

JRPP No:	2009SYW030
DA No:	010.2009.00000765.001
Proposed Development:	Extension to Tahmoor Town Centre
Applicant:	Rein Warry & Company
Report By:	Michael Brown Planning Strategies, Town Planning Consultant

Assessment Report and Recommendation

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A: Reduced architectural plans

JRPP No	2009SYW030
Property	Lots 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86 and 88 in DP 8982 and part of York Street and Lot 304 in DP 1057579 Thirlmere Way, Tahmoor
Proposal	Demolition of existing structures and extensions to shopping centre
Applicant	Rein Warry & Company
Owner	Baldek Pty Ltd and Vivah Pty Ltd
Land zoning	Residential 2(a) under Wollondilly LEP 1991
Application No	2009/765

Executive Summary

Council received a development application in November 2009 from Rein Warry and Co Pty Ltd proposing the demolition of existing dwellings and structures and removal of trees to enable the construction of an extension to the existing Tahmoor Town Centre Shopping Centre for a general store. Wollondilly Local Environmental Plan (LEP) 1991 applies to the subject proposal. Under this LEP the subject lands are currently zoned 2(a) (Residential "A" zone) and the proposed development of a general store is permissible in this zone with development consent. The Council has prepared draft LEP 2009 and under this draft LEP the subject lands are proposed to be zoned B2 Business Zone. The draft LEP was placed on public exhibition and the draft Plan has been forwarded to the Department of Planning with a request to make the Plan. The draft LEP is awaiting gazettal

The cost of the development is \$20M and under the provisions of the Major Development SEPP any development which involves private infrastructure with a Capital Investment Value (CIV) over \$10M is to be determined by the Joint Regional Planning Panel (JRRP).

The proposal also involves the partial closure of a public road, known as York Street, which is to be sold to the developer upon closure to include this road within the development proposal. As such, the Council has a potential perceived conflict of interest. This firm was engaged to undertake an assessment of the proposal on behalf of the Council to remove any potential conflict of interest.

The application does not constitute a Stage Development Application under Section 83B of the Environmental Planning & Assessment Act 1979. However, the proposed construction of the building and infrastructure works are intended to be carried out in a staged fashion. In this regard it is proposed that the demolition of structures and removal of trees will be one stage of the proposal. The works on public roads (road widening etc), including the roundabout on Thirlmere Way and York Street will be another stage and the construction of the extensions a further stage. The construction of the building over York Street and works within this road could be potentially another stage, depending on timing of the closure.

A "Deferred Commencement" consent is proposed to address the York Street road closure issue. In addition, the RTA have raised further issues in relation to the proposed roundabout and other works and there is a request for further modelling to be undertaken to address potential impacts at intersections and to be supported by a Traffic Impact Statement.

Having regard to the comments by the RTA, it is considered appropriate that a Deferred Commencement consent be issued, which will require the applicant to submit the requested information prior to the issue of development consent.

There have been several delays with the assessment of the proposal and requests for further information to be provided to enable the proper assessment, including likely traffic impacts, tree removal, drainage, economic and heritage impacts. These matters have now been resolved, apart from the recent request by the RTA.

During the initial notification period 5 submissions were received. An initial community forum was held in August 2010 to discuss the proposed road closure. Concern was expressed at the forum regarding such closure, which basically did not provide alternative road/s connections if York Street was closed. Following assessment of the development proposal, amended plans were submitted which proposed the 'reopening' of George Street and amendments to the undercroft carparking arrangements, which allowed vehicles to drive under the building from Larkin Street to Thirlmere Way. These amendments were renotified to adjoining and affected owners, including those persons who made the original submissions. At the conclusion of the exhibition process (27 September 2010), no further submissions were received.

Council also notified the closure of York Street and we have been advised that some 1350 property owners were notified of the road closure. and received a number of submissions. This report does not address the road closure proposal, but will provide details of this aspect as it impacts on the development proposal. A community forum meeting was held on 11 October 2010 to discuss the closure of York Street with interested and concerned residents. At this meeting, the issue of sale and closure of York Street was raised as the main concern of persons. The closure of York Street will be considered at the Council meeting of 18 October 2010. Details of the outcome from the Council determination on the road closure will be provided to the JRPP meeting.

A number of technical studies have been prepared supporting the proposed development. There have not been any disclosures of political donations made in regard to this application.

An assessment under Section 79C of the Environmental Planning & Assessment Act 1979 has been undertaken and the application is recommended for approval.

1 Relevance to Community Strategic Plan Outcomes

COMMUNITY

CO-2 Services and facilities are more accessible and more fairly distributed.

Comment

The provision of additional shopping facilities and services central to the Shire's LGA will benefit the community.

ECONOMY

EO-2 Employment-generating industries that are both more effective in strengthening Wollondilly's economy and more environmentally friendly.

Comment

The application has been assessed in accordance with the Environmental Planning and Assessment Act, 1979. It has been concluded that the proposal would be satisfactory with regard to economic and environmental impacts.

ENVIRONMENT

EO-3 The Wollondilly community lives and works more sustainably

Comment

The application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. It is concluded that the development would be satisfactory with regard to environmental impacts and the development will provide short-term and long-term employment during construction phase and operational phase.

2 Consultation

- Council's Development Engineer: No objections subject to conditions.
- Council's Environmental Services Section: No objections subject to conditions.
- Heritage Advisor: No objections.
- Council's Disabilities and Access Officer: No objections.
- Council's Design Engineer: No objections.
- Roads and Traffic Authority (RTA): Application has been amended. However, the RTA has requested that a Traffic Impact Statement and further modelling be undertaken having regard to the proposed road works.
- NSW Police Service (Camden LAC – Crime Management Unit): No objections.

- NSW Police Force (Camden LAC – Traffic Services): No objections subject to conditions.
- Australian Rail Track Corporation Ltd: No objections.
- Mines Subsidence Board: Plans approved.

3 The Proposed Development

The proposed development seeks approval for the following works:

- Demolition of all dwellings and structures on the subject sites;
- Removal of trees and vegetation;
- Site works, including drainage and road works;
- Construction of a roundabout at the intersection of Thirlmere Way and York Street, including necessary infrastructure works such as drainage and services relocation;
- Road widening of Thirlmere Way and the closure of the median strip in such road;
- Partial closure of York Street, including infrastructure works;
- Road works in George Street, including infrastructure works;
- Construction of extensions to existing shopping centre complex, including internal alterations and modifications to the façade and the food court area;
- Provision of on-site and off-site car parking spaces (460);
- Erection of advertising sign panels; and
- Landscaping works.

The extensions involve the provision of a general store with a floor area of 6284.88m²; additions to the existing Woolworths store of 1000.16m² (over the York Street road closure); open mall and amenities of 5380m²; storage and 'back of house'/loading dock/mezzanine area on Larkin Street frontage of 2189.31m² and additions to retail area (existing building) of 108.76m².

The development expands the existing shopping centre across York Street to the subject site. As part of the development, York Street would be partially closed in order to provide three access points to an extensive underground parking area. However, vehicle traffic can still drive under the building from Thirlmere Way to Larkin Street, as shown on the plans. Pedestrian traffic can also walk through this area to gain access to the existing and proposed general store and to other parts of the Tahmoor town centre and railway station.

4 The Site and Surrounds

The site consists of 16 allotments of land legally described as Lots 73 to 88 in DP 8982 in a block bounded by York Street, Larkin Street, George Street and Thirlmere Way, here after referred to as "the site". **Figure 1** below presents a site context.

Of the sixteen allotments, one is vacant and the remainder contain dwellings and outbuildings. The site has a frontage of 161.68m to the eastern side of George Street; 88.86m to the southern side of Thirlmere Way; 192.82m to the western side of York Street and 103.327m to Larkin Street. The total area of the site is 1.533ha, with an additional 2244m² (partial road closure).

The site contains no heritage listed items under LEP 1991; with the exception of the dwelling at Lot 87 in DP 8982 No 13 Larkin Street, which is proposed to be listed within draft LEP 2009. Notwithstanding a heritage impact assessment has been submitted with the application. This aspect will be addressed in the report.

The site has a slope of some 1.2% across the site with a fall of 2.4m from the northeastern corner to the southwestern corner. The site is serviced by a reticulated town water supply and town sewerage system. Overhead electricity (high and low voltage) underground telephone and natural gas are available to the site.

On the opposite side of George Street is the Main Southern Railway line and Tahmoor Railway Station. The railway station building is heritage listed. A heritage impact assessment has been submitted with the application and is addressed in this report. The majority of George Street is an unformed road with kerb and gutter on one side. Thirlmere Way adjoins the site to the north and the road is elevated in this location for the overpass bridge across the railway line.

Adjoining on the east (York Street) is the Tahmoor Town Centre consisting of a Woolworths supermarket, KFC fast food outlet, service station and other specialty shops and services. These shops form part of the proposed development.

FIGURE 1 - LOCATION OF SUBJECT SITE



On the northern side of Thirlmere Way is housing generally being single houses on large allotments. On the eastern side of Remembrance Driveway is further housing. On the western side of Remembrance Driveway is the main shopping precinct for Tahmoor.

The centre contains another two supermarkets (Bi-lo and Aldi), speciality shops, banking, food premises and commercial premises. Within Larkin Street are a number of shops and commercial premises. Parking for these shops and commercial premises is either on-site or on-street.

The intersection of Larkin Street and Remembrance Driveway is closed to right hand turn traffic. Opposite the site in Larkin Street is a park, which contains a tennis court and community facilities. The park is used for passive recreation. On the western side of the railway line is further residential development. Tahmoor Public School is located further to the south in Bronzewing Street and Remembrance Driveway.

5 Assessment of Relevant Controls and Policies

5.1 RELEVANT PLANNING INSTRUMENTS, CONTROLS AND POLICIES

The following documents are relevant to the proposed development:

- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy 55 – Remediation of Land;
- Sydney Regional Environmental Plan – Hawkesbury-Nepean River No 2;
- Wollondilly Local Environmental Plan 1991;
- Draft Wollondilly Local Environmental Plan 2009;
- Wollondilly Development Control Plan No 7 – Off Street Car Parking;
- Wollondilly Development Control Plan No 8 – Tahmoor Commercial Area;
- Wollondilly Development Control Plan No 46 – Management of Contaminated Lands; and
- Draft Wollondilly Development Control Plan 2009.

5.2 STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policies (SEPP's) which apply to the site include:

5.2.1 STATE ENVIRONMENTAL PLANNING POLICY – INFRASTRUCTURE 2007

State Environmental Planning Policy applies to the subject development proposal in terms of clause 85 – Development immediately adjacent to rail corridors and clause 104 – Traffic Generating Development.

In respect of clause 85, the ARTC has advised that it raises no objection to the subject proposal.

In respect of clause 104, the proposed development falls under Schedule 3 of the SEPP relating to the number of car parking spaces and size of development.

It should also be noted that the original proposal involved the re-opening of the intersection of

Larkin Street and Remembrance Driveway. Following consultation with the RTA on the proposal, the RTA objected to the re-opening of this intersection. This has resulted in the revision of the traffic studies.

As such alternative access arrangements had to be considered, as the proposal involved the closure of York Street. The proposal also involved the provision of traffic management devices at the intersection of York Street and Thirlmere Way to provide improved access to York Street and subsequently to the undercroft carparking area. In this regard the following assessment is provided.

Several options had been advanced including a traffic light controlled intersection and a roundabout. Each option had issues in terms of safety having regard to vehicular and pedestrians movements and sight lines for drivers heading east across the overpass bridge in Thirlmere Way. These matters will be addressed below. The amendments to the traffic arrangements have delayed the processing of the application, as it was necessary to ensure that the best traffic arrangements for providing safe access to the development was resolved.

5.2.1.1 LARKIN STREET-REMEMBRANCE DRIVEWAY INTERSECTION

As stated above, the original proposal proposed the re-opening of this intersection. Remembrance Driveway is a classified road under the control of the RTA. This intersection was closed a number of years ago to improve the efficiency of Remembrance Driveway and as a result of these works, several other road improvements were undertaken, including the provision of on-street parking and landscape treatment in Remembrance Driveway.

As stated above, the RTA did not support the application to re-open the intersection and provided the following comments in respect of this matter:

- *"The RTA does not support the removal of the central median on Remembrance Driveway at the junction with Larkin Street. Therefore, the TRACKS modelling needs to be revised accordingly to assess the impact of the proposal with the median in place.*
- *The TRACKS modelling should be supported with detailed intersection modelling to ascertain the impact on individual junctions and the individual movements at the junctions. In this regard, the RTA requires SIDRA modelling to be provided for the junction of Remembrance Driveway and Thirlmere Way considering both existing and proposed traffic arrangements in the AM and PM peak."*

As a result of the concerns expressed by the RTA, several options were advanced to provide access to the development by service vehicles to loading docks. One option was to use Emmett Street, York Street, Larkin Street and George Street to provide access to the loading docks. This option was not supported as it resulted in service vehicles accessing through residential areas. The final option, which is discussed below, was access from the proposed roundabout via an upgraded York Street/George Street/Thirlmere Way system.

Whilst the roundabout creates a number of access points, it best serves the proposed development as well as the residential development to the north and improves access to loading docks and also residents accessing the railway station. In respect of the latter, on-street car parking is proposed which is located adjoining the railway station. These spaces can be used by commuters and as such is a material public benefit.

5.2.1.2 PARTIAL CLOSURE OF YORK STREET

The development application involves the partial closure of York Street to enable the development to proceed, including the purchase of such road. The Council has not resolved to agree to the proposal 'in principle' to initiate the process to close the road.

This report does not address the resolution of Council or make comment on this matter, but will provide an overview of the public forum to discuss this matter.

However, if the road is not closed, then it is unlikely that the development as submitted could proceed without significant changes to the plan. In this regard, any consent issued would be on the basis of a "Deferred Commencement Consent" for that part of the development affected by the road closure.

5.2.1.3 YORK STREET CLOSURE – TRAFFIC IMPACTS OF DEVELOPMENT

With the closure of York Street alternative pedestrian and vehicular movements to the railway station and through the centre needed to be addressed, including service vehicles access to the loading docks. The amended plans and traffic management scheme now provides for the George Street/Thirlmere Way road to be re-opened via a 'leg' off the proposed roundabout. This road is currently closed and unconstructed. Service vehicles can access loading docks via the roundabout and then use Larkin Street and then Remembrance Driveway. This same route can also be used for persons driving to the railway station or other parts of the centre. Although the carpark has been redesigned such that drivers can drive through this area unimpeded.

