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

business premises means a building or place at or on which:

(a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or

(b) a service is provided directly to members of the public on a regular basis,

and may include, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, medical centres, betting agencies and the like, but does not include sex services premises.

Both ‘retail premises’ and ‘business premises’ are prohibited in both the B1 and RE1 zones. (see notation at the end of this section)

Notwithstanding these prohibitions, by virtue of Clause 1.8A, if the proposed development is permissible under the LEP 1985, consent could still be granted. Whether it should be

depends on whether it is consistent with the aims and objectives of the subject zones under LEP 2010.

The objective of B1 zone is “to provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood”.

The proposed tenancies are of a small scale and the development will serve the needs of the residents living and working in the surrounding neighbourhoods (particularly Bourkelands).

Whilst the proposed supermarket will have a ground floor area of 1348 square metres, it is of a size that can provide the essential product lines expected by local customers to address their daily retailing needs. It is unlikely that a supermarket of this size will house products that will generate ‘one-off’ or specifically planned trips by customers in order for their purchase.

The development is consistent with this objective.

The objectives of the RE1 zone are:

- *To enable land to be used for public open space or recreational purposes.*

The proposed development will not detract from the use of this land for public open space or recreational purposes. The land is currently utilised as a buffer to Bourke Street and for the purpose of stormwater management as it is predominantly occupied by existing detention basins. There is no evidence on the site of it being used as open space for recreational purposes with the exception of some informal walking/bicycle paths along the banks of the detention basins.

The development proposes to encroach onto part of this site (as described earlier in this report) mainly occupying a strip of land between the shopping centre site boundary and the bank of the detention basins and a section of the open space buffer towards Bourke Street.

The development incorporates formal landscaping that will encroach onto the bank of the basins that will assist in improving the aesthetics of this area and the development. The applicant also proposes to establish a paved walkway along this edge which will formalise the walking tracks that exist along these parts of the detention basins. The proposed works will make the area a more pleasant and accessible pathway for residents accessing the shopping centre or using the site for recreational purposes.

The open space buffer to the north west will be partly used for the establishment of formal landscaping that will assist in improving the aesthetics of this area. The use of the open space buffer will still maintain the intended separation of the shopping centre to Bourke Street whilst also maintaining good visibility which is commercially desirable.

- *To provide a range of recreational settings and activities and compatible land uses.*

As discussed above, the nature of the existing and intended use of the RE1 land and the encroachment of the development will not impact on the setting of the site and the range of activities that it can be used for.

- *To protect and enhance the natural environment for recreational purposes.*

As discussed above, it is considered that the works proposed in the development (landscaping, footpaths, improved access, etc.) will assist in enhancing the adjoining RE1 land for recreational purposes.

- *To protect and enhance the natural environment generally and to assist in ensuring that areas of high ecological, scientific, cultural or aesthetic values are maintained or improved.*

The adjoining RE1 land does not comprise a natural environment and is not of high ecological, scientific, cultural or aesthetic value.

Having regard to all of the objectives of the RE1 zone, it is satisfied that whilst the development is not completely consistent with all of the objectives, it is also not inconsistent as it does not detract from this particular RE1 land from achieving the objectives.

In answering the question favoured by the Court of Appeal (discussed in case law above), the proposal is in no way “antipathetic” to the objectives of the B1 and RE1 zones and the prohibitions should therefore be given less weight in the determination of the application. The proposed neighbourhood shopping centre is permissible under the LEP 1985, and is consistent with the objectives of the zones as required by clause 9(3) of the LEP 1985 (see discussion later in this report). Therefore, the provisions of Clause 1.8A of the LEP 2010 should afford the opportunity for consent to be granted for the proposed neighbourhood shopping centre even if ‘retail premises’ and ‘business premises’ are prohibited in the B1 and RE1 zones.

Notation - It was not intended that the LEP 2010 prohibit ‘retail premises’ and ‘business premises’ in the B1 zone. As discussed above, this is reflected in the Land Use Table of the Draft LEP that was publicly exhibited and which was supported by the retail strategy that clearly identified the need for additional retail floor area within the south and south west parts of the city (refer to later discussion).

Final amendments made to the LEP by Parliamentary Council prior to its gazettal saw alterations to the Land Use Table which effectively prohibited these uses in the B1 zone. These alterations were made without consultation with Council and did not reflect the intention of the zoning.

Subsequently, Council is in the process of preparing a rezoning proposal to rezone the land from B1 to B2 for the specific purpose of permitting ‘retail premises’ and ‘business premises’.

Clause 4.3 - Height of buildings

The subject land is not restricted by a maximum height of buildings as imposed under this clause.

Clause 4.3 Floor space ratio

The subject land is not restricted by a maximum floor space ratio as imposed under this clause.

Clause 7.3 - Environmentally sensitive land - biodiversity

The subject land is an area identified on the Natural Resources Sensitivity Map - biodiversity. The application is therefore subject to consideration under the provisions of this clause.

A site inspection has revealed that the area identified on the plan contains no vegetation that would contribute to biodiversity. There is no proposal to remove any significant vegetation.

It is considered the potential for impacts on the defined “sensitive area” is minimal.

Clauses 7.4, 7.5 and 7.6 - Environmentally sensitive land

The subject site does not include any land identified as being located within an area identified on the Natural Resources Sensitivity Maps for land, water or groundwater.

There are no other provisions of the WWLEP 2010 relevant to this application.

Wagga Wagga Local Environmental Plan 1985

Under the provisions of the Wagga Wagga Local Environmental Plan 1985 (WWLEP1985), the site is zoned 3 Business, 2 Residential and 6 Open Space.

Clause 9 of the WWLEP 1985 requires that

the council shall not grant consent to the carrying out of development on land to which this plan applies unless the council is of the opinion that the carrying out of the development is consistent with one or more of the objectives of the zone within which the development is proposed to be carried out

It is satisfied that the development is consistent with at least one of the objectives of the three relevant zones. The objectives of the Business, Residential and Open Space zones are discussed below.

Business Zone

The main part of the subject site (i.e. Lot 1 DP 1091164 - 4000 sq.m) is zoned 3 Business.

The objectives of the business zone are as follows:-

- (a) to encourage the development and expansion of business activities which will contribute to economic growth and employment opportunities within the City.*
- (b) to encourage a wide range of retail, commercial and tourist facilities within the CBD.*
- (c) to accommodate the establishment of retail, commercial and professional services for local residents in convenient locations within the residential neighbourhood where that scale and type of development is compatible with the amenity of the surrounding residential area.*
- (d) to ensure there is adequate provision for car parking facilities in the vicinity of the CBD.*
- (e) to minimise conflicts between pedestrians and vehicular movement systems within the CBD.*

Objectives (a) (b) (d) and (e) are more specific to developments within the CBD. However objective (c) relates specifically to neighbourhood developments such as that proposed.

With regard to objective (c), the developer of the site believes that one large supermarket selling a range of goods is a more economically viable way to serve the needs of the local community as opposed to a series of smaller shops. A series of smaller shops covering the same range of products that are to be sold in the supermarket (i.e. bakers, butchers, greengrocers etc.) could cumulatively be of a similar scale to the supermarket, but potentially far less viable.

In addition to the supermarket, the proposed layout has provision for five retail shops which ideally could be occupied by a pharmacy, news agency, coffee shop (etc.) and would be complimentary to the supermarket. One of the plans submitted with the DA (i.e. the landscaping plan) identifies that the tenancies could be occupied by a chemist, newsagent and liquor store, although final tenancies have not been confirmed.

The “location” is one that is considered to be convenient as it is located on one of the main thoroughfares in and out of the Bourkelands neighbourhood. The site is in a prominent location and can be accessed easily by residents living in Bourkelands and equally by others from adjoining residential areas such as Lloyd and Springvale without the need to travel through residential streets to access the site.

The development proposal and its scale is entirely consistent with the zoning of the land for business with respect to the supermarket and the shops and is ideal for the community that it will be serving. Accordingly, the development would appear to be consistent with at least one objective of the Business Zone.

There are no prohibited uses in the Business zone. All uses require development consent.

Open Space Zone

The adjoining land to the north west (i.e. Lot 10 DP 1017384) comprising the public reserve is zoned 6 Open Space. The development proposes to occupy approximately 1110 square metres of this land constituting that part located between the main shopping centre lot and Bourke Street.

The objectives of the Open Space zone are as follows:

- (a) to ensure there is provision of adequate open space areas to meet the needs of all residents and provide opportunities to enhance the total environmental quality of the city,*
- (b) in the case of land shown unhatched, to identify land which is now owned by the council or which will be dedicated as a condition of development consent or subdivision approval to the Council for open space or public recreational purposes, and*
- (c) in the case of land shown hatched, to identify land which will be acquired by the council in the future for open space or public recreational purposes.*

The proposed development will not detract from the use of this land for public open space or recreational purposes. There is no evidence of the buffer area between the site and Bourke Street being used as open space for recreational purposes.

It is proposed that the buffer area will be partly used for the establishment of formal landscaping that will assist in improving the aesthetics of this area. As discussed earlier, the use of the open space buffer will still maintain the intended separation of the shopping centre to Bourke Street whilst also maintaining good visibility which is commercially desirable. A proposed footpath in this area will provide improved accessibility for residents accessing the shopping centre or using the surrounding area for recreational walking or bike riding.

With regard to objectives (b) and (c), the land comprising the buffer area between the site and Bourke Street is shown unhatched on the map and is already owned by Council.

Accordingly, the development would appear to be consistent with at least one objective of the Open Space Zone.

There are no prohibited uses in the Open Space zone. All uses (including retail and business premises) require development consent.

Residential Zone

The adjoining land to the north east (i.e. Lot 11 DP 1161198) containing the existing detention basin is zoned 2 Residential. The development proposes to occupy approximately 900 square metres of this land constituting a strip measuring between 3 metres and 10 metres in width along the north-eastern and south-eastern boundaries of the shopping centre site.

The objectives of the Residential zone are as follows:

- (a) to make general provision to set aside land to be used for the purposes of housing and associated facilities,*
- (b) to allow detailed provision to be made, by means of a development control plan, to set aside specific areas within the zone for medium density housing as well as an area where only single dwelling-houses and dual occupancy buildings are permitted,*
- (c) to allow a variety of housing types within existing and new residential areas,*
- (d) to encourage greater visual amenity by requiring landscaping and permitting a greater variety of building materials and flexibility of design, and*
- (e) to allow development for purposes other than housing within the zone only if it does not detrimentally affect the character or amenity of the locality.*

Despite the site being zoned Residential; its primary purpose is for storm water management (as it is predominantly occupied by large detention basins) with no opportunity for further residential development. The encroachment of the proposed development and partial use of this land will therefore not hinder the objectives of the act outlined at (a), (b), (c) and (d) above.

With regard to objective (e), it is satisfied that the proposed encroachment of the shopping centre development onto this land will not detrimentally affect the character of the locality. As discussed earlier, it is considered that the development will in fact enhance the detention basin by improving the aesthetics of this area and making it more pleasant and

accessible for residents travelling to the shopping centre or using the area for recreational walking or bike riding.

The proposal to develop the site for a supermarket and retail shops at the scale proposed is considered to be a compatible form of development within a residential area. The development is primarily designed to serve the surrounding residential neighbourhood of Bourkelands.

Accordingly, the development would appear to be consistent with at least one objective of the Residential Zone.

There are no prohibited uses in the Residential zone. All uses (including retail and business premises) require development consent.

Clause 10 of the WWLEP 1985 requires that the Development Application be notified and advertised. Such public notification occurred and 7 submissions were received including 1 in the form of a petition signed by approximately 60 people. The details of these submissions are covered in more detail under section (d).

Clause 21 of the LEP 1985 relates to Development within the Open Space Zone that is under the ownership of Council. The clause states that the council shall not consent to an application to carry out development on that land unless it has made an assessment of:

(a) the need for the proposed development on that land,

The encroachment will provide for an expanded facility with improved parking and access for both customer vehicles and delivery vehicles. The encroachment will also allow for the establishment of formal and maintained landscaping within this area which will improve amenity whilst also improving access to and the use of the surrounding open space for walking and bike riding.

(b) the impact of the proposed development on the existing or likely future use of the land, and

The encroachment of the development onto the open space buffer will have minimal impact on its existing or likely future use. As discussed earlier in this report, the land will continue to provide separation between Bourke Street and the development. The introduction of formal and maintained landscaping will also contribute to the improved aesthetics of the area and the entry to Bourkelands.

(c) the need to retain the land for its existing or likely future use.

The remaining open space buffer and the proposed landscaping will be retained to provide separation between the development and Bourke Street.

There are no other provisions of the WWLEP 2010 relevant to this application.

State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

Evidence (site inspections, aerial photos, etc) suggests that the site has not contained any activities that are identified as activities that may cause contamination within Table 1 of the

Contaminated Land Planning Guidelines. For the purposes of Clause 7 of SEPP 55, it is satisfied that the land is not contaminated and is therefore suitable for the intended use.

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 - Traffic-generating development

The proposed development is subject to the provisions of this clause. The application has been referred to the RTA as required. Comments have been received from the RTA identifying that it raises no objection to the development. Whilst no objection is raised, the RTA offers the following suggestions:

- That Council give consideration to the current condition of the intersection between Bourke Street and Bourkelands Drive to ensure that it is of a standard capable of handling expected volumes of traffic. Traffic impacts including the suitability of the surrounding road network are discussed later in this report.
- That Council give consideration to the safety and ease of pedestrian movement to the proposed development. Improvements to pedestrian linkages is discussed later in this report.

The RTA has also offered a series of conditions for Council's consideration for inclusion on any consent. These conditions relate to a broad range of matters including:

- Carparking
- Pedestrian and vehicular access,
- Vehicle circulation and management
- Pedestrian safety
- Bicycle parking
- Trolley storage
- Loading and unloading activities
- Construction management
- Advertising signage

These recommendations have been addressed in the recommended conditions for any consent.

Clause 104 also requires that Council have regard to:

- *the accessibility of the site concerned, including:*
 - *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*

- *any potential traffic safety, road congestion or parking implications of the development.*

The development has been sited to provide convenience for residents within Bourkelands and nearby suburbs. The siting of the development on a main entry to Bourkelands will assist in ensuring the efficient movement of people as visitation to the site can occur whilst undertaken multipurpose trips within the city. The location will also assist in the reduction of car use by being closer to residents who can walk/ride to the facility.

The site has been designed to incorporate a loading dock that can accommodate a reticulated heavy vehicle. This affords the opportunity for goods to be delivered in bulk including the possible use of freight containers.

The issues of traffic safety, road congestion and parking implications have been addressed satisfactorily and are discussed later in this report.

It is satisfied that the development should be supported having regard to the provisions contained within Clause 104.

There are no other environmental planning instruments that are relevant to this site or this development.

(ii) any draft environmental planning instrument that is or has been place on exhibition and details of which have been notified to the consent authority

There are no draft environmental planning instruments that are relevant to this site or this development.

(iii) any development control plan,

Wagga Wagga Development Control Plan 2010

As the subject development application was made prior to the adoption of the DCP 2010, Section 1.6A (Savings and transitional provisions) states that the application will be assessed in accordance with the provisions of the previous development control plan (i.e. the Wagga Wagga Development Control Plan 2005). Therefore, there are no further provisions of DCP 2010 relevant to the assessment of this application.

Wagga Wagga Development Control Plan 2005

Under the provisions of the Wagga Wagga Development Control Plan 2005 (WWDCP), the site is zoned as partly Business 3b Neighbourhood Business (Urban Living Area) and partly Open Space 6a Recreation (Urban Living Area).

The LEP objectives detailed above are repeated in the DCP for both the Business and Open Space zones (refer to discussion earlier in this report).

The sub-zone purpose of the 3b zone is *“to facilitate the location of suitable retail and commercial development within the neighbourhood to serve the daily needs of residents. Service industries and light industries will also be permitted within this classification.”*

The proposed supermarket and shops will all serve the daily needs of the local residents and therefore the development complies with the sub-zone purpose.

The subzone purpose of the 6a zone is *“to provide land within the City for the recreational pursuits of residents”*.

Shops are listed in the land use guide as a use that requires Council consent in the 3b zone and a use that is ‘generally not suitable’ within the 6a zone.

The merits of the proposal relating to its encroachment and use of the adjoining open space land (as discussed in detail under LEP 2005 and LEP 2010 above) are considered sufficient to support the proposal, despite its intended purpose (shops) being considered ‘generally unsuitable’ in the 6a zone.

9.5.2 Neighbourhood Shopping Centres

The concept of the neighbourhood shopping centre is to encourage the development of business opportunities at the neighbourhood level, on a scale which is compatible with the neighbourhood level so that the CBD remains the commercial and retailing focus of the city. Typical facilities that may locate in the neighbourhood centres include playgrounds, a primary school, local health unit including doctor's rooms, dental facilities and baby health clinic, community hall, service station, convenience shopping, small scale supermarket to serve local needs and so forth.

The purpose of the shopping centre is to serve the needs of the local residents. It is unlikely that the proposal will have an impact on the viability of the existing retail trading structure of the broader Wagga Wagga retail hierarchy. The proposed 2200 square metres of retail floor space reflects the area required to serve the daily needs of the local catchment population. It is not however sufficient to accommodate the retail needs of a district level catchment and hence will not undermine the higher order retail offered by the CBD (refer to comments relating to economic impacts later in this report).

9.5.3 Car Parking

This clause relates to the need to provide sufficient car parking in accordance with the standards laid out in chapter 25. This is addressed in detail later in this report.

9.5.4 Loading and Delivery Bays

This clause generally relates to the provision of bays in the CBD, however of key relevance is Council's desire for all deliveries and loading facilities to be designed to enable vehicles to enter and leave the site in a forward direction.

The proposed route for delivery vehicles is a one way route through the site. Trucks will turn into the site from Bourkelands Drive and travel along the south eastern boundary of the site to a designated loading dock. The trucks will then be able to leave the dock in a forward direction around the north western side of the building, exiting the site via the proposed carparking area.

The applicant has provided turning circles for an articulated vehicle which demonstrates that these types of vehicles can enter, traverse and leave the site in a forward direction.

It is important that all loading and delivery functions for both the supermarket and retail shops are entirely within the loading dock area on the site. No deliveries or loading functions will be permitted to occur on Bourkelands Drive or any other adjoining land. Such a restriction should be controlled by a condition of any consent.

9.5.5. Design Principles

Whilst the site only has frontage to Bourkelands Drive, it will also present to Bourke Street as it is only separated by a strip of public open space land. The development therefore has been designed to address both streets.

The elevations of the building have been designed in response to the site layout and surroundings. The development provides for an active street frontage by providing shop fronts facing directly onto Bourkelands Drive and the proposed carparking area. The frontage is predominantly glazed and this will be visible from cars/pedestrians approaching and passing the site whilst moving along Bourkelands Drive and Bourke Street in both directions.

The elevations to the road and carpark incorporate varying materials and elements including glazed shop fronts, verandahs with pitched canopies, decorative panelling and infills that combine to provide depth and articulation to the façade and produce an aesthetically pleasing appearance to the building. The use of contemporary construction materials will assist in complimenting the surrounding residential development.

The building has been sited and designed with a feature turret towards the western corner of the building and a two storey section with pitched roof at the south western end of the building. These features will accommodate the main advertising for the supermarket and centre in the form of fascia/wall signs on the building. The building (and these elements) have been designed to form a landmark feature at the entry to the suburb whilst also identifying the neighbourhood centre.

The applicant has elected to provide a zero building line setback to Bourkelands Drive. Shop fronts for two of the proposed tenancies will face directly onto the footpath area to provide an 'active' streetscape and relationship with the surrounding residential area. The development will provide paving and shelter along the public street thereby promoting pedestrian use and access to the centre.

Service areas, including the loading dock and refuse store, will be positioned at the rear of the site facing towards the adjoining stormwater detention structures. Whilst the building will assist in screening the detention basins from Bourkelands Drive, it will also act as a focal point and draw attention away from this area. Perimeter landscaping will also assist in softening the edge of the development and the banks of the detention basins.

9.5.11 Post Supported Awnings and Street Beautification

As identified above, the applicant has elected to provide a zero building line setback and shop fronts to Bourkelands drive. A post supported verandah/awning with pitched canopies will be provided over the footpath area in Bourkelands Drive to provide protection to the shop fronts and pedestrians.

The proposed awning is consistent with section 9.5.11 of DCP 2005 as it will provide for greater diversity in civic design, it will allow greater use of the footpath area whilst protecting pedestrians and it will create a pleasant environment through the use of building materials, paving and landscaping.

To ensure compliance with the various provisions contained within this section of the DCP 2005, it is recommended that a condition of any consent require the applicant to prepare a detailed design for the treatment of the footpath area along the complete frontage of the

development in accordance with the requirements of this section of the DCP and to the satisfaction of the Director of Planning. This plan will be required as a minimum to provide detail on matters such as driveway and footpath construction, road works, signage, landscaping and street trees, street furniture and paving, lighting, storm water management, post locations and vertical clearances, impacts on service allocations and maintenance issues.

Chapter 25 - Car Parking

Chapter 25 of the DCP 2005 requires the provision of carparking for shopping centres at 4.4 spaces per 100 square metres of gross leasable floor area (i.e. 1 space per 23 square metres). The proposed development will have a gross leasable floor area of 1288 square metres which will require the provision 99 carparking spaces. The development proposes the provision of 77 carparking spaces which represents a shortfall 26 space as per the requirements of DCP 2005.