In terms of pedestrian movements, the same route can be used for pedestrians and also through the shopping centre complex. In this regard two travel paths have been provided. One is through the undercroft carpark and then exit between future shops in Larkin Street or one of many other exits. The second path brings pedestrians into the shopping centre complex via travelators into the main part and then exit via stairs to the York Street entrance.

In respect of traffic impacts as a result of the road closure, Gabites Porter (Traffic & Transportation) has submitted a traffic impact assessment on the potential impacts of the development on the surrounding road network, including potential impacts as a result of the closure of York Street. The traffic assessment has been amended several times to address the various options. The preferred option is the provision of a roundabout at the intersection of York Street and Thirlmere Way. This roundabout also addresses the loading dock/service vehicle arrangements. The report provides the following assessment for 2008 and 2026.

2008 Model

"SIDRA Modelling was carried out for the roundabout at the intersection of Thirlmere Way and Remembrance Driveway using traffic counts provided for morning and evening peak periods. Traffic counts at the roundabout were recorded in March 2010. We have assumed little change in traffic flows at this intersection over the past 2 years and accordingly our 2008 SIDRA intersection modelling uses these raw counts. These counts provide information regarding the performance of the roundabout under existing conditions.

In order to assess the performance of the intersection with the development complete, the change in traffic flows for each movement (between the 2008 TRACKS network without the development and with the development) were added to the traffic volumes used in the existing network SIDRA models (morning and evening peak). Note that this SIDRA modelling provides the worst case scenario in terms of projected

traffic flows through the roundabout. The TRACKS model simulates traffic flows in the interpeak period (3-4pm) and we have added changes in flows at the Thirlmere/Remembrance intersection to the morning and evening peak period counts combining peak shopping period movements with peak commuter periods.

2026 Model

In order to assess the performance of the intersection at 2026 with the development complete, the change in traffic flows for each movement (between the 2008 TRACKS network without the development and the 2026 network with the development) were added to the traffic volumes used in the existing network SIDRA models (morning and evening peak). Note that this SIDRA modelling provides the worst case scenario in terms of traffic flows in the Tahmoor region.

The TRACKS model simulates traffic flows in the interpeak period (3-4pm) and we have added changes in flows at the Thirlmere/Remembrance intersection to the morning and evening peak period counts combining peak shopping period movements with peak commuter periods."

Council's Development Engineer has assessed the traffic modelling and raises no objections to the proposed traffic management arrangements and recent meetings have been held with the RTA regarding these traffic management proposals. The new arrangements, in part, address the concerns expressed by the RTA regarding the re-opening of the Larkin Street/Remembrance Driveway intersection. As part of the assessment, future delay issues were also identified at Emmett Street, which have also been addressed as part of Council's consideration to the closure of York Street.

As stated above, the RTA has now advised Council that there are a number of matters that need to be addressed having regard to the proposed traffic management arrangements. These include the preparation of a Traffic Impact Statement, modelling in SIDRA, identification of infrastructure works to ameliorate any traffic impacts and safety impacts (pedestrian, cyclist and public transport infrastructure), design of the roundabout, linemarking details and removal of right-turn movements from Woolworths car park in Thirlmere Way.

Having regard to the concerns expressed by the RTA, a Deferred Commencement consent is proposed which requires the application to submit details to Council satisfying the RTA issues. The consent will not become operative until such time as the RTA issues have been met.

The proposal was also referred to NSW Police Force – Camden LAC – Traffic Services in respect of potential impacts on Thirlmere Way and other local streets. The Service has proposed that the following conditions be imposed on any consent.

- 1 *Thirlmere Way between the intersection of Remembrance Driveway and the proposed York Street roundabout be widened to two lanes in either direction.*
- 2 *The roundabout at the intersection of Remembrance Driveway be upgraded to allow dedicated turning lanes into and out of Thirlmere Way, to allow the free flow of traffic upon Remembrance Driveway.*
- 3 *The left lane in Thirlmere Way adjacent to the shopping centre be a dedicated 'turn in' lane would allow for the free flow of traffic along Thirlmere Way, including emergency services.*
- 4 *The provision of a dedicated left turn lane from Thirlmere Way into the underground car park at the proposed York Street roundabout.*
- 5 *The left turn lane from Thirlmere Way into Remembrance Driveway be a dedicated left turn only lane.*

- 6 *The extra lanes will provide some alternative for vehicle movement in the event of a collision or other emergency.*

Such conditions have been imposed on the consent.

5.2.2 STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND

Due to the nature of former land uses on the site, the proposed development is subject to the provisions of SEPP 55 – Remediation of Land. Specifically the Policy provides under Clause 7(1) that development consent must not be granted by Council unless:

- (a) It has considered whether the land is contaminated, and
- (b) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) If the land requires remediation to be suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

It is considered that given the current residential use of the site that a Phase 1 Contamination report is not required and the site is suitable for development as proposed.

5.2.3 SYDNEY REGIONAL ENVIRONMENTAL PLAN NO 20– HAWKESBURY-NEPEAN RIVER NO 2-1997

All stormwater generated from the site could be disposed of into Council's stormwater infrastructure and not directly into any watercourse. It is considered that the development proposal generally meets the requirements of SREP 20 and is not subject to any specific or special requirements of the Plan.

6 Section 79C Assessment

This assessment has had regard to the provisions of Section 79C of the Environmental Planning and Assessment Act (as amended).

6.1 SECTION 79C (1)(A)(i) – PROVISIONS OF ENVIRONMENTAL PLANNING INSTRUMENTS

The subject site is located in a 2(a) (Residential "A" zone) under the provisions of WLEP 1991. It should be noted that York Street is also zoned for residential purposes. The proposal is to construct a building on the site for a General Store. The following landuses are prohibited under the zone.

"Abattoirs; amusement centres; boarding-houses; car repair stations; commercial premises; granny flats; industries (other than extractive, offensive, hazardous or rural industries); motor showrooms; multiple dwellings; plant and equipment hire; service stations; shops (other than general stores and produce stores)."

LEP 1991 adopts the Model Provisions 1980.

It would be noted that shops are prohibited, except for general stores and produce stores. General stores are defined under the Model Provisions 1980 as:

"General store" means a shop used for the sale by retail of general merchandise and which may include the facilities of a post office.

LEP 1991 defines a produce store as:

"produce store" means a shop used for the sale of stock feed only.

Clause 28 of the Model Provisions provides:

General store

- (1) A person shall not erect or use a building for the purposes of a general store on an allotment of land within a rural zone, where such allotment has a frontage to a main or arterial road or is less than 800 metres from any other allotment of land on which is erected a shop or a general store.
- (2) A person shall not erect or use a building for the purposes of a general store in any zone referred to in subclause (1) of this clause closer to the alignment of a road other than the building line fixed in respect of any adjoining premises or, where no such building line has been fixed, closer to such alignment than the distance generally applying in respect of other premises having frontage to such road.

A shop is defined in the Model Provisions as:

"shop" means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this clause, a building or place used for a purpose elsewhere specifically defined in this clause.

In respect of the permissibility of the proposed general store, the following Land & Environment Court decisions are provided.

In the Land & Environment Court decision of Maryland Development Co Pty Ltd v Penrith City Council & Anor (2001) NSWLEC 135, the Council granted development consent for a McDonalds restaurant, a general store, and another commercial building intended for future use as a hardware store, real estate office, or *"other similar activity permissible in accordance with the planning controls applying to the site"*.

Maryland claimed in the action that the proposed development was for the purpose of a shop and not a general store. The subject matter dealt with an earlier development application to construct a 'convenience store' on the subject land and a decision of the LEC in *Penrith City Council v Horizon Pacific Ltd* (*"Horizon Pacific"*) (40161 of 1986, Perrignon J, 17 October 1986).

In dealing with this matter, His Honour came to the view that the expression *"convenience store"* had *"come into being in the last 8 or 9 years"*, having originated in the practice of *"converting little used service stations into shops or stores which not only sell petrol but also cater for the needs of motorists and nearby residents for a variety of consumer items, including food requirements such as milk, bread, butter, eggs and the like, and extending also to a variety of other goods, upon the lines of a mini-supermarket, being much more restricted than a supermarket in the range and brand of goods sold"*.

His Honour went on to refer to a series of cases which dealt with the evolution of *"convenience*

stores" in NSW, including *Caltex Oil (Australia) Pty Ltd v Holroyd Municipal Council* (1983) 49 LGRA 7. His Honour continued (p7-8):

The question whether a store which sells these items could be classified as a general store depends upon whether such a store comes within the definition of that term in the model provisions of 1970... such a store would be a 'shop' because, again looking at the model provisions a 'shop' is, inter alia, a building used for selling by retail goods, merchandise or materials. The question remains whether it could be said to be a shop for the sale of 'general merchandise'. Whether a particular shop can be said to be one for the sale of general merchandise is a question of fact and degree. It does not matter that the sale is not over a conventional counter but is at a check-out stand.

The range and variety of goods proposed to be sold are the determining matters. Having regard principally to the fact that some 60% of the items proposed to be sold are food items and having regard also to the nature of the remainder of such items, I do not think that the proposed use would be for the purpose of a general store within the meaning of that expression in the model provisions.

In my opinion such a general store is a shop which is used or intended for use for the sale by retail of a much more wide-ranging supply of merchandise than is proposed. Although it is impossible to define with anything like precision the range of goods which must be offered for sale in a shop in order that it should be regarded as a general store within the meaning of the definition, it is possible to say that particular shops, of which I think this is one, do not come within that definition.

Sheahan J after hearing all the evidence ordered that the appeal be dismissed, with the following generally summarising the decision:

"The proposed "general store" in this case is larger than most of the (competing) supermarkets surveyed. It will be located on a major thoroughfare and in a rapidly growing densely population residential area. There is nothing in the zoning to give rise to a conclusion that the permitted uses were designed only to satisfy the needs of passing motorists.

A general store must have a greater range and variety of product lines than a specialty shop. The range and variety depends upon the needs of those the store exists to serve, and the modern methods adopted for retailing. It is not, therefore, surprising that a general store in an urban area will have a predominance of a variety of food related product lines presented in large open aisles with a checkout.

The definition does not distinguish between food and other merchandise, nor does it limit size, nor specify predominance or non-predominance of various product lines, such as food. The definition is satisfied where a range and variety of product lines are offered for sale by retail, and to analyse a proposal in terms of floorspace or turnover as Perrignon J id in 1986, is contrary to the current definition. I do not adopt that approach. The range of goods for sale here is clearly "general merchandise".

At the time of its decision, Council was well aware of the full range of products to be retailed from the premises, as well as the floor space proportions, anticipated sales volumes, etc. It had before it numerous submissions, guideline documents, and legal advisings all of which urged it towards various characterisation options, and none of which demonstrated that the proposal was to retail "specialised", as opposed to "general merchandise".

The Council had to choose between "general store" and "shop" as the correct characterisation, and the choice of "general store" was not only justifiable on the material before it, and therefore reasonably open to it, but probably correct."

Surprisingly, over the years there has been little judicial consideration given to the term “general store” in a town planning context. However, recently Sheahan J has given detailed consideration to the term in a town planning context in *Maryland Development Co Pty Ltd v Penrith City Council* (2001) 115 LGERA 75.

That case involved a challenge to the validity of a development consent granted for a number of purposes including a “general store” (defined by the relevant planning instrument in the same terms as the definition contained in the Model Provisions) that being one of the nominated permissible purposes of development under the relevant planning instrument which was a site specific instrument, albeit amending the general planning instrument.

It appears that the challenge mounted to the validity of the development consent was founded upon the proposition that it was not open to the council which granted the development consent to conclude that the proposed development was a general store, being a permissible use, when in fact properly characterised, the proposal was for a “supermarket” being a prohibited use falling within the definition of “shop” adopted by the planning instrument.

The challenge raised a fundamental question as to the nature of the Court’s jurisdiction to determine the challenge to validity – was the Court’s function limited to the judicial review of the council’s decision or was it the Court’s function to determine for itself as a jurisdictional fact, the proper characterisation of the approved development and hence the threshold question whether the proposed development was for a permissible purpose.

In the event Sheahan J held at paragraph 100 that the question of permissibility of the proposed development did not involve a jurisdictional fact and that the Court’s function in respect of the challenge was that of judicial review – in this case was the council’s decision to grant development consent reasonably open to it. In so concluding, his Honour considered himself bound by two existing decisions of the Court of Appeal, the authority of which he held not to have been disturbed by the later decision of the High Court in *Enfield City Corporation v Development Assessment Commission* [2000] HCA 5; (2000) 199 CLR 135.

In so concluding, his Honour “was not convinced” (see at 100) of my opinion, expressed obiter in *Donnelly v Delta Gold Pty Ltd* (2001) 113 LGERA 34 that “it is unlikely....that the decision in Londish can be taken to have survived the effect of the decision in Enfield”.

That ultimate conclusion by his Honour led him to state a corollary proposition at 101 that in undertaking the judicial review function, the Court did not need to “embark in such detail on the sort of characterisation analysis” described in his judgment in a class 1 development appeal in *University of Sydney v South Sydney Council* (1998) 97 LGERA 186.

In the light of his Honour’s holdings that his function was to judicially review the council’s decision to grant the development consent, it necessarily follows that his detailed and helpful discussion at 101 to 105 of trends in retailing uses including his understanding of the term “general store” constitute obiter observations.

Notwithstanding the above decisions, the draft LEP proposes to zone the land to B2 Local Centre Zone and therefore the question of permissibility will have no effect, as shops will be a permissible landuse under this zoning. The draft LEP was forwarded to the Department of Planning on 17 May 2010 with a request to make the Plan.

The draft LEP 2009 is also certain and imminent. In this regard there are a number of Land and Environment Court decisions based on the question of certainty and imminence of a draft LEP.

The following provides details of the determinative weight that the Court has considered in determining matters.

The leading case on consideration of a draft LEP is the Court of Appeal decision in *Terrace Tower Holdings Pty Ltd v Sutherland SC* [2003] NSWCA 289.

Terrace Towers confirmed the principal applied by the courts that “certainty and imminence of the making of a draft environmental planning instrument have long been applied in this Court as benchmarks for the attribution of weight in the consideration of a development application” which is an extract from *Architects Haywood and Bakker Pty Ltd v North Sydney Council* [2000] NSWLEC 138.

Other cases include:

Mathers v North Sydney C [2000] NSWLEC 84
 Hassell Pty Ltd v Warringah SC [2000] NSWLEC 49
 Detita Pty Ltd v North Sydney C [2001] NSWLEC 209
 Blackmore Design Group Pty Ltd v North Sydney C (2001) 118 LGERA 290
 Walker v North Sydney C (2000) 110 LGERA 397
 Edward Listin Properties Pty Ltd v North Sydney C (No 2) [2000] NSWLEC 181

It is not proposed to address these cases, but they do provide ‘weight’ in the assessment of the subject application.