The applicant has requested that Council consider a variation to the carparking requirements for the development under DCP 2005 based on the following arguments:

- As a convenience based shopping facility providing for the daily needs of local residents, the duration of stay will be shorter and consequent turnover of parking spaces will be higher. This contrasts with parking in the CBD (to which this carparking standard also applies) where the multiplicity of facilities available results in multipurpose trips with a consequent higher average stay.
- Given the local convenience focus of the centre and its proximity to its local customers, the quantity of cyclists and pedestrian traffic visiting the site is likely to be proportionately higher, thereby reducing the demand for parking.
- The introduction of a bus drop-off facility at the front of the development in Bourkelands Drive will promote the use of public transport and further reduce the requirement for carparking on the site.
- The provisions of Wagga Wagga Development Control Plan 2010 only require the provision of 69 carparking spaces (at a required rate of 1 space per 33 square metres).

The arguments provided by the applicant are considered reasonable with regard to the requested reduction in spaces proposed for the development. The current standards for parking that would be imposed on the same or similar development considered under the provisions of DCP 2010 are considerably lower than that imposed under the now superseded DCP 2005 (i.e. 1 space per 33 sq.m compared with 1 space per 23 sq.m). As the proposed development intends to provide 4 spaces more than the currently accepted requirements under DCP 2010, it is considered that the requested variation is reasonable and should be supported.

With regard to the layout of the proposed carparking, the area will be located at the western end of the site and will be accessible from Bourkelands Drive via a single entry/exit driveway. The carparking area comprises a simple design that will aid internal circulation and pedestrian access/safety.

This application has been referred to both the RTA and Council's Traffic Engineer. The RTA have recommended a series of conditions to be applied to any consent including

conditions relating to carparking. Comments relating to the carparking have been received from Council's Traffic Engineer and are addressed later in this report.

(iia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

No planning agreement has been entered into under section 93F.

(iv) any matters prescribed by the regulations, that apply to the land to which the development application relates,

Matters prescribed by the Environmental Planning & Assessment Regulation 2000 have been satisfied.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,

Streetscape

The main impact of the development is through the built form of development being introduced to what is currently a vacant site. Matters relating to the design and siting of the building have been addressed under Design Principles in the DCP section above. It is considered that the development will enhance not only the streetscape but also the aesthetics and use of the surrounding open space areas through the introduction of landscaping and improved pedestrian linkages.

Bulk and scale

The building will be predominantly single level with a height of 5.5 metres and a small part of the building extending to 9 metres (refer to previous comments). As the building is surrounded by public open space, the height and footprint of the building is unlikely to cause any significant overshadowing or loss of amenity issues.

Access, transport and traffic

This application has been referred to both the RTA and Council's Traffic Engineer. The RTA have recommended a series of conditions to be applied to any consent. Comments have been received from Council's Traffic Engineer and are addressed later in this report.

It is satisfied that the road network and key junctions within the surrounding area will continue to operate in an effective manner without any further need for change or upgrade as a result of this development. This is supported by Council's Traffic Engineer.

The proposed carparking area will be located at the western end of the site and will be accessible from Bourkelands Drive via a single entry/exit driveway. The carparking area will provide spaces for 73 vehicles and comprises a simple design that will aid internal circulation.

A second access driveway will be provided to serve the loading dock area at the eastern end of the development. Given the location of this driveway opposite the intersection with Illeura Road, it is recommended that this be restricted to a delivery/service vehicle entry only with the driveway being one-way operation. Delivery/service vehicles entering this

driveway will circulate around the building in a forward direction and exit the site via the carpark driveway.

Pedestrian access to and from the centre will be enhanced with the construction of a series of pathways around the perimeter of the site and along Bourkelands Drive. The pathways will interlink with nearby bike paths and other pedestrian tracks.

It is recommended that a condition of any consent require the provision of bicycle parking on site.

The applicant proposes to construct a bus stop within the footpath area at the front of the centre so that the site may be incorporated into the existing bus service. Demand for these services is likely to increase as residential population grows. Any increase in public transport use is an advantage as it reduces the reliance on the private vehicle which is a positive sustainable outcome.

Noise and Vibration

It is anticipated that the centre will generate a range of noises associated with the operation of a small retail facility. The majority of noise will come from vehicles entering and leaving the site, particularly delivery vehicles. The impact of this noise will be mainly controlled through the establishment of restricted trading and delivery hours. The applicant has requested the following hours of operation:

- Hours of operation for the supermarket - 8:00am to 8:00pm Monday to Sunday inclusive
- Use of loading dock - 8:00am to 6:00pm Monday to Saturday inclusive

These proposed hours are considered appropriate for a residential neighbourhood and are consistent with other centres operating adjacent to residential areas within the city. The proposed hours will assist in reducing noise impacts within the surrounding residential areas.

To further assist in the reduction of noise impacts, it is recommended that:

- *The hours for the collection and removal of waste and recycling should be restricted to the hours of operation for the supermarket and other tenancies.*
- *Appropriate signage should be erected within the loading dock area prior to occupation, advising delivery drivers of the following:*
 - The location of the site within residential area and the need for drivers to respect the privacy of nearby residential properties.
 - The requirement for all vehicles to enter and leave the site in a forward direction. No reversing onto or from Bourkelands Drive is permitted.

These matters can be addressed as conditions of any consent.

The design of the centre has attempted to orientate the loading dock away from Bourkelands Drive and the existing dwellings in this street. The dock will be partially shielded from Bourkelands Drive by the proposed shopping centre building and through the establishment of perimeter landscaping along the south eastern boundary. This

orientation will further assist in diminishing noise from the dock area whilst also improving aesthetics.

The layout of the development will provide for one way circulation of heavy vehicles through the site which will assist in minimising reversing movements and associated noise.

The proposed car park will introduce additional vehicular movements within proximity to dwellings in Bourkelands Drive. Bourkelands Drive is a major entry to the suburb and therefore currently experiences higher levels of traffic. Ambient noise levels from vehicles using this road will assist in minimising impacts generated from the operation of the proposed carpark.

Associated plant and equipment is to be located on a platform positioned behind the two storey mezzanine section of the building. The bulk of the building will provide protection to dwellings in Bourkelands Drive from this plant. In addition, the plant will be acoustically treated to assist in minimising noise emissions and reducing visual intrusion. It is recommended that details of noise attenuation measure be provided to the satisfaction of Council prior to occupation of the site.

The development will generate noise during the construction period, however this will not be a long term impact. Appropriate conditions of consent are recommended in this regard, including permitted hours for construction works.

Services

The development will be connected to the existing water, sewerage and electricity services at the site. These services are of a capacity to adequately serve the development.

The development will connect to the existing stormwater system traversing the adjoining open space land to the north west. It is the applicant's intention to capture part of the stormwater within an underground storage tank (under part of the carpark) to be reused for irrigation of the landscaped areas.

Heritage

The site and adjoining land do not contain any listed sites or items of local or state significance. The site does not fall within the heritage conservation area. The site does not contain any sites or items of aboriginal significance.

Natural Hazards

The site is not subject to any known natural hazards that would prevent the development going ahead.

Man-Made Hazards

The site is not subject to any known man-made hazards that would prevent the development going ahead.

Economic Impact in the Locality

An Economic Assessment of retail space in Wagga Wagga was prepared in 2007 by Leyshon Consulting Ltd and was used to inform decisions made for the Principal Local Environmental Plan (LEP). It concluded that there is significant shortfall in the supply of retail floor space in the Southern Growth and South West subdistricts (which includes Bourkelands, Tatton, Lloyd, and Glenfield Park). Combined, these two areas would currently (at 2007) support approximately 16,731 sq.m of retail space. The only centre identified in this report serving this area was Southcity at Glenfield Park which was identified as having a floor area of 3,900 sq.m at the time.

Projections in the report indicate that by 2021, the Southern Growth and South West subdistricts will support 28,615 sq.m of retail space. The study also referred to the need for a supermarket to serve the Lloyd and Bourkelands area, referred to as the Southern Fringe. This centre could include a supermarket anchored by a 2,500 sq.m supermarket with up to 1,000 sq.m of specialty shops.

The study recognised the current provision of the retail site at the intersection of Bourke Street and Bourkelands Drive (i.e. the subject site) and did not consider that this provision negated the need for a larger supermarket anchored centre over the longer term.

Since the report was prepared there have been a number of key decisions made that impact on retail activities in the south and south-west of the City:

- Development consent has been issued for a new supermarket to be developed serving the Tatton neighbourhood (approximately 1400 sq.m of retail floor space). Whilst this consent remains valid, it has not been acted on to date.
- An expansion of Southcity has been approved and the centre now incorporates 6400 sq.m of retail floor area.
- The draft LEP was exhibited including a proposal to re-zone part of Jubilee Park for B2 developments. The Jubilee Park proposal received significant objection and upon gazettal of LEP 2010 was removed from the document with the land to remain for recreational purposes.

The existing Southcity centre, the approved Tatton centre and the proposed Bourkelands centre would combine to provide approximately 10,000 sq.m of retail floor space which remains significantly less than the current (i.e. 2007) predicted requirements of 16,731 sq.m of retail floor space. The total retail floor area proposed in this application (i.e. 2,200 sq.m) becomes insignificant when compared to the 28,615 sq.m requirement predicted for 2021.

Given the predictions outlined in this report relating to the retail needs of the expanding population in this area, it is satisfied that the development will assist in satisfying the neighbourhood shopping requirements of the surrounding area. It is also satisfied that the findings of the report clearly indicate that the proposed development will have minimal impact on existing established retail centres now and negligible impact in the long term.

It is also satisfied that the centre will provide greater retail choice and a higher level of convenience to the neighbourhood population with no detriment to the CBD including its ability to attract spending from a far wider catchment area.

The proposed investment and subsequent development will have a positive impact on the local economy and contribute to the city wide economy as a whole.

Social Impact in the Locality

Employment - The proposed development will result in greater accessibility and choice for the residents of the surrounding neighbourhoods which is a positive social impact. The location of the centre on a primary access to the neighbourhood is of great social benefit as multipurpose trips can be made and wider social networks experienced.

The centre will provide employment opportunities to residents living within the immediate locality and across the wider local area. Employment opportunities will result during both the construction and operation of the shopping centre. This will increase accessible job opportunities for people living within the immediate area that cannot travel far from home to work for various reasons.

Access and Safety - The development has been designed to provide clear sightlines within and around the development. The centre will provide for good surveillance of the carparking area and Bourkelands Drive. The shop fronts along Bourkelands Drive will encourage an active street environment and will promote the upkeep and maintenance of this public area.

The management of the landscaped areas and the maintenance of appropriate external lighting will also assist in ensuring public safety in the area.

The design of the centre and the proposed pedestrian paths and linkages will provide good connectivity to and access from the surrounding residential areas.

The Principles of Ecologically Sustainable Development

The proposed development is in accordance with ESD principles.

(c) the suitability of the site for the development

The site is assessed as being suitable for the development for reasons discussed throughout this report. The land comprises a clear and vacant site that has been zoned for neighbourhood business purposes. The land is not subject to any natural or man-made hazards including bush fire prone, flood prone or contaminated land.

(d) any submissions made in accordance with the Act or the regulations,

The development application was publicly notified between 10 February and 24 February 2011 in accordance with the requirements of the DCP 2005. During the notification period, 7 public submissions were received including 1 in the form of a petition signed by approximately 60 people.

A submission was received from the RTA which has been discussed elsewhere in this report. The application was also referred to Riverina Water and Country Energy. No submissions were received from these authorities.

The grounds of objection contained in the public submissions are grouped, summarised and discussed below:

- *Has landowners consent been provided?*

Comment - Landowner's consent for the three allotments has been granted (see comments earlier in this report).

- *The development is prohibited under the LEP 2010 and considerable weight should be given to the LEP 2010 which has now been made in determining the DA.*

Comment - The weighting that should be given to the LEP 2010 in determination of this application has been discussed in detail earlier in this report. As concluded earlier, the proposal is in no way “antipathetic” to the objectives of the B1 and RE1 zones and the prohibitions should therefore be given less weight in the determination of the application. As the proposed development is permissible under the LEP 1985 and is consistent with the objectives its zones, the provisions of Clause 1.8A of the LEP 2010 should afford the opportunity for consent to be granted to this Development Application despite ‘retail premises’ and ‘business premises’ being prohibited in the B1 and RE1 zones.

- *Favourable consideration of the development would undermine the aims and objectives of the current plan.*

Comment - As discussed earlier in this report, the development is consistent with the objective of the B1 zone and is not inconsistent with the objectives of the RE1 zone (refer to previous discussion for details).

- *The scale and nature of the centre is outside the settlement strategy for the Bourkelands neighbourhood under the current the plan.*

Comment - The ‘settlement strategy’ for Bourkelands identifies the subject site a being land suitable for a neighbourhood business development of a scale suitable for serving the daily needs of the surrounding area. As discussed throughout this report, it is satisfied that the scale of the development (including its enlargement and encroachment onto surrounding land) is reasonable with regard to its setting and its purpose of serving the local neighbourhood.

- *Formal consideration of this development should be preceded by a rezoning proposal.*

Comment - The application is to be determined under the provisions of the Wagga Wagga Local Environmental Plan 2005. The uses are not prohibited under this plan and no rezoning proposal is necessary prior to any consent being granted.

Despite this, Council is in the process of preparing a rezoning proposal to rezone the land from B1 to B2 for the specific purpose of permitting ‘retail premises’ and ‘business premises’. It was Council’s intention to permit ‘retail premises’ and ‘business premises’ in the B1 zone as detailed in the Land Use Table of the Draft LEP that was publicly exhibited. Final amendments made to the LEP by Parliamentary Council prior to its gazettal saw alterations to the Land Use Table which effectively prohibited these uses in the B1 zone. These alterations were made without consultation with Council.

- *The proposed DA was before Council at the time of preparing the retail and commercial strategy which underpinned the LEP 2010. In addition, LEP 1985 made provision for a similar scale neighbourhood business zone at this location. Notwithstanding this knowledge, the LEP 2010 elected to prohibit retail premises within the Bourkelands neighbourhood. Given that the LEP 2010 is only months old, it is difficult to accept that the proposed development is appropriate unless the retail strategy and the subsequent LEP were wrongly formulated.*

Comment - It was not intended that the LEP 2010 prohibit 'retail premises' and 'business premises' in the B1 zone. As discussed above, this is reflected in the Land Use Table of the Draft LEP that was publicly exhibited and which was supported by the retail strategy that clearly identified the need for additional retail floor area within the south and south west parts of the city (refer to earlier discussion).

Final amendments made to the LEP by Parliamentary Council prior to its gazettal saw alterations to the Land Use Table which effectively prohibited these uses in the B1 zone. These alterations were made without consultation with Council and it could therefore be argued that whilst the retail strategy was not flawed, the LEP was wrongly formulated.

Subsequently, Council is in the process of preparing a rezoning proposal to rezone the land from B1 to B2 for the specific purpose of permitting 'retail premises' and 'business premises'.

- *The plans as exhibited represent a significant departure from those originally submitted when the DA was made in 2007.*
 - *An increase in GLA of 50% from 1526sq.m to 2288sq.m*
 - *The development now includes part of an adjoining allotment*
 - *The development is considerably different and should be resubmitted as a new DA to be considered under the current LEP and DCP.*
- *Can the development be legally considered under LEP 1985 given that there have been major changes to the plans submitted when the application was originally made in 2007? Major changes should warrant the making of a new application.*
- *The major changes to the plans and the length of time it has taken for these revisions and could be questioned legally. Given that the development is likely to result in a reduction in sales for competing shopping centres in the area, the risk of challenge by a third party is likely.*

Comment - The applicant has chosen to make alterations to the development prior to its determination which has not altered the development from becoming anything other than what was originally proposed (i.e. a neighbourhood shopping centre). Many of these alterations were made in consultation with Council with the aim of achieving better development outcomes. As the development application had not been determined, there is no legislation restricting alterations being made and for Council to consider such alterations.

Part of these negotiated alterations included the use of adjoining land (as discussed earlier in this report). As these alterations were again made prior to determination of the application and with the consent of the landowners of the subject allotments, Council may consider them.

The alterations made to the originally submitted application do not require the applicant to submit a new DA, nor do they (or the time taken to make them) trigger any legislative provision that would require the application to be determined under the current LEP 2010 and DCP 2010.

- *If the DA is to be considered under the old LEP then the carparking requirements should be considered under the old DCP requirements and not the new DCP as proposed by the applicant. It appears that the applicant is choosing between the provisions in the old and new LEPs/DCPs that best suit their needs. These inconsistencies are unacceptable.*

Comment - The requirements for carparking have been assessed under the provisions of Chapter 25 of the DCP 2005. The applicant's use of the provisions for carparking in DCP 2010 as an argument to vary the parking provisions stipulated under DCP 2005 has been discussed earlier in this report.

- *Council's consideration of the DA is contrary to Council's current practices. The DA should be withdrawn or refused given the significant delay resulting from the request for additional information.*

Comment - Council's recent practice has been to pursue applicants who have failed to provide additional information where the request for that information has resulted in significant delays in determining the application. Where the applicant fails to act on this request, Council's practice is to determine the application which often results in the matter being refused.

With regard to this application, the applicant has chosen to address the outstanding matters and to provide Council with the necessary detail to allow determination. Council's consideration of the application is therefore entirely consistent with its current practices relating to long standing DAs.

- *The site is zoned Residential 2 under the LEP 1985 and the development is contrary to the objectives of this zone. Shops/commercial premises are also considered 'generally not suitable' within the Residential 2(c) Medium Density zone under the DCP 2005. A formal amendment should be undertaken to the LEP 1985 to allow the development to proceed.*

Comment - The objectives of the Residential zone under LEP 1985 have been discussed in relation to the subject development earlier in this report.

The land is not zoned Residential 2(c) under the DCP 2005. The correct zoning is Business 3(b) and Open Space 6(a). The proposed land use has been discussed in relation to these zones earlier in this report. There is no requirement for a formal amendment to the LEP 1985 to permit the land uses proposed.

- *The correct planning procedures must be followed in dealing with this matter to avoid a third party appeal on a point of law. Such an appeal would be time consuming and costly to all involved including the ratepayers.*

Comment - Policies and procedures relating to the determination of Development Applications have been adhered to in relation to this Development Application.

- *The submitted plans and SEE do not adequately address the impacts resulting from the significant increase in GLA.*
 - *Traffic assessment is inadequate with regard to impact on the local road network.*

- *Little consideration is given to the affect on the local economic activity.*
- *Little consideration given to the impact on neighbourhood amenity particularly in relation to the aims and objectives of the current LEP that prohibit the scale of the development proposed.*

Comment - Impacts resulting from traffic from the development, impacts on local economic activity and impacts on neighbourhood amenity are all discussed elsewhere in this report.

- *The development will detrimentally impinge on the existing peaceful, quite family nature of the suburb.*
- *Bourkelands is a quiet residential area and many people have chosen to live here for that reason. The introduction of a shopping centre will impinge on the existing amenity of the area.*
- *Bourkelands was chosen as a family friendly suburb. A busy shopping complex with its associated social problems will destroy the peacefulness currently enjoyed.*
- *The development will detrimentally affect the lifestyle of all people living in the Bourkelands precinct.*

Comment - The impacts of the development have been discussed in detail earlier in this report.

- *The proximity of the development to existing family homes will significantly devalue these properties.*

Comment - The impacts on property values resulting from the shopping centre cannot be predicted. Property values may in fact rise due to the facilities and services provided to residents living within the Bourkelands neighbourhood.

- *The introduction of heavy vehicles will pose a significant threat to the safety of people around their homes and using the bus stops, playgrounds and park land.*
- *Increase in traffic (including heavy delivery vehicles) resulting in the potential for motor vehicle accidents.*
- *The T intersection at Illeura Road is already a busy intersection. Service vehicle access to the proposed development will conflict directly with this intersection.*
- *An increase in people and traffic will alter the existing atmosphere of the area and make it difficult to access Bourkelands Drive.*
- *Access to the facility will be to and from a suburban street.*

Comment - The impacts of the development relating to traffic (including pedestrian traffic) and the impacts on the surrounding road network have been discussed in detail earlier in this report.

- *Impact of noise generated from the development on surrounding residential properties, particularly on shift workers.*

- *The introduction of heavy vehicles will result in unacceptable noise pollution and will have a detrimental effect on the quality and standard of the surrounding roadways.*

Comment - The impacts of the development in relation to noise have been discussed in detail earlier in this report.

Council's Development Engineer is satisfied that the standard of road Construction in Bourkelands Drive is capable of withstanding the type and frequency of service and delivery vehicles accessing this development.

- *The potential adverse trading impacts that the proposed development may have on existing retail centres particularly Tolland (as supported in the 'Review of the City of Wagga Wagga Retail and Commercial Development Strategy').*
- *The development is unnecessary as there are already 3 shopping centres within a 5 minute drive. The development will have a detrimental impact on the existing grocery stores and other small businesses within close proximity.*

Comment - The economic impacts of the development including the impact of the shopping centre on existing operational centres within the city has been discussed earlier in this report.

- *The liquor store is unnecessary and inappropriate within close proximity to family homes. Wagga has enough problems with crime that is fuelled by alcohol.*
- *There are already enough liquor stores serving the area and the introduction of a further store will only add to the problem of alcohol related crime.*
- *A shop selling intoxicating liquor will result in detrimental impacts from the consumption of alcohol in the immediate precinct.*
- *There is already a hotel and bottle shop within 3km of the site and the proposed development would affect sales from this and other established outlets.*

Comment - One of the plans submitted with the DA (i.e. the landscaping plan) identifies that one of the tenancies could be occupied by a liquor store. This is not referenced on the submitted architectural plans or within any other documentation submitted with the DA. It is therefore unconfirmed that the centre will include a liquor store.

In the event that the centre does include a liquor store, the suggestion that the existence of the store will directly result in detrimental social impacts include alcohol related crime are unfounded.

It is also unlikely that the store would have a significant impact on the commercial viability of other liquor retailers in other areas of the city (refer to earlier discussion relating to economic impacts).

(e) 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 avoided.

The proposal has been assessed with respect to the relevant Environmental Planning Instruments and with consideration of the potential impacts upon the physical, social and economic environment.