Clause 2 Aims, objectives etc

The general aims of the LEP that are applicable to the proposed development are as follows:

(d) *to conserve the environmental heritage of the Shire of Wollondilly, and*

Comments: It is considered that the development would not have a significant impact on the heritage significance of the building or on those items that are immediately opposite the development site. A heritage impact assessment has been submitted with the application and is addressed in this report.

(e) *to integrate heritage conservation into the planning and development control processes, and*

Comments: The applicant has provided detailed assessment of the heritage aspects of the items and Council’s Heritage Advisor has no objections to the removal of the dwelling in Larkin Street.

(f) *to provide for public involvement in the matters relating to the conservation of the Shire of Wollondilly’s environmental heritage, and*

Comments: The application was notified in accordance with Council’s policy, thus the public have had an opportunity to make representations with regard to the proposed development. The submissions received by Council will be addressed in section 6.7.

(g) *to ensure that new development is undertaken in a manner that is sympathetic to and does not detract from the significance of heritage items and their settings, as well as the streetscapes and*

landscapes of Picton and Thirlmere and the distinctive character that they impart to the Shire of Wollondilly, and

Comments: It is considered that the amended plans have addressed the concerns that were expressed by Council's assessment staff and heritage advisor with regard to the initial design, styles and architecture, particularly the relationship of the development with respect to the railway station.

(h) *to ensure that development does not compromise the protection and maintenance of water quality within water supply catchment areas, and*

Comments: As the development site is not located within a water supply catchment area, it is considered that the development would not have an impact upon water quality within a water supply catchment.

Clause 10 Zone objectives and development control table

The subject land is zoned 2(a) (Residential "A" Zone). The objectives of this zone are:

"To provide an environment primarily for detached housing and to ensure that the range of other development permitted in a residential area is compatible with the residential environment."

The proposed development is not consistent with this objective, which is residentially orientated.

However, it is noted that part of the objective is to permit 'other development permitted in a residential area'. It is noted that general stores are a permitted development in the zone. It is therefore considered that the proposed development is not antipathetic to the objectives of the zone.

Clause 20 Development within proclaimed mine subsidence district

Comments: The consent from the Mines Subsidence Board has been obtained, which satisfies the requirements of this clause.

Clause 29 Development along arterial roads

Comments: The development does not have frontage to an arterial road. The comments from the RTA, discussed above, have been taken into consideration and the proposed servicing and traffic routes have been amended.

Clause 30 Heritage items

- (1) *A person must not, in respect of a heritage item:*
- (a) *demolish or alter the building or work, or*
 - (b) *damage or move the relic, or*
 - (c) *excavate for the purpose of exposing the relic, or*
 - (d) *damage or despoil the place or tree, or*
 - (e) *erect a building on or subdivide land on which the building, work or relic is situated or that comprises the place, or*
 - (f) *damage any tree on land on which the building, work or relic is situated or on the land which comprises the place, except with the consent of the council.*

Comments: The dwelling at No 13 Larkin Street is not heritage listed under LEP 1991. However, consent has been sought from Council to demolish the dwelling. No objection is raised to the demolition of the dwelling. This aspect is also addressed under section 6.2.

(2) The council must not grant consent to a development application required by subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features and its setting.

Comments: A Heritage Impact Assessment Report was submitted with the application and reviewed by Council's Heritage Advisor addressing the dwelling and railway station. There were some initial concerns with the development proposal with regards to heritage, particularly the unsympathetic nature of the George Street elevation and lack of visual treatment on the George Street and Larkin Street corner of the building and the impact on the railway station heritage item.

As such there have been numerous changes made to the design of the development as well as amended landscaping details that have been considered to be more acceptable and address the visual impact of the building on these prominent key corner sites.

Clause 31 Development in the vicinity of heritage items

The council must not grant consent to an application to carry out development on land in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

Comments: As mentioned previously in the report, there are other buildings of local heritage significance to the shire; namely the railway station buildings. The heritage impact assessment reports have adequately addressed the impact on these items and Council's Heritage Advisor raises no objection to the proposed development.

6.2 SECTION 79C (1)(A)(II) – PROVISIONS OF RELEVANT DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Draft Wollondilly Local Environmental Plan 2009

Under the provisions of the Plan, the subject land would be zoned B2 Local Centre. The development would be permissible with consent. Clause 2.3 provides the objectives of the zone.

Objectives of zone

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To provide for appropriate residential development in the form of shop top housing to support the vitality of the centre.

Comments: The development would result in an increase in the range of retail businesses and other facilities within the centre. This would lead to an increase in employment opportunities and the economic base within Tahmoor and will benefit other areas of the LGA.

There is no residential component associated with this development. It is considered that the proposal is consistent with the objectives of the zone.

Clause 2.6A – Demolition requires consent [local]

The demolition of a building or work may be carried out only with consent.

Comments: The development application seeks consent to demolish a number of dwellings and structures.

Clause 4.3 – Height of buildings

The objectives of this clause are as follows:

- (a) to minimise the impact of new development on neighbouring properties and the streetscape with regard to bulk, overshadowing, privacy and views, and
- (b) to maintain a size and scale of development which is compatible with the existing and emerging character of the locality, and
- (c) to ensure the scale of development reflects the landscape and environmental constraints of the land.

The heights of buildings map provides for building up to 11m in height.

Comments: The proposed development has various heights for the various facades of the building. Generally the building in most parts is below the 11m height. However, there are a number of areas whereby the height is exceeded and these relate to parapets and occur on the Thirlmere Way and George Street frontages.

Along these frontages, various architectural elements have been introduced to break up the building's bulk and scale, particularly as the building is elevated by undercroft carparking areas (George Street).

In terms of the Thirlmere Way elevation, this road is elevated by the bridge overpass and therefore the building is below the level of the road, particularly for the majority of the length of the building.

It should also be noted that with typical 'big-box' developments, at least one street frontage has a long blank wall facing a street. The important aspects of the development were to provide a townscape appearance to Larkin Street and Thirlmere Way, to a lesser extent. The latter mainly due to the elevated road aspect of Thirlmere Way. Whilst the railway line was also seen to be an important aspect, the main area of concern was the interface with the railway station and the corner of Larkin Street and George Street.

Several plans were presented to improve this important part of the development, particularly from the heritage aspects of the railway station (key corner sites). The importance of providing an active street frontage at the corner and the need to provide pedestrian activity and movement was seen to far outweigh other elevations. It was also considered that the railway station was used by the general public; including the park opposite and that the architectural elements/treatments of the development had to focus on this area, including the heritage aspects to be achieved.

In respect of George Street frontage, the parapets introduce a vertical element into the façade to break up the length of the building when viewed from the railway station and residential areas on the western side of the railway line. In terms of the objectives the following comments are made.

- The development will not have an impact on neighbouring properties and the streetscape will not be significantly impacted by overshadowing, privacy and views (objective a).
- The size and scale of the development is generally consistent with the existing shopping centre, whereby undercroft carparking is provided under the building. The existing building along the York Street frontage is elevated to allow for the carparking area. This undercroft carparking will continue into the proposed extensions, which results in an elevated building, particularly having regard to the 2.4m crossfall across the site. The building has also been elevated to take into account drainage and flooding issues within this part of the area. It is therefore considered that the building is compatible with the emerging character of the area, particularly in providing active street frontage to Larkin Street. Larkin Street is seen to play an important role within the town centre (objective b).
- The environmental constraints of the site relate to flooding and drainage issues. This aspect of the proposal will be addressed in section 6.5 (objective c).

Having regard to the above, it is considered that the non-compliance with the height provisions of the objectives has been met.

Clause 5.9 – Preservation of trees

Clause 5.9 of the LEP provides for the preservation of trees and vegetation. As stated above, the proposed development involves the removal of all trees and vegetation from the site, noting that the site has not been identified as environmentally sensitive land on the Council's Map.

In this regard a flora and fauna assessment was requested to address the loss of this vegetation. Joy Hafey Environmental Consultant undertook an assessment of the vegetation and found that:

- 1 *The proposed development ensures that any disturbance or modification to the environment will occur in an area significantly ecologically degraded.*
- 2 *The Section 5a "7 part test" concluded that there would be no significant impact on the endangered ecological community of SSTF therefore no further investigation is required, i.e. a Species Impact Statement is not required.*
- 3 *The integrity and survival of a small isolated stand of degraded native vegetation on Lot 86 is further impacted by its small population size, its fragmentation from other bushland areas, the weed invasion and nutrient enrichment.*

The report further states that the major impact of the proposed development relates to the removal of scattered trees and a small amount of ecologically degraded forest to accommodate the development. The impact will be minimal as a result of the following:

- *The site comprises low conservation value vegetation for threatened species due to the degraded extent and modification of the vegetation community. The site is dominated by exotic plant species.*

- *The removal of vegetation will not result in the isolation of interconnecting habitat for threatened species as the site is within existing cleared residential development.*

The report concludes that there is no constraint to the development of the site and recommends that indigenous tree species be planted into future landscaping or plantings along the road reserve and that this could be achieved by undertaking a seed and vegetation material collections from Lot 86.

Comments: A landscape masterplan has been prepared for the site, which includes street tree planting of George and Larkin Streets and Thirlmere Way and including detailed landscaping of public domain areas. The landscape masterplan does not include the recommendations of the Hafey report, but appropriate conditions of consent can be imposed to address the recommendations.

Clause 5.10 – Heritage

Clause 5.10 addresses the heritage requirements of the draft LEP. Basically, the clause requires consideration of the impacts on a heritage item and the conservation of an item. As stated above, the dwelling at No 13 (Lot 87) has been listed as an item of local heritage significance under the draft LEP; whilst the Tahmoor Railway Station is listed as State significant. Separate heritage impact assessments have been submitted for each item and are addressed below.

No 13 Larkin Street

The heritage assessment addresses the ‘value’ of the dwelling in terms of its heritage significance to the development of Tahmoor, based on subdivision history. DP 8982 was created in 1917 and it would appear that the dwelling was a relocated from the Nepean Dam construction site between 1938 and 1939.

The statement of significance in the heritage inventory states:

“No 13 Larkin Street has local significance as an excellent example of late 19th Century farm cottage. It exhibits many typical features of the period and typifies the type of residential development in Tahmoor at the time. The building makes an important contribution to the 19th and early 20th Century building stock of the town”.

The heritage assessment states that the subject cottage has been the subject of a series of unsympathetic extensions built predominantly of asbestos cement, which was a material not available for building purposes until mid 1940’s through to the 1960’s.

The cottage was never a farm house and was not constructed in 1890, but was relocated from the Nepean Dam construction site. The only part of the cottage that was relocated was the small central pitched roof section, with the remainder constructed on site around 1938.

Comments: Council’s Heritage Advisor has reviewed the document and raises no objection to the removal of dwelling. A condition of consent will require a photographic record of the dwelling to be provided to record the history of the cottage and be retained by Council.

Tahmoor Railway Station

As stated above, the railway station is listed as being of State Significance.

The listing states that:

"Tahmoor station group is one of the few surviving initial island timber station groups which have survived on a total site from one period of time-1919 at the time of opening the double line duplication from Picton to Mittagong. The buildings represent a station group from the Edwardian period which still operates in much the same way as when it opened. It is on a section of line with a number of significant station buildings and forms part of an excellent group of station sites that remain in operation. Each of the buildings contribute to the completeness and significance of the site."

The draft LEP requires an assessment of the impacts of a proposed development on the heritage values of the item, being the railway station.

Comments: Council's Heritage Advisor has undertaken an assessment of the development and reviewed the documentation. The Advisor raised concerns with the development proposal and required amendments to the plans to address the following matters:

- Respect how towns were traditionally developed with individual shopfronts by staggering the façade and dividing it into separate shopfronts.
- The Railway and Larkin Street is a tradition area and the corner needs to be respected, not cut away by a driveway.
- Provide continuous pattern of individual shopfronts and awnings along length of Larkin Street, rather than interrupting the shopfronts with driveway entrances into the mall.
- Likewise, provide presentation to the railway precinct with shopfronts and awnings.
- Rationalise the height and size of advertising panels so that they do not overwhelm the streetscape.
- Accentuate façade divisions with a pattern of vertical walls, clad in a different material.

As stated above, there have been a number of revised plans submitted to Council to address the various aspects of the development. These changes were also to address the corner of Larkin and George Streets so that a corner element was introduced to reduce the impact of the driveway on the streetscape as well the heritage values of the railway station.

The amended plans introduce a number of vertical elements into the design and create a more active street frontage to Larkin Street in particular. It was seen that Larkin Street had the opportunity in the future to become a 'main street or high street' and that there were opportunities for improvements in the public domain areas.

The park opposite the site could also be converted into a 'town square' in any future planning by the Council to activate Larkin Street. There were also opportunities for existing development to the east to be redeveloped in the future with second storey additions, which could be in the form of office premises or shop-top housing.

It is considered that the changes to the plans have significantly addressed the matters raised by the Heritage Advisor.

6.3 SECTION 79C (1)(A)(III) – PROVISIONS OF RELEVANT DEVELOPMENT CONTROL PLANS

6.3.1 DEVELOPMENT CONTROL PLAN NO 7 – OFF-STREET CAR PARKING

The objectives of the DCP are to ensure that developments provide adequate carparking and manoeuvring areas and that traffic does not conflict with pedestrians. As stated above, Gabites Porter has undertaken traffic modelling associated with the proposed development. This modelling has been assessed by Council and is satisfactory, particularly having regard to the amended roundabout configuration. The report states in respect of carparking requirements that:

“The expansion of the shopping centre results in a large increase in demand for parking overall and in the northern section of the CBD in particular. However, the expansion is including a significant increase in the number of customer parking spaces available for use in the centre.

The parking module of the Tahmoor model was used to determine the changes in predicted parking behaviour as a result of the closure of York Street and the creation of additional retail activity in the centre.

The parking inventory and the expected parking occupancy for the existing and future situations is shown in table 5. it is clear from the overall results that total parking for both the current and future situations is more than adequate to satisfy demand. Overall occupancy remains reasonably static at 42-44% with only free off-street non-customer parking having an occupancy approaching 100%.”

The DCP requires 1 space per 35m² of floor area to be provided. The total floor area of the extensions is 13,718m², which requires a total of 392 spaces; whilst the proposed development provides 409 on-site carparking spaces, including 5 disabled and 6 parent parking spaces. It is noted that the disabled car parking spaces do not comply with AS/NZS 2890.6:2009, which provides standards for such spaces.