The assessment has determined that the proposal complies with the provisions of the Wagga Wagga LEP 1985 and the Wagga Wagga DCP 2005.

It is considered that the public interest would not be compromised by the approval of this application as addressed previously in the report.

Other Legislative Requirements

Section 5A ("Seven Part Test" - Threatened Species)

On 20 December 2010, an Order conferring biodiversity certification on the LEP 2010 was issued by the Minister for Planning under the Threatened Species Conservation Act 1995. As the site is located within the biocertified area, the proposal is taken to be development that is not likely to significantly affect any threatened species, population or ecological community, or its habitat.

With respect to the Order, the provisions of Section 5A of the Environmental Planning and Assessment Act 1979 are not required to be taken into consideration.

Section 79B(3)

The land is not identified as a critical habitat and therefore concurrence is not required under this section.

Council Policies

No other relevant policies

Comments by Council's Officers and/or Development Assessment Team

Council's other relevant officers have reviewed the application in accordance with Council's processing procedures.

In addition to normal internal referrals, this application was referred to:

- The General Manager's Office
- Manager Strategic Planning
- Manager Waste and Stormwater Services
- Manager Infrastructure Planning
- Manager Community Services
- Manager Economic Development

- Manager Airport and Property Management

Comments were received from the Manager Infrastructure Planning and Manager Economic Development which are summarised and addressed below:

Infrastructure Services Comments

- *The assessment of Bourkelands Drive and Bourke Street in the SEE document appears to be accurate.*

Comment - Noted.

- *Concern is expressed in respect of the reduced number of car parking spaces when compared to the requirements of the Wagga Wagga DCP. It is not agreed that the nature of the area will lead to such a dramatic decrease in required parking spaces.*
- *Concern is raised with regard to the potential impact on street parking as a result of insufficient on-site parking. On street parking should be fiercely discouraged. Bourkelands Drive is a major thoroughfare, linking with Berembee Drive and Kaloona Drive which both provide linkage throughout Bourkelands.*
- *There is no mention in the submitted documentation that the development will also service Hilltop, Springvale and Glenoak. Customers from these suburbs will more than likely drive and require parking.*

Comment - Carparking requirements for this development have been addressed earlier in this report. As discussed, the development complies with the current requirements under the DCP 2010.

- *The developer should be required to guarantee that the turning paths for all vehicles in the car park, delivery area and to and from the street complies with recognised standard design requirements. Concern is raised regarding the displayed turning path for articulated vehicles having to cross to the incorrect side of Bourkelands Drive to allow for a left turn into the delivery driveway.*
- *The pedestrian crossing that is located at the western end of the delivery access would seem to have no purpose as it appears to deliver pedestrians to no specific place.*
- *The tight nature of the car parking area, combined with the absence of any defined pedestrian routes between the car park components and the building is also of concern. The safety of pedestrians in that environment is difficult to guarantee.*
- *The location of the disabled parking spaces is closest to the main access door however they back onto what could be anticipated as the busiest part of the car park. That cancels much of the safety aspect of the provision of disabled parking spaces, particularly when considering the use of rear-loading vehicles.*

Comment: Matters regarding the layout and configuration of the carpark and vehicular access have been addressed in recommended conditions of any consent.

- *The proposed development is adjacent to a recognised overland flow path. The Major Overland Flow Flood Study identifies that there is a high risk area*

downstream of the development area in Jubilee Park and crossing Redhill Road. It is critical that the development does not increase this level of risk for Council.

- *There is no detail on the proposed stormwater reuse infrastructure. Details such as the location of the outfall from the storage, the type of outfall and the size of the outfall should be required.*

Comment: Council's Development Engineer has confirmed that stormwater infrastructure exists adjacent to the site that is of a capacity to serve the proposed development. A designated connection point is available for this site/development. Council's plumbing inspectors will ensure connection to the system is in accordance with Council's requirements.

The Development Engineer has also confirmed that the stormwater leaving this site will not impact on the operation of the adjacent detention basins. As the site is at the bottom of the catchment, stormwater from the development has left the system well before the water from higher in the catchment has entered and passed through the basins.

Economic Development Comments

- *The development is consistent with the Wagga Wagga Growth Strategy 2010.*

Comment - This is noted and further supports the positive economic impacts of the development.

- *It is important that retail address the street or public areas with some kind of place-making. Parts of the development provides opportunity for this to occur (particularly where the development provides wide usable footpaths). The proposed bus stop in Bourkelands Drive could be sacrificed to facilitate this place-making.*

Comment - A recommended condition of consent has been included which requires the applicant to provide specific details with regard to the treatment of the footpath area in Bourkelands Drive. This detail will enable Council to look closely at the design of this area and its 'place-making' potential.

- *The extent of glazing is commendable and contributes to a better streetscape. However, there was no formal colour scheme with the DA. More detail on this would be helpful.*

Comment - This has been addressed as a recommended condition of consent.

Development Contributions - Section 94/94A & Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000

Section 94A and Section 64 contributions will be required and have been recommended as conditions of any consent.

Other Approvals

An Activity Approval under Part E2 (Public roads) of Section 68 of the Local Government Act 1993 for the proposed verandah/awning over the footpath/road will be required. This has been addressed as a recommended condition of any consent.

Conclusion

It is satisfied that the proposal is in no way “antipathetic” to the objectives of the B1 and RE1 zones under the LEP 2010. Therefore, the savings provisions contained in this plan would not preclude consent being granted to the proposed shopping centre development under the LEP 1985 even if ‘retail premises’ and ‘business premises’ are prohibited under the LEP 2010.

The development proposal is considered to be consistent with the objectives of the Business, Residential and Open Space zones under the LEP 1985 and the various provisions relevant to the proposal. The proposed development is also consistent with the provisions of the DCP 2005.

The development has been designed and incorporates features to minimise impacts on the surround residential areas. In addition the development will provide convenient, local shopping for the residents of Bourkelands and other surrounding areas.

It is recommended that the application be approved subject to conditions. To allow for the legal acquisition of adjoining land (including community land) and its consolidation as part of the development site, it is recommended that such an approval be granted by way of issuing a ‘Deferred Commencement Consent’ under Section 80(3) of the Environmental Planning and Assessment Act 1979.

RECOMMENDATION

It is recommended that the Wagga Wagga Interim Joint Planning Panel approve Development Application DA07/1097 for Neighbourhood Shopping Centre, 1 Bourkelands Dr BOURKELANDS NSW 2650, Lot 1 DP 1091164, Lot 10 DP 1017384, Part Lot 23 DP 1156563 by way of issuing a ‘Deferred Commencement Consent’ under Section 80(3) of the Environmental Planning and Assessment Act 1979 (as amended) to ensure the reclassification of the community land, and the legal acquisition of this land to form part of the development site prior to the consent becoming operational.

CONDITIONS

This is a 'Deferred Commencement Consent' under Section 80(3) of the Environmental Planning and Assessment Act, 1979, (as amended). This consent does not become operative until the applicant has satisfied the requirements listed in Schedule 'A' of this consent. All issues shall be satisfactorily resolved within a period of two (2) years from the 'Determination Date', that is shown on this consent.

Upon compliance with the issues under Schedule 'A', and written confirmation from Council to that effect, the consent shall become operative from a "Date of Endorsement" (to be included on the written notification) subject to the conditions listed in Schedule 'B' and any additional conditions arising from the requirements of Schedule 'A'.

Schedule A

The following deferred commencement conditions must be complied with to the satisfaction of Council, prior to the issue of an operational Development Consent.

1. That part of Lot 10 DP 1017384 forming part of the subject development site shall be reclassified to Operational Land in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.
2. An application under Section 96 of the *Environmental Planning and Assessment Act 1979* shall be approved to modify development consent DA09/0511 (for a 53 Lot Residential Subdivision on part Lot 17 DP 1138474, Kaloona Drive, Bourkelands, as modified by application to modify consent ADA11/0025 issued on 20 May 2011) by altering the area of the residue land to be dedicated as 'drainage reserve' under condition 21 of the consent so as to exclude that part of the land intended to form part of the proposed shopping centre development site.
3. The 3 allotments comprising the land to which this application relates shall be subdivided to allow that part of the land comprising the subject development site (comprising Lot 1 DP 1091164, part of Lot 10 DP 1017384 and part of Lot 11 DP 1161198) to be consolidated into one allotment. The boundary of the consolidated allotment shall be defined by the outer edge of the proposed landscaped areas as identified on the final approved landscape plan and shall be to the satisfaction of the Director of Planning, or their delegate. All costs associated with the subdivision of this land shall be borne by the applicant.

Schedule B

Approved Plans and Documentation

1. The development must be carried out in accordance with the approved plans.

The Development Application has been determined by the granting of consent subject to the plans/specifications detailed below:

Plan no.	Plan/Doc. Title	Prepared by	Issue	Date
10077 - TP.01	Existing Conditions/Survey Plan	trg	B	22/12/2010
10077 - TP.02	Proposed Site Plan	trg	B	22/12/2010
10077 - TP.03	Proposed Elevations	trg	B	22/12/2010
10077 - TP.04	Roof Plan	trg	B	22/12/2010
10077 - TP.05	Site Context Photo (Existing Conditions)	trg	B	22/12/2010
0434-002-L1000	Landscape Plan	Fitzgerald Frisby Landscape Architecture	P1	10/12/2010
2136875A _RPT_001	Statement of Environmental Effects, Corner Bourke Street and Bourkelands Drive, Bourkelands, Wagga Wagga	Parsons Brinckerhoff	01	December 2010

Note: Any modifications to the proposal shall be the subject of an application under Section 96 of the Environmental Planning and Assessment Act, 1979.

REASON: It is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

Prior to release of Construction Certificate

2. The applicant must provide written approval from the public utility authority, whose allocation is being used for the purpose of placing supporting posts in Bourkelands Drive, prior to approval of a Construction Certificate.

The applicant must demonstrate that the proposed post location within the footpath area will not interfere with existing public utility services prior to the release of the Construction Certificate.

REASON: To ensure that vehicles do not strike the posts, and to ensure that the footings and posts do not cause interference with existing services. Section 79C (1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

3. Provision must be made in the building and on the site for:

- a) access to the building for people with disabilities in accordance with the Building Code of Australia;
- b) toilet facilities for people with disabilities in accordance with the Building Code of Australia, and such toilet facilities must be accessible to all persons working in, or using, the building; and
- c) one motor vehicle parking space on the site for the exclusive use of people with disabilities in accordance with the Building Code of Australia.

NOTE: The applicant must ensure that these matters are addressed in the plans and specifications submitted with the application for a Construction Certificate.

REASON: To provide for the use of the development by people with disabilities. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

4. Submission by a practising Structural Engineer, approved by Council, details of all structural concrete and structural steelwork prior to issue of Construction Certificate.

REASON: It is in the public interest that all building elements are able to withstand the combination of loads and other actions to which it may be subjected. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

5. Payment to Council of a bond of \$2,500.00 for security deposit on the kerb and gutter and footpath. This bond must be paid at the time of lodgement of a Construction Certificate.

NOTE: All monetary conditions are reviewed annually, and may change on 1 July each year.

NOTE: The bond held on the kerb and gutter and footpath is fully refundable upon completion of all works and upon inspection by Council to ensure that any damage to Council infrastructure has been repaired. The bond will not be refunded in the event that damage done to Council's infrastructure is not repaired to the satisfaction of Council.

REASON: It is in the public interest that such fees are paid in accordance with Council's Management Plan. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

6. Pursuant to s94A of the *Environmental Planning and Assessment Act 1979* and City of Wagga Wagga Section 94A Levy Contributions Plan 2006, prior to the issue of the Construction Certificate, the applicant must pay to Council a levy in the amount of \$52,557.20 towards the cost of one or more of the public facilities specified in the Works Schedule to that Plan. This amount must be indexed in accordance with clause 25J(4) of the *Environmental Planning and Assessment Regulation 2000* and clause 11 of the City of Wagga Wagga Section 94A Levy Contributions Plan 2006. A copy of the City of Wagga Wagga Section 94A Levy Contributions Plan 2006, is available for inspection at Council Chambers, corner Baylis and Morrow Streets, Wagga Wagga.

REASON: Having considered the development in accordance with Section 94 A of the *Environmental Planning and Assessment Act 1979*, as amended, Council is

satisfied that the development will require the provision of, or increase the demand for, public infrastructure, public amenities or services within the area. Section 80A(1)(h) of the *Environmental Planning and Assessment Act 1979*, as amended.

7. Pursuant to s64 of the *Local Government Act 1993*, and Division 10 of Part 2 of Chapter 6 of the *Water Management Act 2000*, prior to the issue of the Construction Certificate a Compliance Certificate must be obtained for water management works (as defined in s283 of the *Water Management Act 2000*) relating to the development.

Alternatively, this condition is satisfied by virtue of payment of the figure nominated within this condition. Evidence of payment receipt shall be provided to Council at Construction Certificate application stage.

DSP Sewer contribution: Nil at this stage

DSP Stormwater contribution: \$23,706.70

NOTE: The total Section 64 contribution required is \$23,706.70

REASON: It is in the public interest that Council maintain the ability to provide adequate water and sewer reticulation services. Section 79C(1)(c) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended).

8. The “Bourkelands” subdivision entry sign shall be relocated and reinstated within the public reserve at full cost to the applicant. Details of the revised location shall be provided to Council and shall be to the satisfaction of the Director of Planning, or their delegate, prior to the release of any Construction Certificate. The reinstatement works shall be completed to the satisfaction of the Director of Planning, or their delegate, prior to occupation of the development.

Alternatively, in lieu of the loss of the “Bourkelands” subdivision entry sign, the applicant shall undertake works to enhance the existing entry sign on the southern side of Bourkelands Drive to provide a more prominent entry feature. Details of the proposed works shall be provided to Council and shall be to the satisfaction of the Director of Planning, or their delegate, prior to the release of any Construction Certificate. These works shall be completed to the satisfaction of the Director of Planning, or their delegate, prior to occupation of the building and at full cost to the applicant.

REASON: It is in the public interest that the existing neighbourhood entry signs are maintained. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

9. The swept path of the largest vehicle entering/exiting the subject site and manoeuvrability through the site is to be in accordance with current AS 2890.2-2002 “Off-street commercial vehicle facilities” in a manner to allow all vehicles to enter and leave the site in a forward direction. In this regard, the applicant shall provide evidence that the largest vehicle accessing the site can enter the eastern most driveway when travelling east on Bourkelands Drive without the need to encroach on the west bound traffic lane. Details shall be provided to the satisfaction of the Director of Planning, or their delegate, prior to the release of the Construction Certificate.

REASON: To adequately provide for the safe movement of vehicles within the development. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 10. Facilities are to be provided within the carpark to facilitate safe pedestrian movements throughout the car park. Pedestrian crossing stripes are not to be placed as to resemble a pedestrian crossing on the road and create confusion as to who has priority. Alternate treatments, such as raised pedestrian walkways, shall be selected to allow for the safe movement of pedestrians within the site. A revised plan for the carparking area shall be submitted and shall be to the satisfaction of the Director of Planning, or their delegate, prior to the release of any Construction Certificate.**

REASON: To adequately provide for the safe movement of pedestrians within the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 11. Provision for the parking of bicycles on site in accordance with AS 2890.3-1993 "Bicycle parking facilities" is required. Details of these facilities shall be submitted and shall be to the satisfaction of the Director of Planning, or their delegate, prior to the release of any Construction Certificate.**

REASON: To adequately provide for the parking of bicycles within the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 12. The proposed footpaths along the north western, north eastern and south eastern boundaries of the site shall be constructed on the public reserve land (i.e. not within the shopping centre site) and shall be constructed at full cost to the developer prior to occupation of the development. The paths shall be located along the top of the existing banks of the adjacent storm water detention basins and shall be extended to provide linkage to both Berembee Road and the footpath/bikeway on Bourke Street. Details of the location and design of these footpaths shall be submitted and shall be to the satisfaction of the Director of Planning, or their delegate, prior to the release of any Construction Certificate.**

REASON: To provide for the safe movement of pedestrians to and from the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 13. The applicant shall provide a detailed plan of all works proposed within the Bourkelands Road reserve for the full length of the site. The plan shall address the requirements of Section 9.5.11 of the Wagga Wagga Development Control Plan 2005 and, as a minimum, shall provide details of the following matters:**

- **driveway and footpath construction**
- **road works**
- **bus stop design and footpath width**
- **signage**
- **landscaping and street trees**
- **street furniture and paving**
- **lighting**
- **storm water management**
- **post locations and vertical clearances**

- impacts on service allocations
- maintenance issues

The plan shall be submitted and shall be to the satisfaction of the Director of Planning, or their delegate, prior to the release of any Construction Certificate. The works are to be completed to the satisfaction of the Director of Planning, or their delegate, prior to occupation of the site.

REASON: To ensure that the development contributes to an attractive streetscape and is consistent with the character and amenity of the area. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 14. The proposed colour scheme for the building and a schedule of materials and finishes shall be submitted to Council prior to the release of the Construction Certificate. The scheme shall be to the satisfaction of the Director of Planning or their delegate.**

REASON: To ensure that the development contributes to an attractive streetscape and is consistent with the character and amenity of the area. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 15. Provision is to be made for shopping trolley storage within the carpark area that provides adequate restraint of trolleys. Details of the trolley storage shall be submitted and shall be to the satisfaction of the Director of Planning, or their delegate, prior to the release of any Construction Certificate.**

REASON: To ensure the development does not reduce the amenity of the area. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 16. Prior to the issue of the Construction Certificate, detailed plans and elevation of the kitchen area for the proposed supermarket tenancy shall be required. Plans shall include, but not be limited to, the ceiling, wall, floor covering, coving, exhaust hoods, personal/chemical storage areas.**

REASON: To aid in the storage, preparation and display of food that is safe to be consumed by the public. Section 79C (1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 17. The operation of any plant or equipment used on site must not cause:**

- A noise level that exceeds the background noise level by more than 5db(A) when measured at a distance of 5 metres from any residence in the area.
- An "offensive noise" as defined in the protection of the Environment Operations Act 1997.
- The transmission of vibration to any place of different occupancy.

REASON: To protect the amenity of the area. Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 18. A detailed floorplan of the building shall be provided prior to release of the Construction Certificate.**

REASON: To ensure the development complies with the requirements imposed under Clause 98 of the *Environmental Planning and Assessment Regulations 2000*, as amended, and Section 80A(11) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 19. Prior to the release of the Construction Certificate, the applicant shall provide to Council approval in writing from the public utility authorities whose utility will be effected by the proposed bus parking bay.**

REASON: To ensure that the footings and posts do not cause interference with existing services. Section 79C (1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 20. Prior to the issue of the Construction Certificate, the applicant shall submit to Council for approval a revised site plan showing conventional laybacks at the vehicular entrance and deleting the kerb and gutter returns into the development.**

REASON: This work is necessary to enable adequate means of vehicular access to the proposed development. Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 21. Prior to the issue of a Construction Certificate, the applicant shall provide details from a structural engineer that the proposed awning has been designed in accordance with AS 1170.2:2011 (Structural design actions - Part 2: Wind Actions).**

REASON: To ensure the development complies with the requirements imposed under Clause 98 of the *Environmental Planning and Assessment Regulations 2000*, as amended, and Section 80A(11) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 22. The applicant shall submit a revised detailed landscape plan and legend to be approved by the Director of Planning or their delegate prior to the release of the Construction Certificate. The plan shall introduce shade trees within the interior of the carpark area and within the proposed landscaped area along the north western boundary of the site. Landscape plan shall be in accordance with Council's Landscape Guidelines Application Checklist.**

REASON: To ensure that adequate landscaping is provided and maintained on the subject land. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 23. Prior to the issue of the Construction Certificate for commercial and industrial development the applicant must supply all associated sewer and or stormwater plans for assessment and approval. The plans must indicate that pipe and pit sizing meets the requirements of AS3500 and the New South Wales Plumbing Code of Practice.**

REASON: It is in the public interest that plumbing and drainage work is carried out in accordance with AS/NZS 3500 and the relevant provisions of the New South Wales Code of Plumbing Practice, Plumbing and Drainage. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 24. Under Section 68 of the *Local Government Act 1993*, approval is required to discharge liquid trade waste to sewer.**

The applicant is required to submit a Trade Waste application with detailed sewer layout plans including pre-treatment equipment prior to the issue of the Construction Certificate.

You are required to check with Council's business unit on 1300 292 442 to determine if an approval is required.

REASON: To prevent damage to the Council's Sewage Treatment System and subsequent pollution of the Murrumbidgee River and comply with the *Local Government (General) Regulation 2005*, and Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

Prior to Commencement of Works

- 25. Toilet facilities must 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 must be:**

- a) a standard flushing toilet connected to a public sewer, or**
- b) if that is not practicable, an accredited sewage management facility approved by Council, or**
- c) if that is not practicable, any other sewage management facility approved by Council.**

NOTE 1: The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced and the toilet facility must not be removed without the prior written approval of Council.

NOTE 2: "Vicinity" in this condition is defined to mean within 50 metres of the subject building site.

NOTE 3: The toilet facilities are to comply with all WORK COVER NSW requirements.

REASON: To provide adequate sanitary facilities during the construction phase. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 26. The applicant must submit to Council, at least two (2) days prior to the commencement of any works, notification of the details of the Principal Certifying Authority appointed by the owner for the development.**

NOTE: If the Council must be appointed as the Principal Certifying Authority, the appropriate form to submit to Council, is attached.

REASON: It is in the public interest that Council receive notification in accordance with the provision of the Environmental Planning and Assessment Act 1979, as amended. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

- 27. The applicant must obtain a CONSTRUCTION CERTIFICATE pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended from either Council or an accredited certifying authority certifying that the proposed works are in accordance with the Building Code of Australia PRIOR to any works commencing.**

NOTE 1: No building, engineering, excavation work or food premises fitout must be carried out in relation to this development until the necessary Construction Certificate has been obtained.