This may reduce the number of spaces, by two. However, it would be noted that the development provides in excess of the car parking requirement, including 51 on-street parking spaces in George Street, which will provide suitable commuter parking spaces and any overflow parking needs generated by the development. In addition parallel on-street parking will be provided in Larkin Street. It should also be noted that the total parking provision for the overall development will be 774 spaces, not including on-street parking.

The design of the development allows vehicles to drive through the carparking area in the same manner as if York Street was not closed during the operating hours of the complex.

Having regard to the above, it is considered that the development provides sufficient parking to meet the demands of the development.

6.3.2 DEVELOPMENT CONTROL PLAN NO 8 – TAHMOOR COMMERCIAL AREA

The DCP applies to all land zoned 3(a) General Business. Whilst the DCP technically does not apply to the site, it is proposed to be zoned B2 Local Centre and therefore an assessment of compliance with the DCP is provided. The DCP provides for the following objectives.

- (i) *To rescind the provisions of Council’s Business Areas Development Control Code and*

Development Control Plan No.3 as they relate to land zoned 3(a) Business in Tahmoor.

- (ii) *To ensure that adequate pedestrian access is provided between car parking areas and commercial premises.*
- (iii) *To encourage more efficient usage and development of commercial sites.*
- (iv) *To provide for pedestrian comfort and amenity.*
- (v) *To increase the visual attractiveness of the commercial area by means of landscaping, and to ensure that all landscaping that is provided conforms with an overall plan.*
- (vi) *To provide for a harmonious streetscape in Tahmoor, but also one of sufficient variety to be visually interesting.*
- (vii) *To ensure that developments shall provide sufficient area for loading and unloading of goods, garbage collection and septic waste collection. Garbage and septic waste collection points are to be located in such a way that they allow for easy removal of waste materials.*
- (viii) *To provide controls which generally improve access for motorists and pedestrians.*

In respect of these objectives, the following is provided.

As stated above in section 5.2.1.3, providing pedestrian access was one of the main considerations, particularly having regard to the closure of York Street. The plans have been amended to ensure that pedestrian movements are easily undertaken through carparking areas and streets surrounding the site. Travelators and stairs also improve the accessibility into the carparking areas (objectives ii, iv & viii).

The subject site is proposed to be rezoned from residential to commercial to reflect the growing demands for services and facilities for residents within the LGA. Additional lands within the immediate area are currently being considered by Council for rezoning to residential purposes. Additional commercial lands will be needed to meet the demands of this new residential population (objective iii).

Whilst the proposal will result in the removal of trees, the landscape masterplan proposes planting within the streets and public domain areas to replace this loss of vegetation (objective v).

As stated previously, George Street and Thirlmere Way will be reconstructed to Council's road design standards. Currently these roads have poor road design and drainage issues. The reconstruction of these roads, together with landscaping will improve the amenity of the area (objective vi).

The loading docks and storage areas have been redesigned to comply with this requirement, including accessing these facilities (objective vii).

Having regard to the above comments, it is considered that the proposal is consistent with the objectives.

There are a series of controls that relate to carparking, heights of buildings, landscaping that have been addressed previously. Therefore it is not proposed to reiterate these controls further.

6.3.3 DEVELOPMENT CONTROL PLAN NO 46 – MANAGEMENT OF CONTAMINATED LANDS

This has already been addressed in the report.

6.3.4 DRAFT DEVELOPMENT CONTROL PLAN 2009

As part of the exhibition process draft DCP 2009 was also placed on public exhibition. The DCP contains a number of volumes that relate to different types of development. In particular Volume 4 applies to the proposed development. The first part of the DCP deals with sustainability outcomes of development, involving matters such as energy efficiency, rainwater tanks, recycling and general ESD principles.

The applicant has not provided details with the application on how these matters are dealt with in the design and operation of the complex. It is noted that the application was lodged during the exhibition period of these documents. However, the principles espoused in the DCP regarding ESD are Council's position and need to be addressed.

It is considered that the principles can easily be addressed by the submission of an appropriate energy report by a qualified consultant in this field of expertise and a condition of consent will be imposed requiring such report to be submitted and approved with the Construction Certificate.

In terms of the remaining parts of the DCP the following is provided.

Clause 2.3 - Air and Noise pollution

Controls

1. An Acoustic Design Report prepared by a qualified consultant in acoustics may be required to be submitted with a Developments application subject to the noise assessment criteria listed below.

Comment: An acoustic report was not submitted with the application and it is considered that such is not required given the location of loading docks and other noise generating uses, (railway line and main roads). There was an initial concern that service vehicles would need to use local roads for access to the centre. These service vehicles now do not travel through residential streets and therefore the impact of such is minimal.

The railway overpass (Thirlmere Way) also acts as a buffer to the northern loading dock area and therefore it is considered that this will not impact on the amenity of the residential areas opposite this loading dock to the north. Notwithstanding, restrictions could be placed on the hours of use of this area such that it operates outside sleep disturbance times in accordance with the EPA Guidelines. It is also considered appropriate to impose conditions on the consent in respect of mechanical plant and equipment to ensure compliance with the Guidelines.

Clause 2.4 - Accessibility

Controls

1. All new and refitted commercial buildings that have the features listed below must ensure those features are universally accessible by a continuous path of travel and compliant with the requirements of Australian Standard AS1428.1 - Design for Access and Mobility General Requirements of Access - Buildings.

Comment: Accessibility has been considered in detail and has required amendments to the plans to improve accessibility for all persons. The only area of non-compliance is the disabled car parking spaces. These spaces can comply with the newly introduced requirements.

Clause 2.5 – Front setbacks**Controls**

1. For all development to which this Volume applies in Business (B) zones, zero setbacks at ground floor level are permissible to the front boundary subject to compliance with other relevant Objectives and Controls in this Plan.

Comment: The proposed building complies with the setback provisions.

Clause 2.6 – Side and rear setbacks**Controls**

1. For all development to which this Volume applies in Business (B) zones, zero setbacks at ground floor level are permissible to the front boundary subject to compliance with other relevant Objectives and Controls in this Plan.

Comment: The proposed building complies with the setback provisions.

Clause 2.7 – Building siting, bulk and scale**Controls**

1. The building height controls are as provided on the Building Height Maps under the LEP.

Comment: This aspect of the proposal has been addressed above. However, it is noted that the proposed feature stone wall adjacent to the York Street entry will be 12.8m above existing ground level, as well as the parapet wall which shields the roof area from view will be 13.4m above the ground. The applicant has made a submission to Council based on these minor areas of non-compliance and has requested that Council use its discretion under clause 4.6 of the draft LEP. Given the minor areas of non-compliance and the design elements provided by the overall design to break up the building bulk and scale with the use of vertical and horizontal elements, it is considered that the request should be supported.

Clause 2.8 – Building facades**Controls**

1. Main entry and exit points for the public must be clearly visible and identifiable from the adjoining public street, public walkways and other public spaces.

Comment: The plans have been amended to require the pedestrian entry from York Street to be more prominent. Other entry points comply with this requirement.

Clause 2.9 – Floor plan layout**Controls**

1. Commercial purposes must be the dominant use of ground floor premises with frontage to a public street or public walkway.

Comment: Future development of the Larkin Street frontage will be compliant with this control.

Clause 2.10 – Awnings

Controls

1. A continuous permanent awning must be provided at ground floor level to the full length of all building façades which face a public street. The awning must overhang the public footpath by a minimum of 2 metres to allow for two way pedestrian movement.

Comment: A continuous awning has been provided along the Larkin Street frontage, with York Street undercover.

Clause 2.12 – Basement car parking**Controls**

1. The main points and routes for pedestrian movement must be protected and physically separated from vehicle movement and parking areas

Comment: The carparking area has been designed to ensure separation of pedestrians and vehicles.

Clause 2.13 – Other building features**Controls**

1. No ancillary features must be installed in a manner that will obstruct casual surveillance opportunities, create recesses or alcoves.

Comment: The application was referred to the Camden NSW Police Service for assessment for compliance with CPTED. The Crime Prevention Officer has recommended a number of conditions of consent, which include gates or roller doors to be installed at car park entrances to be locked after hours; loading dock areas to be gated; anti-graffiti surfaces and fixtures to be provided; fire exits door to be approved one way doors and kept closed at all times.

In terms of the general approach to CPTED principles, several changes have been made to the proposal to improve safety and security of the general public. These included a distinct entry from York Street and clear sightlines throughout the undercroft carparking area.

CCTV cameras will also be installed at appropriate locations to detect any potential crime event. Security personnel will also be employed to patrol the carpark and other areas to deter anti-social behaviour.

Clause 2.15 – Outdoor eating and seating**Controls**

1. A minimum 2 metres wide linear unobstructed pedestrian movement pathway must be maintained within the public footpath at all times. A greater width may be required where ground surface levels, pavement and other conditions restrict access and in the vicinity of other important features of the street and footpath reserve such as pedestrian crossings, traffic lights or areas of typically high volume pedestrian traffic.

Comment: The front entrance to the existing centre has been redesigned to ensure compliance with this requirement. There are also opportunities for 'shop fronts' along the Larkin Street frontage to be used for restaurant/s. Such uses would further activate the street.

Clause 2.16 – Landscaping

Controls

1. Landscaping must be provided at the rate of at least 20 m² of consolidated / continuous planted area for every 500m² of gross floor area or 500m² of site area whichever is the greater.

Comment: A landscape masterplan has been submitted with the application. Apart from amending the plant species, the landscaping proposed is consistent with this requirement, with significant areas of public domain having landscape treatment undertaken to improve the general streetscape.

Clause 2.18 – External storage**Controls**

1. External storage areas must be screened from view from common property, public places and nearby dwellings and ancillary private open spaces, such as through the use of landscaping.

Comment: The external storage areas, including loading docks have been suitably screened from public places.

Clause 2.19 – Public realm**Controls**

1. All works within the public domain must comply with Council's adopted Design and Construction Specification.

Comment: The proposal involves works within roads. These works include the construction of a roundabout at the intersection of Thirlmere Way and York Street (including relocation of services); reconstruction of George Street (including drainage works); landscaping works within the road reserve. Council has imposed conditions of consent to require compliance with engineering standards for these works. Council will also require the works to be bonded to ensure that no damage is caused to public infrastructure.

Clause 2.20 – Access and traffic generation

Comment: The DCP provides for a number of controls in respect of this matter and has been addressed above.

However, it is noted that two traffic studies have been prepared by Gabites Porter addressing the various aspects of the traffic impacts at intersections and the closure of York Street. The studies have been amended as a result of changes to access arrangements to the site, such as the opening of George Street and the RTA refusal not to reopen the Remembrance Driveway and Larkin Street intersection.

These studies have assessed the impact on the local road network, particularly having regard to the closure of York Street, and including a scenario of George Street not being reopened and one with this road opened. There will, however, be impacts on the road network, particularly at peak trading times, but such impacts can be managed with the proposed works to be undertaken, as discussed above.

It is also considered that a comprehensive development of the site, rather than an ad hoc

development of commercially zoned land is a better traffic outcome and is far easily managed with improved traffic management systems put in place from the outset rather than as development occurs. It is therefore considered that these impacts are more manageable with works being undertaken to address issues such as those raised by the NSW Police Force, discussed above. The roundabout improves the Level of Service (LoS) and sightlines for drivers heading east over the bridge overpass are reasonable and within acceptable limits. Warning signs will be required to be installed to advise drivers of the roundabout. It should be noted that there are no current traffic control management measures at this intersection.

Traffic signs will also need to be installed at the exit to the roundabout to prevent left hand turn movements (west bound) onto Thirlmere Way for those vehicles exiting from George Street, due to the angle of the road and the concern that such vehicles will not remain in the designated travel lane. Swept paths undertaken indicate that there is a potential for vehicles to cross into the path of east bound vehicles and cause a traffic accident. In this regard vehicles will be required to utilise the roundabout for west bound movements. Whilst this may not be the ideal traffic management scenario, as the RTA has refused the reopening of Remembrance Driveway and the concern with service vehicles using residential streets, alternative traffic management had to be considered and has been addressed. The final layout of the intersection was the most appropriate option.

Council is satisfied with the LoS of the road network under all these scenarios and suitable conditions of consent have been imposed on the development.

Clause 2.21 – Parking and manouevring

Controls

1. The construction of vehicle parking and manoeuvring areas must comply with Council's adopted Design and Construction Specifications.

Comment: This aspect of the proposal has been addressed previously. The disabled spaces will need to comply with the relevant standard.

Clause 2.22 – Loading/unloading and service vehicles

Controls

1. Commercial premises must be provided with a minimum of one (1) loading / unloading space and a minimum of one (1) service vehicle space per premises within the site (or more as determined on the merit of the case and the site).

Comment: This aspect has been addressed previously. It would be noted that service vehicles now access the loading docks via a designated road route being principally from the roundabout and then along George Street and Larkin Street. Vehicles will then exit at Larkin Street and Remembrance Driveway intersection to head north. Smaller vehicles can exit via the roundabout.

Clause 2.23 – Privacy and amenity

Controls

1. The potential impacts on privacy and amenity must be assessed on the merits of each case.

Comment: It is considered that there will be no impacts on privacy issues for any residential

area.

Clause 2.24 – Safety and security

Controls

1. All development must comply with the relevant principles of CPTED.

Comment: This aspect was addressed above.

Clause 2.26 – Waste management

Controls

1. Waste management areas and containers must be suitably enclosed, covered and maintained so as to prevent polluted runoff from entering the stormwater system.

Comment: The proposed development provides for waste management facilities on site within different areas. There will need to be areas allocated for normal waste and recyclable material, particularly for the general store component of the proposal.

Clause 2.27 – On-site wastewater and stormwater management

Controls

2. For all development in existing or proposed urban areas consent must not be granted for development unless the assessing officer is satisfied that:
 - The stormwater management system includes all reasonable management actions to minimise impacts on and contribute to the achievement or protection of relevant environmental values,
 - Water sensitive urban design principles* are incorporated into the design of the development, and
 - The stormwater management system complies with Council's requirements.

Comment: Lean Lackenby and Hayward have prepared a drainage strategy for the proposed development, which provides details of the various catchments and a strategy for disposal of stormwater, mainly from roads and other hard surfaces (roof). The proposal involves the use of box gutters to capture runoff from roof areas and reuse on site in landscape areas. The plans have been assessed in accordance with Council's requirements and suitable conditions of consent have been imposed.

Clause 2.29 – Advertising and signage

Controls

1. Advertising and signage must relate directly to the lawful use of the site
2. Advertising and signage must be integrated with the architectural features of a building and any landscaping within the site

Comment: Development consent has not been sought for advertising signs, but the plans indicate the location of signage and how signage is integrated with the building. A separate application will need to be submitted for any signage on the building.

premises. Separate applications will need to be submitted for occupation of the various uses when the land is rezoned. Notwithstanding, the general store satisfies the controls specified in this part of the DCP.

6.4 SECTION 79C(1)(A)(IV) – RELEVANT PROVISIONS OF THE REGULATIONS

The Building Code of Australia 2009

Conditions of consent would require the person(s) having the benefit of any consent to demonstrate compliance with the Building Code of Australia prior to the release of the Construction Certificate and prior to the issue of the Occupation Certificate.

6.5 SECTION 79C (1) (b) – IMPACT OF THE DEVELOPMENT

6.5.1 NATURAL AND BUILT ENVIRONMENT

6.5.1.1 FLOODING

The site is not subject to flooding, however, the proposal introduces extensive hard surface areas, such as the roof area, which is likely to increase runoff and impact on localised drainage systems. In this regard a flood level assessment was undertaken of the immediate area, including drainage catchment information discussed above.

Conditions of consent have been imposed addressing drainage requirements to comply with Council's standards.

6.5.1.2 NOISE AND VIBRATION

Notwithstanding the construction period, the proposed development is unlikely to result in any adverse noise or vibration impacts. Construction related impacts could be reasonably controlled through conditions of consent. The loading dock area on the northern side can also be conditioned in respect of hours of operation.

6.5.1.3 WASTE

Suitable provision for waste and recycling services has been provided as part of the proposed development.

6.5.1.4 SOIL AND WATER

An Erosion and Sedimentation Control Plan, to be submitted with the Construction Certificate, will detail the steps necessary to prevent soil erosion and sedimentation arising from the flow of stormwater from the land, or from the changes of the land surface during construction and subsequent use of the land.

6.5.1.5 BUILT FORM

The proposed development introduces a substantial built form within the area, having regard to the existing low-scale form of residential development on the site and that within the immediate area and the location of the railway station.

In this regard, the architect has provided a visual assessment of the proposed development, addressing the likely impacts of the development on the various streetscapes. The following

provides details of the assessment.

Thirlmere Way & Northern Residential Area

“The existing centre building is built up above the street level with basement type carpark below. The proposed additions maintain this concept. The intersection of York Street and Thirlmere Way is considered the gateway to the site and subsequently, the design of the new building has been provided with architectural features. The key features from Thirlmere Way include a stonework corner element with signature signage of the centre, north and east facing high glazing, with printed historic images and contrasting coloured elements to wall panels and cladding.

The proposed development will enhance the entire streetscape as viewed from Thirlmere Way and the residential area from the north side. The building will contain architectural elements and features responding to key sites emphasis. The development will provide a modern well-articulated building, reflective of a modern shopping centre. The new works will provide an enhancement to the streetscape as viewed from the existing residential precinct.”

Railway station and George Street

“George Street was originally constructed around Thirlmere Way but is currently blocked, due to the unformed and poorly drained land adjacent to the Thirlmere Way overpass and poor lighting. As mentioned above, George Street will be reconstructed with new pedestrian access being provided. This new pedestrian access will link onto Larkin Street which will have active street front whilst also providing an entry into the new development. The new development will enhance and regenerate the area around the railway station by encouraging the use of the new pedestrian paths and new activity of people visiting Tahmoor Town Centre.

The proposed building is a modern building which has not attempted to replicate any design elements of the railway station. The colours are relatively neutral, which will not clash with the station colour scheme. When viewed from the railway station, the new development presents various colours and design features, including corner stonework elements with signature signage. The long facing west wall is articulated with feature contrasting colour elements to panels and cladding.

This wall will be setback from George Street and have significant landscaping which will soften the appearance of this west facing wall. The separation of approximately 40m to the railway platform will reduce any impact by the proposed building. The new development will also have significant new landscaping to the perimeter. The new landscaping will include new street planting, which will have varying height being similar to the existing near the corner of Thirlmere Way and York Street. This will provide streetscape relief and enhance the visual appearance of the development. Whilst the proposed development has significant bulk and scale, the use of articulation in the wall and roof together with landscaping will reduce that impact.”

Larkin Street and southern residential areas

“The south side of Larkin Street is dominated by the public reserve, which contains a tennis court, childrens play area and small amenities building. Further south, existing residential dwellings are located facing both George Street and York Street. The proposed two storey façade facing Larkin Street will provide articulated walls with features such as glazing, stonework elements, high glazing with printed historic images and contrasting coloured elements to wall panels and cladding.

Access to the new building is also provided via a main entry point with new pedestrian access across Larkin Street.”

The built form aspect of the proposal has been discussed in several sections and is appropriate for the site and having regard to the heritage aspects of the railway station.

6.5.1.6 PUBLIC DOMAIN

The proposed development is likely to provide a positive contribution to the public domain. In this regard, the architectural features of the development are both innovative and have regard to the existing built form of the desired future character of the area. The design of the building provides regular modulation and façade treatment to provide visual interest and variety, as discussed above. Landscaping will also be introduced within the streets and in the future this landscape theme could be extended to other parts of the Town Centre.

The park in Larkin Street could at some stage become a town square for activities that could occur to celebrate various functions and be used for markets or other appropriate community uses. This is a matter for Council in addressing any future strategic plan for the Town Centre.

6.5.2 SOCIAL AND ECONOMIC IMPACT

The proposal will deliver a range of social benefits at local level with increased services and facilities. Notwithstanding, the impacts on existing services and facilities in the area needs to be addressed. The newly released draft Competition SEPP needs also to be considered with this application. In this regard HillPDA has undertaken economic assessment of the proposed expansion. The following provides salient excerpts from that report.

"The existing Tahmoor Town Centre accommodates around 5,600sqm of retail space including a 3,200sqm Woolworths supermarket, 900sqm house/warehouse discount store and 16 specialty shops. There is also a petrol station and a drive-through KFC on the site.

The Trade Area for the proposed expansion of the Tahmoor town centre has been defined as most of the Wollondilly LGA, north to Glenmore, east to Wilton, south to Bargo and west to Nattai. The trade area is largely the Wollondilly Shire excluding Appin and Warragamba/Silverdale.

In 2009 households in the trade area generated \$412m in retail expenditure of which \$122m was related to supermarket and grocery shopping. The trade area is however experiencing growth with respect to the number of households and expenditure generated. Supermarket expenditure is projected to increase by a significant level of \$26m (22%) between 2009 and 2013 and by \$44m (36%) by 2017 measured in constant 2009 dollars.

Wollondilly has no department stores and its range of specialties is poor compared to the larger centres of Macarthur, Campbelltown and Narellan. This results in considerable expenditure escaping the LGA. In 2009 household expenditure generated in Wollondilly translated to a demand for around 10,000sqm of department store space and this is expected to increase to more than 15,000sqm by 2021 – the equivalent of two large discount department stores.

The proposed expansion of Tahmoor Town Centre is expected to have a marginal turnover of \$41m in its first year of trading in 2013. The marginal turnover will be redirected from existing retailers in Tahmoor and from other retail centres. Based on gravity theorem the amount of redirected expenditure will be greater on those centres that are closer to Tahmoor and have more retail floor space.

The proposed general store will have some competition with specialty stores but due to the nature of the store it will have stronger competition with discount department stores and discount variety stores.

\$11.7m will be redirected from existing retailers in Tahmoor resulting in a 9.2% loss in trade. This is a moderate impact however the loss is due to added competition between traders in the same retail centre which is not a relevant planning matter for consideration. The Tahmoor centre as a whole will gain almost \$30m in additional turnover. The net benefit to Tahmoor centre "as a whole" is therefore clearly positive.

All other centres will experience a loss of no more than 5% in trade which is considered insignificant. The strongest impact will be on Thirlmere and this impact is only 2.5% loss in trade. Of the \$41m marginal turnover \$26m is expected to be redirected from centres outside the LGA. This is because the general store will recapture considerable expenditure that currently escapes the LGA to the department stores in Campbelltown and Camden LGAs.

Due to considerable growth in the area all centres will trade above the 2009 levels by 2013 assuming no further increases in supply. Even after the impact trade in Wollondilly centres will grow at an average of 7.9% over the period of 2009 to 2013.

Given that:

- the proposed development would enhance the vitality and economic strength of the Tahmoor Town Centre;
- there is an existing undersupply in retail floor space within the Trade Area particularly in relation to a store offering that of the proposed 'General Store';
- there is no other proposal to develop a discount department store, General Store or equivalent elsewhere in the Wollondilly LGA;
- the proposed expansion will support and reinforce Tahmoor Town Centre's role within the retail hierarchy and enhance the viability of complementary surrounding retail;
- the proposed expansion would generate a range of employment opportunities with the construction of the development and the ongoing retail operations; and
- the proposed expansion will have no detrimental impacts to any other centre.

The proposal cannot be refused on the grounds of economic impact."

The report concludes by stating that:

The retail and economic analysis undertaken for this study has found that:

- the subject site's total trade area will experience significant household and expenditure growth from 2009 to 2021 thereby resulting in an increase in demand for retail floor space across all categories;
- there are no department stores in Wollondilly and a poor range of specialty retail, particularly in discretionary items which is resulting in considerable expenditure escaping to larger centres outside the LGA;
- the proposed development will support and reinforce Tahmoor Town Centre's role within the retail hierarchy and enhance opportunities for price competition between retailers and improve the quality and range of goods available to the benefit of consumers;
- the proposed development will strengthen retail competition in Wollondilly by increasing the amount of accessible and good quality supermarket and general store floor space. The increase in competition will lead to employment growth, put downward pressure on retail prices and provide a higher level of service provision;
- the proposed development will generate local and regional employment contributing to the stimulus of the local economy.

It is considered having regard to the assessment that economic benefits will arise from approval of the development. The net community benefit of providing improved and wider range of services and facilities is considered to be positive.

6.6 SECTION 79C (1) (c) – THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The proposed development is highly appropriate within the context of the development site and the surrounding locality. The site is specifically being rezoned to allow such a development, although the current zone permits the general store. The relationship of the proposed building within the context of the existing residential development has been discussed throughout this report and no adverse impacts will occur. The subject sites and other properties generally adjoining the railway station are proposed under the draft LEP to be zoned either for commercial/retail development (B2) or for medium density development (R3). It is clear that the intent is to increase residential densities and to provide retail and commercial opportunities in Tahmoor.

This is reinforced by the work undertaken by Urbis on behalf of Council to undertake a study of the 14 town and village centres to provide a framework for future direction and development of these centres. The recommendations from Urbis have informed the proposed rezoning of lands with the Tahmoor town centre and that on the western side of the railway line.

The proposed development represents a well-considered design option for the site. The design provides an appropriate response to all site constraints and opportunities. There are no site attributes, which are considered unsuitable for the proposed development.

6.7 SECTION 79C (1) (d) – SUBMISSIONS

The subject application was notified to adjoining and nearby land owners and advertised in accordance with Council's Development Control Plan for the notification and advertising of development proposals. As a result of the public exhibition of the proposal, five submissions were received. One of the submissions is signed by 14 residents of the existing dwellings.

As stated above, further amended plans were submitted to Council which proposed the re-opening of George Street, a redesign of that part of closed section of York Street under the building whereby vehicles can drive from Thirlmere Way to Larkin Street in a direct line, relocation of carparking spaces within this section, a redesign of the vehicle loading dock area off Larkin Street, general architectural improvements to the façade along George Street and Larkin Street and improved pedestrian access arrangements under the building.

The re-notification of these amended plans did not result in any new submissions being received by Council.

The concerns are summarised in Table 1 below, which address the original submissions received by Council to the proposal:

TABLE 1 – SUMMARY OF SUBMISSIONS

Concern	Consideration
JRPP (SYDNEY WEST REGION) BUSINESS PAPER – (ITEM 1) (12 NOVEMBER 2010) – (JRPP 2009SYW030)	

Concern	Consideration
Closure of York Street to through traffic has a major impact on the viability of our property in York Street.	The main concern from submitters is the closure of York Street. The plans have been redesigned several times to take into account the concerns expressed by submitters and that of Council. The latest plan proposes that a drive through under the building will be provided, which essentially allows vehicles to drive from north to south and vice versa under the building. In this respect, York Street effectively remains 'open' to the public when the centre is open for business. George Street is also opened for use by all persons and high vehicles and effectively replaces York Street in gaining access to the railway station and other parts of the Town Centre. It is considered that the recent changes to traffic movements in general throughout the Town Centre overcome or at least address the concerns expressed by submitters. A community forum meeting was held at Council on 11 October 2010, where at new traffic arrangements were discussed with objectors and other community persons. A Council decision on the closure of York Street will be made at the Council meeting of 18 October 2010.
High visibility essential to passing traffic.	This aspect has been partially addressed above in that traffic will be able to access Thirlmere Way to Larkin Street by driving under the building or using other streets. The carparking layout has been amended to allow vehicles to drive through easily rather than take a circuitous route through the car park. This change will assist the visibility issue. In addition, the proposal to provide future shops within Larkin Street activates this area, which is currently dominated by residential properties. It is considered that this will draw more people to this part of the Centre.
Cul-de-sac will turn area into haven for anti-social behaviour.	The plans have been amended to now introduce a pedestrian access point from York Street into the proposed development. This access point was not previously proposed and increases pedestrian movements in this area, particularly for persons in Larkin Street visiting the complex for services. The new entry is highly visible for persons in York Street and Larkin Street. CCTV cameras will also be installed in this area to undertake

Concern	Consideration
	casual surveillance of the loading dock area. The area will also be locked after hours to minimise anti- social behaviour. It should also be noted that the proposal involves shopfronts along the Larkin Street frontage to activate this area, which is currently occupied by dwellings. Activity along this street will help to reduce anti-social behaviour.
Concern with location of loading docks and noise from trucks.	Concern is expressed in the location of the loading dock area off York Street. The loading dock issue has been considered at several meetings to address these concerns. The loading dock is located immediately opposite the loading dock area for the shops opposite. It should also be noted that the loading dock for the development is at an elevated position and as such is not highly visible from such road.
Design impacts on existing landuses.	The building has been redesigned to create active spaces in Larkin Street and that part of York Street. From an urban design and town planning point of view, the outcome of the design was to ensure active streets with increase pedestrian activity. Currently these businesses; whilst having passing vehicles and some pedestrians, have little visibility being located at this end of the Town Centre. The existing shopping complex has no active uses along the York Street frontage and is essentially a blank wall. By providing shops opposite in Larkin Street this will bring more visitors along these streets and improve pedestrian movements that currently are minimal. There is also a new pedestrian entry into the complex that previously was not part of the exhibited plans. This new entry will provide increase pedestrian movements in the general area.
Impact on business in Remembrance Driveway and Town Centre.	This aspect has been addressed elsewhere. There will be some impact, but with an end-user of the general store, this is likely to increase patronage to the Town Centre thereby assisting Tahmoor as a business centre. It is also noted that Council has identified a number of areas in the immediate area of Tahmoor for further expansion for residential purposes. Such expansion will generate more requirements for services and facilities, which

Concern	Consideration
	are readily available within the Centre.
Need for public hearing into closure of York Street.	<p>This aspect is a separate matter that is currently before Council. There have been several public meetings. At the latest meeting, Council resolved the following:</p> <p><i>'That prior to considering "in principle" support, a satisfactory traffic management solution be identified and community consultation be undertaken and report to Council for consideration.'</i></p> <p>A further public meeting was held on 12 August 2010.</p> <p>If Council does not support the closure of the road, then the development proposal will either not proceed or alternatively be redesigned.</p>
Development contrary to the objectives of the zone in allowing a general store and therefore prohibited.	<p>The current residential zone permits a general store and this aspect was fully addressed above under section 6.1. When the land is rezoned, shops and other businesses will be permissible in the zone. The draft LEP has been forwarded to the Department of Planning with a request that the Plan be made. As such the draft LEP is certain and imminent. This aspect was addressed above.</p>
Loss of rental housing.	<p>The loss of rental accommodation is regrettable. However, the land is proposed to be rezoned to permit retail development. Even if the land was rezoned for medium density purposes, then these dwelling would also be redeveloped for that purpose. The rezoning of the land ensures that other lands cannot be developed for commercial purposes. It is not the responsibility of the owners of the land to provide alternative accommodation. However, the owners will provide reasonable lead in time to the current renters to relocate to suitable accommodation.</p>

6.8 SECTION 79C (1) (e) – THE PUBLIC INTEREST

It is considered that the development would be in accordance with the public interest as it would result in additional commercial floor area which will lead to job creation and economic growth for the LGA. Additional jobs during the construction phase and ultimately during the operation would add considerably to the Wollondilly area.

The construction phase is likely to take at least 18 months, from demolition of buildings and construction of the building. Employment will be widespread with construction companies undertaking the various aspects of development, including drainage and road works, landscaping, service provision, fit-out of building etc.

6.9 SECTION 79C (A)(IIIA) – ANY PLANNING AGREEMENT

At this point in time there are no Voluntary Planning Agreements (VPAs) proposed for this proposal. However, a contribution would be payable to Council prior to the release of the Construction Certificate under the provisions of Section 94A of the Environmental Planning and Assessment Act 1979.

7 Recommendation

That Development Application D2009/765 for additions and extensions to the existing Tahmoor Shopping Centre at Lots 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86 and 88 in DP 8982 and part of York Street and Lot 304 in DP 1057579 Thirlmere Way, Tahmoor be approved as a Deferred Commencement consent subject to the following conditions of consent:

THIS CONSENT WILL ONLY BECOME VALID AND MAY BE ACTED UPON SUBJECT TO THE MEETING OF THE FOLLOWING REQUIREMENTS TO COUNCIL'S SATISFACTION;

- (1) The sale and closure of part of York Street shall be endorsed by Council.
- (2) A Traffic Impact Statement prepared in accordance with the RTA Guidelines for Traffic Generating Developments shall be submitted to and endorsed by the RTA. This statement is to include electronic copies of SIDRA Modelling for the intersection of Remembrance Drive and Emmett Street and shall identify infrastructure to ameliorate the impacts of development.
- (3) A Traffic Management Scheme which identifies all traffic facilities to be used in association with the development shall be submitted to and endorsed by Council.

Note:

1. Nothing in this Deferred Commencement Consent permits the commencement of any works or development as proposed in this application until the receipt of a valid development application from Council.
2. This Deferred Commencement Consent will lapse if the above condition is not satisfied within five years of the date of the Deferred Commencement Consent.
3. Following compliance with the above conditions of Deferred Commencement Consent, written confirmation of consent will be forwarded to you from Council.
4. The development will also be subject to the attached conditions once the written confirmation of consent has been received.

Stage 1 - Demolition and Tree Removal

- (1) Development Consent is granted for Demolition of existing structures, tree removal and extension to existing commercial centre to create general store at Lot: 304 DP: 1057579, Lot: 73 DP: 8982, Lot: 85 DP: 8982, Lot: 86 DP: 8982, Lot: 87 DP: 8982, Lot: 88 DP: 8982, Lot: 78 DP: 654924, Lot: 79 DP: 654925, Lot: 80 DP: 659107, Lot: 74 DP: 8982, Lot: 75 DP: 8982, Lot: 76 DP: 8982, Lot: 77 DP: 8982, Lot: 81 DP: 8982, Lot: 82 DP: 8982, Lot: 83 DP: 8982, Lot: 84 DP: 8982, No. 111-117 Remembrance Driveway TAHMOOR, 63 York Street TAHMOOR, 36 George Street TAHMOOR, 38 George Street TAHMOOR, 13 Larkin Street TAHMOOR, 11 Larkin Street TAHMOOR, 55A York Street TAHMOOR, 14 Thirlmere Way TAHMOOR, 16 Thirlmere Way TAHMOOR, 61 York Street TAHMOOR, 59 York Street TAHMOOR, 57 York Street TAHMOOR, 55 York Street TAHMOOR, 18 Thirlmere Way TAHMOOR, 30 George Street TAHMOOR, 32 George Street TAHMOOR, 34 George Street TAHMOOR.
- (2) Development shall take place in accordance with the following endorsed plans:
 - The site Plan/Ground floor Plan Part A, with Project No. P1773 Sheet No. A02 Issue E, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
 - The overall site plan – Site/Ground Floor Plan Part B with Project No. P1773 Sheet No. A03 Issue D, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
 - Basement Car Park Floor Plan Part A, with Project No. P1773 Sheet No. A04 Issue E, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
 - Basement Car Park Floor Plan Part B, with Project No. P1773 Sheet No. A05 Issue B, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
 - Elevations/Sections, with Project No. P1773 Sheet No. A06 Issue B, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
 - Elevations/Sections, with Project No. P1773 Sheet No. A07 Issue B, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.

except where varied by the following conditions:

- (3) All demolition works shall be undertaken by a licensed demolisher who is registered with Work Cover NSW. Details shall be submitted to the Principal Certifying Authority prior to the commencement of demolition works.
- (4) Any demolition works involving asbestos removal must comply with all legislative requirements including the *Code of Practice for the Safe Removal of Asbestos (2nd Edition – National Occupational Health and Safety Commission) [NOHSC:2002(2005)]*, Work Cover NSW and NSW Department of Environment and Climate Change (DECC) requirements.
- (5) Any work involving lead paint removal must not cause lead contamination of air or ground.
- (6) All demolition material shall be disposed of in accordance with a waste management plan approved by Wollondilly Shire Council.

- (7) Demolition works shall not create general nuisance by reason of inadequate dust, noise or environmental controls.
- (8) Demolition shall be carried out to Australian Standard AS2601-2001 – The Demolition of Structures including provision for:
- Appropriate security fence or builders hoarding shall be installed to prevent public access to the demolition works
 - Induction training for onsite personnel
 - Management of asbestos, contamination and other hazardous materials
 - Dust control
 - Disconnection of gas and electrical supply
 - The demolition shall not hinder pedestrian or vehicle mobility in the locality

Control of water pollution and leachate, including the cleaning of vehicle tyres in accordance with the Protection of the Environment Operations Act, 1997.

- (8) The demolition by induced collapse, the use of explosives or onsite burning is not permitted.
- (9) During demolition works all materials and equipment shall be kept entirely within the site and not on adjoining property, footpaths and roads.
- (10) All demolition work and removal of trees shall be restricted to between the hours of 7.00am and 5.00pm Mondays to Fridays (inclusive), 7.00am to 1.00pm Saturdays, if inaudible at any point at the boundary of any adjoining property, otherwise 8.00am to 1.00pm and prohibited on Sundays and Public Holidays.
- (11) Certification is to be provided by the Demolition Contractor that the demolition work has been carried out in accordance with conditions (3) to (10). Such certification is to be provided to the Principal Certifying Authority prior to the issue of any Construction Certificate.
- (12) Prior to the demolition of Dwellings, a photographic record shall be prepared in accordance with “Guidelines for photographic recording of Heritage Sites, Buildings and Structures published the NSW Heritage Council, June 1994”. This record shall be submitted in accordance with the requirements of these guidelines. Demolition shall not commence prior to the Demolition Contractor receiving written confirmation from Council that this condition has been complied with.
- (13) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. These facilities are to be provided prior to the commencement of any works and:
- (a) Must be a standard flushing toilet; and
 - (b) Must be connected:
 - (i) to a public sewer, or

- (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

In this condition:

Accredited sewage management facility means a sewage management facility to which Division 4 of Part 2 of the *Local Government (General) Regulation 2005* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 41 of the Regulation.

Approved by the Council means the subject of an approval in force under Division 4 of Part 2 of the *Local Government (General) Regulation 2005*.

Sewage Management Facility has the same meaning as it has in the *Local Government (General) Regulation 2005*.

- (14) Any damage to the Council footway, road or other land shall be restored in accordance with Council's specifications prior to the issue of any Occupation Certificate for the development.
- (15) All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

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

(16) SUPPORT FOR NEIGHBOURING BUILDINGS

- (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - (a) must preserve and protect the building from damage; and
 - (b) if necessary, must underpin and support the building in an approved manner; and
 - (c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this Clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

(17) PROTECTION OF PUBLIC PLACES

- (1) If the work involved in the erection or demolition of a building:

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

A hoarding or fence must be erected between the work site and the public place.

- (2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

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

- (18) During vegetation removal, seed shall be collected from Lot 86, and forwarded to Wollondilly Shire Council Nursery for planting into future landscaping or into the road reserve adjacent to George Street and Thirlmere Way in accordance with the Flora and Fauna Assessment prepared by Joy Hafey Environmental Consultant dated May, 2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- (19) Burning of felled trees is not permitted.
- (20) Sale of timber directly from the site is not permitted.
- (21) Storage of felled trees is to be kept clear of property boundaries prior to removal.
- (22) Erosion and sediment control devices are to be installed prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary.
- (23) All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.
- (24) Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.
- (25) Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.
- (26) SIGNS TO BE ERECTED ON BUILDING, SUBDIVISION AND DEMOLITION SITES
 - (1) In accordance with Section 80A (11) of the Environmental Planning & Assessment Act, 1979, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) Showing the name, address and telephone number of the Principal Certifying Authority for the work; and

- (b) Showing the name of the Principal Contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - (c) Stating that unauthorised entry to the work site is prohibited.
- (2) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (3) This Clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

ADVICES

- (1) During the course of demolition, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc that require alterations shall be altered at the applicants' expense and to the satisfaction of Council and the authority concerned.
- (2) The following service providers should be contacted before commencement of construction to establish their requirements:
- Telstra (telephone) 1 800 768 396
 - Integral Energy (electricity) 131 002
 - AGL (gas) 131 245
 - Sydney Water (water & sewer) 132 092
- (3) At all times work is being undertaken within the public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site with a minimum of disruption.
- (4) The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this approval on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:
- Motor Vehicle Insurance (comprehensive or property damage) for all self propelled plant, as well as valid registration or RTA permit (Including CTP insurance). Primary producer's registration is not registration for use on Public Road construction work.
 - Workers Compensation Insurance.
 - Ten Million Dollar Public Liability Insurance.

Stage 2 - Road and Drainage Works

- (1) Development Consent is granted for Demolition of existing structures, tree removal and extension to existing commercial centre to create general store at Lot: 304 DP: 1057579, Lot: 73 DP: 8982, Lot: 85 DP: 8982, Lot: 86 DP: 8982, Lot: 87 DP: 8982, Lot: 88 DP: 8982, Lot: 78 DP: 654924, Lot: 79 DP: 654925, Lot: 80 DP: 659107, Lot: 74 DP: 8982, Lot: 75 DP: 8982, Lot: 76 DP: 8982, Lot: 77 DP: 8982, Lot: 81 DP: 8982, Lot: 82 DP: 8982, Lot: 83 DP: 8982, Lot:

84 DP: 8982, No. 111-117 Remembrance Driveway TAHMOOR, 63 York Street TAHMOOR, 36 George Street TAHMOOR, 38 George Street TAHMOOR, 13 Larkin Street TAHMOOR, 11 Larkin Street TAHMOOR, 55A York Street TAHMOOR, 14 Thirlmere Way TAHMOOR, 16 Thirlmere Way TAHMOOR, 61 York Street TAHMOOR, 59 York Street TAHMOOR, 57 York Street TAHMOOR, 55 York Street TAHMOOR, 18 Thirlmere Way TAHMOOR, 30 George Street TAHMOOR, 32 George Street TAHMOOR, 34 George Street TAHMOOR.

(2) Development shall take place in accordance with the following endorsed plans:

- The site Plan/Ground floor Plan Part A, with Project No. P1773 Sheet No. A02 Issue E, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- The overall site plan – Site/Ground Floor Plan Part B with Project No. P1773 Sheet No. A03 Issue D, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- Basement Car Park Floor Plan Part A, with Project No. P1773 Sheet No. A04 Issue E, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- Basement Car Park Floor Plan Part B, with Project No. P1773 Sheet No. A05 Issue B, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- Elevations/Sections, with Project No. P1773 Sheet No. A06 Issue B, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- Elevations/Sections, with Project No. P1773 Sheet No. A07 Issue B, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.

except where varied by the following conditions:

- (3) That the dedication of land to Council associated with the Development be at no cost to Council and there shall be no opportunity to seek compensation for such dedication under the terms of any agreement relating to the road closure.
- (4) That the road closure is conditional on the following:
- That 24 hour access be maintained along the closed section of York Street for passenger vehicles and pedestrians
 - That the minimum clear height of access along the closed section of York Street is no less than 2.6m
 - That a 24 hour security management plan be prepared and implemented, after endorsement by Council and NSW Police
 - That conspicuous signage be provided at each end of the closed section of York Street advising that through access is available for passenger vehicles and pedestrians along York Street.
- (5) Engineering design plans and stormwater drainage calculations, for all road, access, carparking, loading docks and drainage construction, shall be submitted to the nominated Principal Certifying Authority. The plans must be approved prior to the issue of an Engineering Construction Certificate for any works associated with this development. All

levels are to be reduced to Australian Height Datum. Road design parameters shall comply with the requirements of Council's Design Specifications.

- (6) Where Council's Construction Specification require that density tests, beam tests or CBR tests be undertaken, the results shall be forwarded to Council within 7 days. A NATA registered laboratory shall carry out the tests. When testing for density, the Standard Compaction testing method is to be used.

Failure to submit test results may result in Council refusing to issue completion certificates and hence may result in additional works being required.

- (7) A defects liability period of twelve (12) months will apply from the date of issue of the Certificate of Practical Completion by Council and for Public Roads the twelve (12) months is dated from the date of registration of the road as public Road. A 10% maintenance bond, or a minimum of \$1,000, whichever is greater, is to be lodged in accordance with council's Construction Specification for all work that is to become the property of Council.
- (8) A certified "Works as Executed" plan from a Chartered Professional Engineer or Registered Surveyor is to be submitted to Council before the final inspection for the Certificate of Practical Completion and prior to any occupation. The "Works as Executed" plan must certify that the works have been constructed in accordance with the approved drawings and to the levels specified.
- (9) A "Soil and Water Management Plan" (SWMP) that outlines the measures that will be taken to limit and contain sediment laden runoff during construction shall be submitted to Council. The measures shall be in accordance with Council's Construction specification and the Department of Housing's "Blue Book". The plan is to be approved by Council with the Engineering Plans.
- (10) A "Traffic Management Plan" that details suitable safety measures that will be implemented whenever work is being undertaken in the public road reserve shall be submitted to Principal Certifying Authority. The safety precautions are to be in accordance with the requirements of the RTA's "Traffic Control at Work Sites" manual. The plan is to be prepared and endorsed by a person with current RTA certification and provided to the Principal Certifying Authority before the issue of a Construction Certificate for development. Where it is proposed to restrict speeds, the RTA requires that all applications for Directions to Restrict Speed (DTR) for work on any Council road by developers and their contractors be submitted to the RTA.
- (11) This consent authorises both engineering and building works to be undertaken. A separate Construction Certificate shall be issued for each category of works, that is, a separate Engineering Construction Certificate (for any on-site detention, inter-allotment drainage, public road works, etc) and a separate Building Construction Certificate (for all works relating to the erection and fit-out of a structure).

A CONSTRUCTION CERTIFICATE FOR THE CIVIL WORKS MUST BE ISSUED PRIOR TO THE ISSUE OF A BUILDING CONSTRUCTION CERTIFICATE WITH THE CERTIFIED PLANS OF THE CIVIL ENGINEERING WORKS ALSO INCORPORATED INTO THE BUILDING PLANS.

- (12) Engineer's Certification shall be provided to the Principal Certifying Authority for all civil works carried out within the private property prior to any occupation of the development or the issue of any Occupation Certificate.
- (13) A drainage system shall be provided that ensures appropriate management of stormwater on all newly constructed roads. A drainage system shall be provided to collect and convey runoff from storms up to the 5% AEP to a point suitable for integration with a suitable natural or constructed stormwater drainage system. Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP
- (14) Stormwater runoff from all impervious surfaces on the property shall be collected and conveyed to a point suitable for integration with either the natural or constructed stormwater drainage system. A piped drainage system shall be provided to convey runoff from storms up to the 5% AEP. Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP.
- (15) The person who has the benefit of this consent shall, at no cost to Council, carry out any necessary amplification or upgrading of the downstream system, including the negotiation and dedication of appropriate easements.
- (16) The person who has the benefit of this consent shall incorporate adequate dissolved pollutant as well as silt, grass and oil pollutant controls to the stormwater management system. The pollution control devices shall be located within the property and shall be regularly maintained at the applicant's cost. Details of the stormwater pollution control system shall be shown on the engineering plans and approved by the Principal Certifying Authority.
- (17) The person who has the benefit of this consent shall determine the impact of the development on the downstream drainage system at key points between Larkin Street and Bronzewing Street and particularly near Valerie Street. The impact of the development shall be mitigated by amplification of the downstream system or appropriate on site detention for storms of all durations and Annual Exceedance Probabilities up to and including 1% AEP. Details of the mitigation required shall be designed by an appropriately qualified professional, shown on the engineering plans and approved by the Principal Certifying Authority. The design shall include consideration of bypass flows from upstream catchments in major storms.
- (18) The person who has the benefit of this consent shall ensure that the development is not adversely affected by stormwater flows for storms of all durations and Annual Exceedance Probabilities up to and including 1% AEP. The assessment shall include consideration of bypass flows from upstream catchments in major storms, be undertaken by an appropriately qualified professional, shown on the engineering plans and approved by the Principal Certifying Authority.
- (19) Provision shall be made for vehicles to access and leave the site in a forward direction.
- (20) In accordance with the provisions of Development Control Plan No.7 - Off Street Carparking a minimum of 409 sealed car parking spaces and access thereto shall be provided for the proposed development. Such spaces are to measure not less than 2.6m x 5.5m and are to be marked on the pavement in white line marking paint.

- (21) Basement car parking shall be installed in accordance with the approved Basement Car Park Floor Plan Prepared by Algorry Zappia Pty Ltd Part A, with Project No. P1773 Sheet No. A04 Issue E, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- (22) Three (3) of the required car parking spaces shall be reserved for people with mobility impairment in accordance Australian Standard AS2890.6. These spaces shall have dimensions as required by AS2890.1 and shall be appropriately signposted and marked on the pavement .In addition the carpark design shall comply with section 2.5 of AS2890.1, Design of Circulation Roadway & Ramps.
- (23) A heavy duty concrete vehicular footway crossing shall be provide at all locations where vehicles cross the footway.
- (24) Footway crossing slabs that become redundant are to be removed and the footway are restored. Disused gutter crossings are to be removed and the kerb reinstated.
- (25) All access driveways shall comply with the RTA “Guidelines for Traffic Generating Developments “.
- (26) In accordance with Section 138 of the Roads Act a 138 Consent Certificate must be obtained from Council’s Infrastructure Planning Section a minimum 7 days prior to commencement of work. A fee is payable for issue of this Consent Certificate.
- (27) All traffic advisory and regulatory signs must be approved by Council’s Local Traffic Committee prior to the commencement of works.
- (28) Street lighting shall be provided at the frontage of the site to comply with the current Australian Standards AS1158 and as determined by Council and certified by an Integral Energy Approved design consultant.
- (29) Prior to construction work commencing, a joint inspection with the contractor, applicant and Council of the existing roads shall be carried out to formulate a maintenance agreement for local roads that will be affected by construction traffic.
- (30) The existing road pavement and seal that are fronting this site in York Street, Larkin Street and George Street shall be tested by a geotechnical engineer to ascertain the existing pavement strength and where shown to be substandard in relation to additional traffic loadings, pavement strengthening shall be carried out.
- (31) The travel path for all trucks servicing this site shall be contained in their travel lane. Where required the proposed kerblines and building shall be altered to achieve this. Details for the alterations to provide the correct turning paths shall be detailed on the engineering plans for approval by Council and the Local Traffic Committee prior to the issue of a Construction Certificate.
- (32) A minimum of two right angled parking two spaces adjacent to the proposed pedestrian crossing in George St shall be deleted. The installation of this crossing being subject to approval by the Local Traffic Committee prior to the issue of a construction certificate. The proposed pedestrian crossing in Larkin Street shall be deleted.

- (33) The proposed Roundabout in Thirlmere Way including signage preventing vehicles turning left into Thirlmere Way from the extension of George Street shall be approved by the Local Traffic Committee prior to the issue of a Construction Certificate.
- (34) Arrangements to warn traffic and reduce travel speeds shall be included for traffic calming on the approach to the Roundabout from the west, for approval by the Local Traffic Committee. Plans provided for the Local Traffic Committee shall be fully detailed engineering plans.
- (35) The proposed road widening for the York St cul-de-sac shall be dedicated to Council as public road prior to the issue of any Occupation certificate.
- (36) A full width concrete footpath shall be constructed for all shop frontages, in all other locations fronting the site a concrete pathway 2.0 metres wide shall be constructed.
- (37) The existing concrete path on the north side of Thirlmere Way shall be extended to the Pram Ramp on the east side of the proposed Roundabout.
- (38) The access to the existing carpark from Thirlmere Way shall be altered to provide left in / left out turns only. The existing median shall be altered and extended to remove any opening for access, with the line marking being adjusted to provide two continuous travel lanes between the Roundabouts.
- (39) All signs and line marking shall be installed in accordance with the RTA standards.
- (40) The extension and widening of George Street shall be constructed in accordance with Council's design and Construction specifications.
- (41) Shared Zone arrangements for the undercroft area in York Street shall be submitted to the Principal Certifying Authority for approval prior to the issue of Engineering Construction Certificate. The minimum clear height within the development between the road surface and the underside of the floor (including projections and services) along the original alignment of York Street shall be 2.5m. Appropriate signage shall be provided at the entrances to the undercroft area indicating the minimum height for vehicles.
- (42) Erosion and sediment control devices are to be installed prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary.
- (43) All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.
- (44) Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.
- (45) Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.
- (46) All filling on the site, including footpath areas, shall be compacted to not less than 95% Standard Compaction. A report on the site filling is to be submitted in accordance with Wollondilly Shire Council's Construction Specification by an appropriately qualified

Geotechnical Engineer or Soil Scientist. Such a report shall be supported by a survey plan of the site indicating the areas filled and depth of fill in relation to the lot boundaries.

- (47) Only fill characterised as VENM or ENM under the guidelines of the NSW Environmental Protection Authority may be used in this development. Copies of validation reports for all fill used shall be retained and presented to Council on request.
- (48) The engineering works shall be inspected by the Principal Certifying Authority at the following stages of construction to ensure they comply with Council's Construction Specification and associated approvals:
- Prior to commencement of any construction work on the site, after erosion and sediment control and traffic control measures are implemented.
 - When drainage lines have been laid, jointed and bedded, prior to backfilling.
 - Prior to pouring of the drainage pits, when the formwork and steel is in place.
 - When roadworks have been excavated to subgrade, prior to placing of pavement.
 - When subsoil drainage lines have been excavated and drainage pipe laid prior to placing filter material.
 - When part of the pavement depth (as indicated by Council) has been placed.
 - During the roller test, which is to be carried out using a three point roller or approved equivalent.
 - At sealing.
 - At completion of the preparation of kerb and guttering subgrade.
 - At completion of the preparation of all concrete layback gutter crossing subgrade.
 - Prior to pouring concrete for concrete footpath/cycleway, when formwork and steel is in place.
 - Prior to pouring vehicle crossing slabs, when formwork and steel is in place.
 - Prior to pouring concrete to driveway/car park slabs, when formwork and steel is in place.
 - At practical completion of works.
 - At final completion of works (minimum of 12 months after date of issue of practical completion certificate).

Note: It is the responsibility of the applicant or contractor to notify the Principal Certifying Authority when inspections are required. Failure to notify may lead to additional work being required prior to issue of inspection certificates. A minimum of 24 hours notice is required for inspections where Council is the Principal Certifying Authority.

ADVICES

- (1) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc that require alterations shall be altered at the applicants' expense and to the satisfaction of Council and the authority concerned.
- (2) The following service providers should be contacted before commencement of construction to establish their requirements:
- Telstra (telephone) 1 800 768 396
 - Integral Energy (electricity) 131 002

- AGL (gas) 131 245
 - Sydney Water (water & sewer) 132 092
- (3) **This Consent does not permit the commencement of construction unless a Construction Certificate has been issued. For details about obtaining a Construction Certificate contact Council's Development Services Section.**
- (4) At all times work is being undertaken within the public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site with a minimum of disruption.
- (5) The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this approval on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:
- Motor Vehicle Insurance (comprehensive or property damage) for all self propelled plant, as well as valid registration or RTA permit (Including CTP insurance). Primary producer's registration is not registration for use on Public Road construction work.
 - Workers Compensation Insurance.
 - Ten Million Dollar Public Liability Insurance.

Stage 3 - Extensions to existing commercial building and uses as a general store

- (1) Development Consent is granted for Demolition of existing structures, tree removal and extension to existing commercial centre to create general store at Lot: 304 DP: 1057579, Lot: 73 DP: 8982, Lot: 85 DP: 8982, Lot: 86 DP: 8982, Lot: 87 DP: 8982, Lot: 88 DP: 8982, Lot: 78 DP: 654924, Lot: 79 DP: 654925, Lot: 80 DP: 659107, Lot: 74 DP: 8982, Lot: 75 DP: 8982, Lot: 76 DP: 8982, Lot: 77 DP: 8982, Lot: 81 DP: 8982, Lot: 82 DP: 8982, Lot: 83 DP: 8982, Lot: 84 DP: 8982, No. 111-117 Remembrance Driveway TAHMOOR, 63 York Street TAHMOOR, 36 George Street TAHMOOR, 38 George Street TAHMOOR, 13 Larkin Street TAHMOOR, 11 Larkin Street TAHMOOR, 55A York Street TAHMOOR, 14 Thirlmere Way TAHMOOR, 16 Thirlmere Way TAHMOOR, 61 York Street TAHMOOR, 59 York Street TAHMOOR, 57 York Street TAHMOOR, 55 York Street TAHMOOR, 18 Thirlmere Way TAHMOOR, 30 George Street TAHMOOR, 32 George Street TAHMOOR, 34 George Street TAHMOOR.
- (2) Development shall take place in accordance with the following endorsed plans:
- The site Plan/Ground floor Plan Part A, with Project No. P1773 Sheet No. A02 Issue E, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
 - The overall site plan – Site/Ground Floor Plan Part B with Project No. P1773 Sheet No. A03 Issue D, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
 - Basement Car Park Floor Plan Part A, with Project No. P1773 Sheet No. A04 Issue E, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
 - Basement Car Park Floor Plan Part B, with Project No. P1773 Sheet No. A05 Issue B, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.

- Elevations/Sections, with Project No. P1773 Sheet No. A06 Issue B, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- Elevations/Sections, with Project No. P1773 Sheet No. A07 Issue B, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.

except where varied by the following conditions:

- (3) All building work must be carried out in accordance with the provisions of the Building Code of Australia. This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning & Assessment Regulations, 2000, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4).

- (4) This approval is only for the use as a "general store" which is defined within the Environmental Planning and Assessment Model Provisions 1980 as follows:

"General store" means a shop used for the sale by retail of general merchandise and which may include the facilities of a post office.

The use of the building for any other purpose outside the scope of the above definition would require separate development consent from Council.

- (5) All materials and colours to be used in the external construction of the proposed building shall be consistent throughout the total development and match those of the existing development.
- (6) The design details of the proposed building façade, including all external finishes, glazing and colours, must be in accordance with the approved elevation plans prepared by Algorry Zappia Pty Ltd, project No. P1773 Sheet No. A06, Issue B dated November 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- (7) The building shall comply with AS1428.1 in respect of accessibility for disabled persons. Prior to the issue of any Construction Certificate under the Environmental Planning and Assessment Act, 1979, a certificate certifying compliance with this condition and prepared by a suitably person must be provided to the Principal Certifying Authority and a copy submitted to Council.
- (8) Sanitary and other facilities must be provided in accordance with the deem-to-satisfy provisions of the Building Code of Australia.
- (9) The facility shall have visual alarms installed in accordance with AS2220.1, "Design for Access and Mobility". The alarm shall be arranged to flash in conjunction with the audible alarm.
- (10) All construction and building work shall be restricted to between 7:00am and 5:00pm Mondays to Saturdays (inclusive) and prohibited on Sundays and Public Holidays unless written approval to vary the hours of work is granted by Council.
- (11) Excavated area/s adjacent to the building shall be retained and drained to prevent the subsidence of the excavation and/or entry of surface water to the building. Where the

retaining wall exceeds 600mm in height, plans and specifications of the retaining wall shall be submitted and approved before construction commences, and where the height exceeds 1m in height, a certificate prepared by a suitably qualified Structural Engineer shall be submitted with the plans and specifications.

- (12) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. These facilities are to be provided prior to the commencement of any works and:
- (a) Must be a standard flushing toilet; and
 - (b) Must be connected:
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

In this condition:

Accredited sewage management facility means a sewage management facility to which Division 4 of Part 2 of the *Local Government (General) Regulation 2005* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 41 of the Regulation.

Approved by the Council means the subject of an approval in force under Division 4 of Part 2 of the *Local Government (General) Regulation 2005*.

Sewage Management Facility has the same meaning as it has in the *Local Government (General) Regulation 2005*.

- (13) Construction shall not commence until a Construction Certificate has been obtained from the Principal Certifying Authority.
- (14) Any damage to the Council footway, road or other land shall be restored in accordance with Council's specifications prior to the issue of any Occupation Certificate for the development.
- (15) An appropriate fence preventing public access to the site shall be erected for the duration of construction works.
- (16) All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

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

- (17) Roller doors shall be provided for all underground car parking areas for the development. These doors shall prevent public access to the car parking areas and the entry point from Larkin Street and Thirlmere Way at all times when the general store is not operating.

(18) SUPPORT FOR NEIGHBOURING BUILDINGS

- (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - (a) must preserve and protect the building from damage; and
 - (b) if necessary, must underpin and support the building in an approved manner; and
 - (c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this Clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

(19) PROTECTION OF PUBLIC PLACES

- (1) If the work involved in the erection or demolition of a building:
 - (a) Is likely to cause pedestrian or vehicular traffic in a place to be obstructed or rendered inconvenient, or
 - (b) Building involves the enclosure of a public place;

A hoarding or fence must be erected between the work site and the public place.

- (2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

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

- (20) There shall be no burning of builders' rubble, felled trees or other material on site.
- (21) Erosion and sediment control devices are to be installed prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary.
- (22) All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.
- (23) Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.

- (24) Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.
- (25) Building works shall be inspected by the Principal Certifying Authority at critical stages of construction to ensure they comply with the Building Code of Australia and associated approvals. Where Wollondilly Shire Council is nominated as the Principal Certifying Authority these inspections shall include:
- Footings.
 - Pier holes before pouring of concrete.
 - Steel reinforcing before pouring of concrete.
 - Internal drainage before backfilling.
 - External drainage before backfilling.
 - Wet area damp proofing and flashing before lining.
 - Structural steel work before covering.
 - Stormwater drainage before backfilling.
 - Bearers and joist inspection before flooring is fixed.
 - Frame work before internal cladding or lining is fixed.
 - Completion of the building work before occupation or use.

Note: It is the responsibility of the applicant or contractor to notify the Principal Certifying Authority when inspections are required. Failure to notify may lead to additional work being required prior to issue of inspection certificates. A minimum of 24 hours notice is required for inspections where Council is the Principal Certifying Authority.

- (26) The area surrounding the building work shall be reinstated to Council's satisfaction upon completion of the work.
- (27) The footpaths shall be kept clear of signs, fixtures and goods at all times.
- (28) The premises shall be maintained in a clean and tidy state at all times.
- (29) The premises shall be constructed and operated in such a manner so as not to interfere with the amenity of the neighbourhood by reason of the emission of discharge of noise, fumes, vapour, steam, soot, ash, dust, waste water, waste water products, grit, oil or other harmful products of the industry.
- (30) The premises shall be conducted between the hours of 7:00am and 9:00pm each day.
- (31) There shall be no signs or other materials stored or displayed on Council's footway.
- (32) The building shall not be occupied or used until an Occupation Certificate is issued by the nominated Principal Certifying Authority.
- (33) Delivery vehicles shall enter the subject site only between the hours of 6:00am and 10:00pm each day and only when the proposed general store is not trading.
- (34) Heavy vehicles (semi-trailers) shall only enter the loading dock on Larkin Street by travelling along Thirlmere Way and then and then George Street. Such vehicles

shall exit the loading dock in Larkin Street by travelling along George Street and then onto Thirlmere Way. All other routes to access the loading dock are not permitted. Appropriate signage shall be installed in the loading dock area advising delivery drivers of the approved route.

- (35) Gates shall be provided for the loading dock areas and be used to prevent public access to the loading dock areas at all times when the loading dock is not in use.
- (36) A single delivery by an articulated vehicle with length no greater than 20 metres may take place on any day while the proposed shop is trading. The number of deliveries that may be undertaken under this condition shall be limited to six (6) deliveries each calendar year. A log of such delivery vehicle occurrences is to be kept and made available to Council on request.
- (37) The specific use of any proposed new food shops and retail shops shall be the subject of a further, separate development application to Council.
- (38) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Co-ordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority prior to the Construction Certificate being issued.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate for the development.

- (39) All power and services within the site shall be underground.
- (40) Written certification shall be provided to the Principal Certifying Authority indicating that the development has been satisfactorily connected to the onsite sewage management system prior to the issue of any Occupation Certificate.
- (41) Disposal of construction and building waste material shall be undertaken in accordance with the Waste Management Plan submitted with the Development Application.
- (42) During the construction stage all waste streams are to be stored separately and to include:
 - 1. Material to be recycled.
 - 2. Material to be transferred to Landfill.
 - 3. Material to be reused on the site.

- (43) Prior to the issue of any Construction Certificate the applicant shall submit to the Principal Certifying Authority details for the collection and disposal of internal waste generated by the occupants to be arranged through a licensed authorised contractor.
- (44) Enclosures for the storage of Waste Containers shall be provided within the development and shall not occupy any car parking spaces, vehicle manoeuvring, loading or general access areas. Waste containers are not to be visible from a public place.
- (45) Enclosures for the storage of bulk waste containers shall be provided within the development and shall not occupy car parking spaces, vehicle manoeuvring areas, loading or general access areas. Waste containers are not to be visible from a public space.
- (46) Provision must be made for the storage of the bulk waste bin within the building. Trade waste bins must be collected on a regular basis to prevent odour and fire hazards occurring.

All wastes are to be stored in a manner that prevents the escape of pollutants to the environment. The location of the trade waste bin must be clearly indicated on engineering plans and submitted to the Principle Certifying Authority for approval prior to issue of a Construction Certificate for any works associated with this development.

- (47) CCTV cameras shall be provided to monitor the following locations:
 - (a) The entry to and exit from the store
 - (b) The loading dock
 - (c) The car parking area.
- (48) A surveillance plan shall be prepared to demonstrate compliance with Condition (47) (above) of this consent and shall be submitted to the NSW Police Service for endorsement prior to the release of any Building Construction Certificate. Further enquiries in this regard may be directed to the Crime Prevention Officer at Camden Police Station via phone 4655 0599. The endorsed surveillance plan shall be provided to the Principal Certifying Authority prior to the issue of any Building Construction Certificate.
- (49) The surveillance plan approved in response to Condition (48) (above) of this consent shall be installed and operating prior to the issue of any Occupation Certificate for this development.
- (47) The car parking area and pedestrian accesses on site shall comply with AS1158.
- (48) Signage shall be provided in the car parking area indicating that:
 - (a) The store and parking areas are under 24 hour video surveillance; and
 - (b) That unauthorised use of the parking area outside of trading hours is prohibited and offenders can be prosecuted.
- (49) All large blank external walls shall be treated with anti-graffiti paint.
- (50) An application under the provisions of the Environmental Planning and Assessment Act, 1979 shall be submitted to and approved by Council prior to the erection and/or display of any advertising signs unless the sign is exempt development as defined by that Act.

- (51) The footpaths being kept clear of signs at all times.
- (52) No advertising flags or banners or the like are to be erected on or attached to the shopfront.
- (53) No advertising flags or banners or the like are to be erected on or attached to Council's street lights or telegraph poles.
- (54) Landscaping shall be installed in accordance with the approved Landscape Plans prepared by Distinctive Living Design, Drawing No. 83-09.12, Revision A, Sheet No. 1-8 and submitted in respect of Development Application No. 010.2009.00000765.001.
- (55) Landscaping and plantings along all road frontages shall consist of indigenous tree species in accordance with the recommendations of the Flora and Fauna Assessment prepared by Joy Hafey Environmental Consultant, dated May, 2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- (56) Pursuant to Section 80A(1) of the Environmental Planning & Assessment Act, 1979, and the Wollondilly Development Contributions Plan 2005 (as amended by Ministerial Section 94E Direction dated 10 November 2006), a contribution of \$200,000 shall be paid to Council.

This contribution is calculated from Council's adopted Development Contributions Plan (as Amended) in the following manner:

Non-residential Development with proposed development cost exceeding \$200,000 1% levy

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Wollondilly Development Contributions Plan 2005.

The contribution is to be paid before release of the Occupation Certificate, in accordance with the provisions of the Wollondilly Development Contributions Plan 2005.

- (57) SIGNS TO BE ERECTED ON BUILDING, SUBDIVISION AND DEMOLITION SITES
 - (1) In accordance with Section 80A (11) of the Environmental Planning & Assessment Act, 1979, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) Showing the name, address and telephone number of the Principal Certifying Authority for the work; and
 - (b) Showing the name of the Principal Contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - (c) Stating that unauthorised entry to the work site is prohibited.
 - (2) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (3) This Clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

ADVICES

- (1) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc that require alterations shall be altered at the applicants' expense and to the satisfaction of Council and the authority concerned.
- (2) The following service providers should be contacted before commencement of construction to establish their requirements:
 - Telstra (telephone) 1 800 768 396
 - Integral Energy (electricity) 131 002
 - AGL (gas) 131 245
 - Sydney Water (water & sewer) 132 092
- (3) **This Consent does not permit the commencement of construction unless a Construction Certificate has been issued. For details about obtaining a Construction Certificate contact Council's Development Services Section.**
- (4) At all times work is being undertaken within the public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site with a minimum of disruption.
- (5) The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this approval on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:
 - Motor Vehicle Insurance (comprehensive or property damage) for all self propelled plant, as well as valid registration or RTA permit (Including CTP insurance). Primary producer's registration is not registration for use on Public Road construction work.
 - Workers Compensation Insurance.
 - Ten Million Dollar Public Liability Insurance.

Stage 4 – Lot Consolidation

- (1) Development Consent is granted for Demolition of existing structures, tree removal and extension to existing commercial centre to create general store at Lot: 304 DP: 1057579, Lot: 73 DP: 8982, Lot: 85 DP: 8982, Lot: 86 DP: 8982, Lot: 87 DP: 8982, Lot: 88 DP: 8982, Lot: 78 DP: 654924, Lot: 79 DP: 654925, Lot: 80 DP: 659107, Lot: 74 DP: 8982, Lot: 75 DP: 8982, Lot: 76 DP: 8982, Lot: 77 DP: 8982, Lot: 81 DP: 8982, Lot: 82 DP: 8982, Lot: 83 DP: 8982, Lot: 84 DP: 8982, No. 111-117 Remembrance Driveway TAHMOOR, 63 York Street TAHMOOR, 36 George Street TAHMOOR, 38 George Street TAHMOOR, 13 Larkin Street TAHMOOR, 11 Larkin Street TAHMOOR, 55A York Street TAHMOOR, 14 Thirlmere Way TAHMOOR, 16 Thirlmere Way TAHMOOR, 61 York Street TAHMOOR, 59 York Street TAHMOOR, 57 York Street TAHMOOR, 55 York Street TAHMOOR, 18 Thirlmere

Way TAHMOOR, 30 George Street TAHMOOR, 32 George Street TAHMOOR, 34 George Street TAHMOOR.

(2) Development shall take place in accordance with the following endorsed plans:

- The site Plan/Ground floor Plan Part A, with Project No. P1773 Sheet No. A02 Issue E, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- The overall site plan – Site/Ground Floor Plan Part B with Project No. P1773 Sheet No. A03 Issue D, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- Basement Car Park Floor Plan Part A, with Project No. P1773 Sheet No. A04 Issue E, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- Basement Car Park Floor Plan Part B, with Project No. P1773 Sheet No. A05 Issue B, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- Elevations/Sections, with Project No. P1773 Sheet No. A06 Issue B, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.
- Elevations/Sections, with Project No. P1773 Sheet No. A07 Issue B, dated 24.08.2010 and submitted in respect of Development Application No. 010.2009.00000765.001.

except where varied by the following conditions:

- (3) The subject lots and relevant part of York Street shall be consolidated into one title and written notification as to the registration of such consolidation at the Land Titles Office is to be submitted to Council prior to the release of any Construction Certificate for the development, but not before the Application for the closure of York Street has been determined by Council.
- (4) A letter from a Registered Surveyor shall be submitted to Council certifying that no services of public utility or wastewater disposal presently connected to existing buildings straddle proposed boundaries after subdivision.
- (5) SIGNS TO BE ERECTED ON BUILDING, SUBDIVISION AND DEMOLITION SITES

- (1) In accordance with Section 80A (11) of the Environmental Planning & Assessment Act, 1979, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) Showing the name, address and telephone number of the Principal Certifying Authority for the work; and
 - (b) Showing the name of the Principal Contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - (c) Stating that unauthorised entry to the work site is prohibited.
- (2) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (3) This Clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

ADVICES

- (1) During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc that require alterations shall be altered at the applicants' expense and to the satisfaction of Council and the authority concerned.
- (2) The following service providers should be contacted before commencement of construction to establish their requirements:
- Telstra (telephone) 1 800 768 396
 - Integral Energy (electricity) 131 002
 - AGL (gas) 131 245
 - Sydney Water (water & sewer) 132 092

Annexure “A” Reduced Architectural Plans