NOTE 2: YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE CONSTRUCTION CERTIFICATE, even if you made an application for a

Construction Certificate at the same time as you lodged this Development Application.

NOTE 3: It is the responsibility of the applicant to ensure that the development complies with the provision of the Building Code of Australia in the case of building work and the applicable Council Engineering Standards in the case of subdivision works. This may entail alterations to the proposal so that it complies with these standards.

REASON: To ensure the design of the proposed work may be assessed in detail before construction commences and because it is in the public interest that the development complies with the appropriate construction standards. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

- 28. Prior to the commencement of works erosion and sediment control measures are to be established and maintained to prevent silt and sediment escaping the site or producing erosion. This work must be carried out and maintained in accordance with Council's**

- a) Erosion and Sediment Control Guidelines for Building Sites; and**
- b) Soils and Construction, Volume 1, Managing Urban Stormwater**

NOTE: All erosion and sediment control measures must be in place prior to earthworks commencing.

REASON: To ensure the impact of the work on the environment in terms of soil erosion and sedimentation is minimised. Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 29. Prior to the commencement of works, the applicant shall obtain a Part E2 (Public Roads) Activity Approval under Section 68 of the Local Government Act 1993 for the erection of the proposed verandah/awning over the footpath/road.**

REASON: It is in the public interest that approvals required under the Section 68 of the Local Government Act 1993 are obtained and for the works to be assessed against the relevant standards. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

- 30. Prior to the commencement of any plumbing or drainage works, an Activity Approval is required under Section 68, Part B - 4, 5 and 6, of the Local Government Act 1993 and a Plumbing Permit is required under the Plumbing and Drainage Code of Practice.**

REASON: To ensure that the activity is carried out with the relevant approvals required under the Local Government Act 1993 and the Plumbing and Drainage Code of Practice.

- 31. The subject land is covered by Council's Tree Preservation Order. Trees impacting on the development shall not be removed from the site without first obtaining approval. Enquiries are to be made to Council's Tree Management Office by telephoning 1300 292442.**

REASON: To ensure that any trees, on or near to the subject land, are not damaged or removed unnecessarily. Section 79C(b) and (c) of the Environmental Planning and Assessment Act 1979, as amended.

- 32. Any sewer or stormwater works associated with the development are to meet the requirements of the AS3500 and the New South Wales Plumbing Code of**

Practice. In this regard, it may be necessary for you to contact a Licensed Plumber and Drainer.

A Plumbing Permit must be obtained by a Licensed Plumber and Drainer, prior to any sewer or stormwater work being carried out on site. Further, a final inspection must be carried out upon completion of plumbing and drainage work and prior to occupation of the development.

REASON: It is in the public interest that plumbing work is carried out in accordance with AS/NZS 3500 and New South Wales Code of Plumbing Practice, Plumbing and Drainage. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 33. The applicant is to submit to Council, at least two (2) days prior to the commencement of any works, the attached 'Notice of Commencement of Building or Subdivision Works and Appointment of Principal Certifying Authority'.**

REASON: Because it is in the public interest that Council receive notification in accordance with the provision of the *Environmental Planning and Assessment Act 1979*, as amended. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 34. The work involves joining onto an existing trafficable road and this work will require approval under Section 138 of the *Roads Act 1993*. This will entail a written submission on your part and necessitate you or your consultant or the contractor producing a certified Temporary Traffic Management Plan (TTP) for the works. It should be noted that work in the existing Road Reserve can only commence after the plan has been submitted and then only in accordance with the submitted TTP.**

REASON: It is in the public interest that temporary traffic management is provided in association with the subject development, and to ensure compliance with the terms and a conditions of the *Roads Act 1993*. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

During works

- 35. The construction of the layback in the existing kerb and gutter, adjacent to the proposed footway crossing, is to comply with Council's Guidelines for Subdivision and Developments. All works must be completed by an approved Council Concreting Contractor.**

REASON: This work is necessary to enable adequate means of vehicular access to the proposed development. Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 36. The applicant must obtain a Compliance Certificate pursuant to Section 109C of the *Environmental Planning and Assessment Act 1979*, as amended, from Council or an accredited certifying authority, certifying compliance with the Building Code of Australia for the stages of construction listed. For the purposes of obtaining the Compliance Certificate the works must be inspected by the accredited certifying authority at the times specified.**

- a) Footings - When the footings have been excavated and all steel reinforcement has been placed in position.**

- b) **Slab** - When reinforcement steel has been placed in position in any concrete slab, whether or not the slab is suspended, on the ground, or on fill.
- c) **Sub floor bearers and joists** - Prior to the laying of the floor.
- d) **Wall frame** - When the brick veneer outer wall has been constructed and tied to the frame.
- e) **Roof frame** - When external roof covering has been installed and prior to the installation of the ceiling lining and eaves soffit lining.
- f) **Wet areas** - When the flashing to all wet areas, including the plinth under the bath, the bathroom, laundry, water closet, ensuite and shower recess have been completed.
- g) **Final** - Required prior to occupation of the building

NOTE 1: A Final Occupation Certificate in relation to the building cannot be issued by Council or an accredited certifying authority until all Compliance Certificates required by this condition have been issued by, or registered with Council.

NOTE 2: The above Compliance Certificates are required whether or not the work has been inspected by a Structural Engineer, a lending authority or any other person. If the Compliance Certificates are not issued Council may refuse to issue a Building Certificate under Section 149A of the *Environmental Planning and Assessment Act 1979*, as amended.

REASON: It is in the public interest that Compliance Certificates be issued for these components of the development, and Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 37. The Builder must at all times maintain, on the job, a legible copy of the plan and specification approved with the Construction Certificate.**

REASON: It is in the public interest that a copy of the Construction Certificate plans are available, and Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 38. Any alterations or additions marked by Council on the approved plans and/or the specifications must be carried into effect.**

REASON: It is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 39. The applicant must take all reasonable steps to minimise dust and noise generation during the demolition and/or construction process. No offensive noise must be emitted during either process. Such activities must only be undertaken Monday to Friday 7.00am to 6.00pm and Saturday 7.00am to 5.00pm, excepting public holidays.**

REASON: To ensure building works do not have adverse effects on the amenity of the area. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 40. All building rubbish and debris, including that which can be wind blown, must be contained on site in a suitable enclosure, approved by Council, at all times**

prior to disposal at Council's Waste Management Centre. The container must be erected on the building site prior to work commencing.

Materials and sheds or machinery to be used in association with the construction of the building must not be stored or stacked on Council's footpath, nature strip, reserve or roadway.

NOTE 1: No building rubbish or debris must be placed, or be permitted to be placed on any adjoining public reserve, footway, road or private land.

NOTE 2: The applicant must retain weighbridge certificates, receipts or dockets that clearly identify where waste has been deposited. Documentation must include quantities and nature of the waste. This documentation must be provided to Council prior to application for an Occupation Certificate for the development.

NOTE 3: The suitable container for the storage of rubbish must be retained on site until an Occupation Certificate is issued for the development.

REASON: To ensure that the building site and adjoining public places are maintained in a clean and tidy condition so as not to interfere with the amenity of the area. Section 79C (1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 41. Within seven (7) days of the completion of the piers, concrete footings and floor slab, a certificate from a Practising Structural Engineer, approved by Council, must be submitted to Council, certifying that the Engineer has inspected the site preparations and the steel reinforcement in position prior to the placement of the concrete, and that all work has been carried out in accordance with their requirements and that the work is structurally sound and capable of sustaining the loads to be placed on the footings and floor slabs.**

REASON: It is in the public interest that all building elements are able to withstand the combination of loads and other actions to which it may be subjected. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 42. All roofed and paved areas must be drained and the water from those areas and from any other drainage conveyed to the existing inter allotment drains located on the land, in accordance with AS/NZS 3500.**

Stormwater disposal drains must be connected to all roof gutter downpipes within fourteen days of installation of the downpipes and/or the construction of hard standing areas, as may be appropriate, to discharge roofwater to the approved method of disposal.

REASON: The character of the development is such that storm water run off will be increased and must be safely conveyed to the storm water drainage system. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 43. All storm water runoff from the proposed development must be collected on site and conveyed to the drainage spur provided, in a manner consistent with AS 3500 and Council's Guidelines for Subdivision and Developments.**

REASON: To provide for the drainage of storm water and minimise the risk of flood damage to adjoining properties. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 44. Stormwater drainage must be constructed and maintained so as to provide a 1 in 10 year pipe system, satisfactory overland flow path and not adversely affect adjacent properties.**

REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 45. Suitable provision is to be made on site for the parking and storage of all construction related vehicles for the duration of the construction phase. This is required to alleviate the need for any vehicles to park or to load/unload on Bourkelands Drive or the adjoining public open space areas.**

REASON: To adequately provide for the parking of vehicles on site during the construction phase and to ensure the development does not reduce the amenity of the area. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 46. All construction traffic shall access the site via Bourkelands Drive only. An appropriate barrier shall be erected and maintained around the perimeter of the site to restrict encroachment of construction activities onto the surrounding public open space areas for the duration of the construction phase.**

REASON: To ensure the development does not reduce the amenity of the area. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 47. Vehicular access within the road reserve must be constructed to Council standards, at full cost to the developer, by a licensed Council approved contractor.**

REASON: To ensure that the proposed access is constructed by an approved Council Contractor. Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 48. The construction and finished area used for the manufacture, preparation, storage, packing, carriage or delivery of food for sale must comply with the *Food Act 2003* and *Regulations 2004* and Food Standards Code 3.2.3. and Councils Food Premises Code.**

REASON: To aid in the storage, preparation and display of food that is safe to be consumed by the public. Section 79C (1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 49. All building work must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant Construction Certificate or Complying Development Certificate was made).**

NOTE: Sanitary facilities are to be provided to comply with F2.3 of the Building Code of Australia.

NOTE: Travel distances are to comply with D1.4 of the Building Code of Australia.

REASON: To ensure the development complies with the requirements imposed under Clause 98 of the *Environmental Planning and Assessment Regulations 2000*, as amended, and Section 80A(11) of the *Environmental Planning and Assessment Act 1979*, as amended.

50. 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 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 work hours
 - c) the development consent or complying development consent number, the name and contact details of the Principal Certifying Authority.

Any sign must be removed when the work has been completed.

NOTE: This condition does not apply to:

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

REASON: It is in the public interest that adequate safety measures are provided. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

Prior to release of Survey Certificate

51. The applicant must obtain a Subdivision Certificate, pursuant to Section 109C of the *Environmental Planning and Assessment Act 1979*, as amended from Council, prior to its lodgement with the Lands Titles Office.

The Final Survey Plan (two paper copies and an electronic copy) must be submitted to Council along with the application for Subdivision Certificate and associated checklist.

NOTE: Council will only consider issuing a Subdivision Certificate in relation to this subdivision when it is satisfied that all conditions of development consent relating to the subdivision have been complied with and the appropriate fee paid.

REASON: It is in the public interest that the plan is certified in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*, as amended. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

Prior to release of Occupation Certificate / Prior to Operation

52. The paving of all vehicular movement areas must be either hotmix sealed or 150mm of reinforced concrete as a minimum. The finished surface of the proposed bus lay-by will be reinforced concrete.

REASON: To provide all weather vehicular movement and to minimise nuisances to adjoining development from noise and dust. Section 79C(1)(b) and (c) of the *Environmental Planning and Assessment Act 1979*, as amended.

53. Any works associated with the proposed development shall not impinge on the current function and operation of the adjacent storm water detention basins particularly with regard to their capacity and the structural integrity and

stability of their walls. In this regard, the applicant shall provide certification from an appropriately qualified practicing engineer that the continued operation, capacity and structural integrity of the basins remains unaltered, prior to occupation of development.

REASON: It is in the public interest to ensure that the operation and integrity of stormwater infrastructure is maintained. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

- 54. The eastern most driveway on Bourkelands Drive shall be restricted to ingress for delivery and service vehicles only. The proposed delivery access lane shall be restricted to one-way operation with all vehicles exiting the site via the proposed carpark driveway. These restrictions shall be clearly line marked and sign posted at the entrance to the loading dock and within the site prior to occupation of the development.**

REASON: To adequately provide for the safe movement of vehicles through the site. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 55. Appropriate signage shall be erected within the loading dock area prior to occupation, advising delivery drivers of the following:**
- The location of the site within residential area and the need for drivers to respect the privacy of nearby residential properties.**
 - The requirement for all vehicles to enter and leave the site in a forward direction. No reversing onto or from Bourkelands Drive is permitted.**

REASON: To ensure the development does not reduce the amenity of the area. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 56. Appropriate directional signage and line marking shall be provided throughout the site to assist in directing vehicles and pedestrians around and through the facility. The works are to be completed to the satisfaction of the Director of Planning, or their delegate, prior to occupation.**

REASON: To adequately provide for the safe movement of vehicles within the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 57. All public footpaths shall be constructed to Council standards by a Council approved contractor. The proposed public footpath in Bourkelands Drive shall be extended from the existing pedestrian/bicycle path at Bourke Street through to Berembee Road to the east of the site. The works are to be completed to the satisfaction of the Director of Planning, or their delegate, prior to occupation of the site.**

REASON: To provide for the safe movement of pedestrians to and from the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 58. All exterior lighting associated with the development must be designed and installed so that no obtrusive light will be cast onto any adjoining property. The applicant shall submit an external lighting management plan detailing the management of all external lighting so as to minimise impacts on surrounding residential properties with particular regard to those dwellings located immediately opposite the site in Bourkelands Drive. The plan shall be to the**

satisfaction of the Director of Planning, or their delegate, prior to occupation of the site.

NOTE: Australian Standard AS4282 “Control of the Obtrusive Effects of Outdoor Lighting” can be used to assist in satisfying this condition.

REASON: To prevent the proposed development having a detrimental effect on the developments existing on adjoining land. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

- 59. Details of noise attenuation measures to be provided as part of the proposed plant/equipment platform on the building shall be submitted and shall be to the satisfaction of Council prior to occupation of the site.**

REASON: To ensure the development does not reduce the amenity of the area. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 60. The applicant must contact the Council's Environmental and Community Services Directorate as the premises is required to be registered with the Council, prior to opening.**

REASON: To aid the storage, preparation and display of food that is safe to be consumed by the public. Section 79C (1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

- 61. The owner must submit to Council a final Fire Safety Certificate stating that each essential fire safety measure specified in the current Fire Safety Schedule for the building to which the certificate relates:**

- a) has been assessed by a properly qualified person; and**
- b) was found, when it was assessed, to be capable of performing to a standard not less than that required by the current Fire Safety Schedule for the building.**

Further, the assessment must be carried out within a period of three (3) months of the date on which the final Fire Safety certificate was issued. The owner of the building must forward a copy of the certificate to the New South Wales Fire Brigades and must prominently display a copy in the building.

NOTE: A final Fire Safety Certificate must be provided before a final Occupation Certificate can be issued for the building and must be provided if a Fire Safety Order is made in relation to the building premises.

REASON: To ensure the development complies with the requirements imposed under clause 153 of the *Environmental Planning and Assessment Regulation 2000*, as amended. Section 80A(11) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 62. An onsite fire hydrant and a booster facility at the street entrance to the site must be installed in accordance with the requirements of Australian Standard 2419.1 “Fire hydrant installations - system design, installation and commissioning.” The hydrant and/or booster installation must be at full cost to the developer. A letter from an appropriately qualified Hydraulic Engineer must be submitted to Council, certifying that both the hydrant and booster installation are in accordance with AS 2419.1.**

REASON: To ensure access to a hydrant or booster facility by NSW Fire Brigades within an appropriate distance, in the event of a fire on the site. Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 63. The Applicant must contact Council's Environmental and Community Services Directorate two days prior to opening for a Health Inspection to ensure compliance with the *Food Act 2003* and the *NSW Public Health Act 1991*.**

REASON: To aid in the storage, preparation and display of food that is safe to be consumed by the public. Section 79C (1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 64. The applicant must contact Council's Environmental and Community Services Directorate as the premises is required to be registered with Council, prior to opening.**

REASON: To aid in the storage, preparation and display of food that is safe to be consumed by the public. Section 79C (1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 65. The applicant must obtain an Occupation Certificate, pursuant to Section 109C of the *Environmental Planning and Assessment Act 1979*, from either Council or an accredited certifying authority, prior to occupation of the building.**

NOTE: The issuing of an Occupation Certificate does not necessarily indicate that all conditions of development consent have been complied with. The applicant is responsible for ensuring that all conditions of development consent are complied with.

REASON: It is in the public interest that an Occupation Certificate be issued prior to occupation of the building. Section 79C (1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 66. Council requires a "Works as Executed Diagram" to be approved by Council Plumbing Inspector, prior to the issue of a Final Plumbing Certificate.**

The Works as Executed Diagram must be submitted in electronic format in either AutoCAD or PDF File in accordance with Council Requirements.

REASON: It is in the public interest that plumbing and drainage work is carried out in accordance with AS/NZS 3500 and the relevant provisions of the New South Wales Code of Plumbing Practice, Plumbing and Drainage. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 67. Council requires a Water Plumbing Certificate from Riverina Water County Council to be submitted to Council, prior to the issue of a Final Certificate for any building work.**

NOTE 1: The applicant is to obtain a Plumbing Permit from Riverina Water County Council before any water supply / plumbing works commence and a Compliance Certificate upon completion of works. Contact Riverina Water's Plumbing Inspector Rodney Price on 6922 0634. Please be prepared to quote your Construction Certificate number.

NOTE 2: Occupation/Final Building Certificate will not be issued unless Riverina Water's Certificate is received by Council.

REASON: To ensure that the water servicing requirements of the development have been approved by the relevant authority. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

General

- 68. Vehicular access via adjacent Council owned land both during and after construction is not permitted at any time.**

REASON: To ensure that construction vehicles do not damage Council property. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 69. Garbage receptacles for the disposal of litter must be installed, maintained and regularly emptied.**

REASON: To ensure the development does not reduce the amenity of the area by reason of an accumulation of litter. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 70. All exterior lighting associated with the development must be designed and installed so that no obtrusive light will be cast onto any adjoining property.**

NOTE: Compliance with Australian Standard AS4282 “Control of the Obtrusive Effects of Outdoor Lighting” will satisfy this condition.

REASON: To prevent the proposed development having a detrimental effect on the developments existing on adjoining land. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 71. Signage details on the building are approved as indicated on the approved elevations. Signs for the proposed tenancies shall be contained entirely within the dimensions of the approved signage zones and shall not be illuminated. Nothing in this consent permits the display or erection of any additional sign, advertisement or associated structure. All additional signage to be located on the site will be subject to the submission of further development application for consideration by Council.**

REASON: To ensure the development does not reduce the amenity of the area. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 72. Loading and unloading of delivery vehicles will not be permitted to take place other than on the subject site or within the approved loading dock area as identified on the submitted plans. No articulated vehicles are permitted to load/unload within the car park areas.**

REASON: To adequately provide for the unloading and loading of goods within the development and to ensure the development does not reduce the amenity of the area. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 73. The off-street car park layout associated with the proposed development including driveway design and location, internal aisle widths, parking bay dimensions and loading bays are to be in accordance with AS 2890.1-2004 “Off-street car parking” and AS 2890.2-2002 “Off-street commercial vehicle facilities”.**

REASON: To adequately provide for the parking and movement of vehicles within

the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 74. A minimum of 73 car parking spaces must be made available on site at all times.**

REASON: To adequately provide for the parking of vehicles within the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 75. The storage of waste and waste receptacles shall be restricted to the approved “centre refuse” area. Waste storage external to the building including the “centre refuse” area is not permitted.**

REASON: To ensure the development does not reduce the amenity of the area. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 76. No materials or goods are to be stored, placed or otherwise permitted in any external areas.**

REASON: To ensure the development does not reduce the amenity of the area. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 77. Internal vehicular movement aisles, parking areas and loading bays shall be maintained clear of obstruction and used exclusively for the purposes of vehicle access, carparking and loading/unloading respectively. Under no circumstances shall these areas be used for the storage of goods or waste materials or for any other purpose.**

REASON: To adequately provide for the parking and movement of vehicles within the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 78. Illumination of the carpark is to be in accordance with AS 1158.1 “Pedestrian Lighting” during the hours of operation of the premise.**

REASON: to provide for safe and secure use of the carpark during the hours of operation of the premise. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 79. Hours of operation for the supermarket and other tenancies shall be restricted to:**

- **Monday to Sunday 8:00am to 8:00pm**

The use and operation of the loading dock and access to the site for delivery vehicles using this dock shall be restricted to:

- **Monday to Saturday 8:00am to 6:00pm**
- **Sunday & public holidays No use or access permitted**

The hours for the collection and removal of waste and recycling are to be restricted to the hours of operation for the supermarket and other tenancies.

The permissible hours of illumination for any signage associated with the shopping centre is to be restricted to the permissible hours of operation for the supermarket and other tenancies.

REASON: To ensure the development does not reduce the amenity of the area.

Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

80. The building must comply with the Fire Safety Schedule, attached.

NOTE: The Fire Safety Schedule supersedes any earlier Fire Safety Schedule and will cease to have effect when any subsequent Fire Safety Schedule is issued.

REASON: It is in the public interest that the building provides an adequate level of fire protection. Section 79C (1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

81. The owner must submit to Council an Annual Fire Safety Statement, each 12 months after the final Safety Certificate is issued. The certificate must be on, or to the effect of, Council's Fire Safety Statement (copy attached).

REASON: It is in the public interest that the development provides an Annual Fire Safety Statement. Section 79C (1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

82. Premises within the proposed development to be utilised as food premises must comply with the *Food Act 2003* and *Regulations 2004*, Council's Food Premises Code, and Food Safety Standards Code 3.2.3.

REASON: To aid in the storage, preparation and display of food that is safe to be consumed by the public. Section 79C (1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

Report by:	Report Approved by:
 Cameron Collins Planner/Building Surveyor	 Colby Farmer Manager Development Services
Date:	Date: