

Report to the Joint Regional Review Panel
Proposed Extensions to Tahmoor Town
Centre, Remembrance Driveway, Tahmoor
– General Store DA 2009/765 – Addendum
Report

Assessment Report and Recommendation

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February 2011

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- A: Initial legal advice from Lindsay Taylor Lawyers
- B: Further advice in respect of amended plans
- C: Amended Statement of Environmental Effects from Rein Warry & Company
- B: Legal Advice from Lindsay Taylor Lawyers

JRPP No	
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.

This firm prepared an assessment report to the Joint Regional Review Panel (The Panel) on behalf of Wollondilly Shire Council on the basis that there was a potential conflict of interest in respect of the closure of York Street. The report to The Panel was dated October 2010 and provided an assessment under Section 79C of the Environmental Planning & Assessment Act 1979 with a recommendation for approval.

The application was considered by The Panel on 12 November 2010. The Panel heard verbal submissions from objectors to the proposal and from the Applicant. Following the meeting, the Panel recommended that the application be deferred and that the Council obtain legal advice in respect of the following:

- Whether the relevant part of the proposed development meets the definition of a General Store as defined in *Wollondilly Local Environmental Plan 1991 (WLEP)*?
- Whether the extension of the commercial building over York Street is permissible under WLEP, given that the road is currently zoned 2(a) Residential "A"? In this regard is the operation of clause 37 of WLEP (development near boundary of adjacent zones) sufficient to permit this building extension?

Initial legal advice indicated that the proposed development was prohibited. This was on the basis that the plans reviewed by the solicitors showed future uses of the development once the land was rezoned from residential to commercial. The Council required the applicant to delete all references on plans regarding the proposed future uses as such were prohibited, but details were shown on plans (refer to **Annexure A**). The plans were amended to delete this detail and further advice was sought. This further advice requested the applicant to submit details of the goods to be sold in the general store and address Clause 37 in respect of the extension to the Woolworths Supermarket (refer to **Annexure B**).

The applicant also submitted an amended Statement of Environmental Effects (SoEE) which addressed the proposed uses within the General Store and Supermarket extension. A copy of the amended SoEE is attached as **Annexure C**.

The amended SoEE was referred to Council's Solicitors Lindsay Taylor Lawyers to provide legal advice in respect of the above. A copy of the advice is attached as **Annexure D**.

The following provides an assessment of the above matters.

1 The Proposed Development

The proposed development seeks approval for the following works, as submitted with the development application:

- 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.

2 Legal Advice

Lindsay Taylor Lawyers reviewed the documentation submitted with the development application, which included plans and supporting documentation. In addition a copy of the report prepared by this firm to The Panel was also made available for consideration. Initial advice received stated that the proposed development was prohibited. This opinion was based on the fact that plans reviewed by Lindsay Taylor Lawyers (LTL) showed future uses of the development, other than the general store and extensions to the Woolworths Supermarket.

The applicant submitted amended plans which deleted all references to future uses within the development. These plans were then referred to the solicitors for advice.

The advice dated 27 January 2011, required the following to be provided:

“Amendments to SEE

16 It must also be made clear through the SEE that the Proposal is entirely for the purpose of a general store.

17 This means amending the SEE so that those parts of the Proposal situated on the land zoned 2(a) Residential A zone only relate to the general store use or will not be used.

18 The SEE should identify the nature of the range of items to be sold in the Big W and/or the Woolworths. The range of items to be sold by retail must be shown to be *a range of general* (rather than specialty) *merchandise*.

19 The SEE must also contain discussion regarding the mall and amenities, storage, back of house, loading dock and car parking aspects of the Proposal. The SEE must state that those aspects of the Proposal all serve the same purpose as the store itself.

20 The SEE must identify whether the additional 1844.78m² of floor area is proposed to be used. If it is, that use must be for the general store use. If no use is proposed, the SEE must identify those areas (in the amended plans) which are not proposed to be used.

21 If clause 37 of the WLEP is proposed to be relied on to provide an alternative source of permission for the extension to the Woolworths commercial building, the SEE must be amended to contain a detailed assessment of the proposed extension to the Woolworths against the planning controls in clause 37. Such a detailed assessment must provide sufficient information to the Council to form an opinion as to whether the Woolworths extension *is necessary, ... due to planning, design, servicing or similar requirements relating to the optimum development of land.*”

As such the applicant was requested to provide an amended SoEE and details in respect of Clause 37.

3 The Amended Statement of Environmental Effects

The amended SoEE provides the following in respect of the proposed range of goods or merchandise to be sold within the general store, briefly included:

- Baby & kids products;
- Beauty & health products;
- Christmas products;
- Electronics;
- Entertainment;
- Fashion;
- Home & garden;
- Optical;
- Patio equipment;
- Photo;
- Sports & leisure; and
- Toys.

In respect of the extension of the existing Woolworths Supermarket over York Street, the applicant addressed the issue of Clause 37 of LEP 1991, as follows:

“37 Development near boundary of adjacent zones

- (1) *Subject to subclause (2), development which is permitted within a zone may, with the consent of the council, be carried out on land in an adjacent zone other than Zone No 6 (a), 6 (b), 7 (a), 7 (b), 8 (a) or 9 (d) within 20 metres of the boundary between the zones.*

Comment: *The subject zones are Commercial 3(a) for the existing Woolworths and 2(a) for the closed section of York Street. Therefore clause 37 is applicable to this application;*

- (2) *The council may grant consent under the Act to the carrying out of development pursuant to subclause (1) only where the carrying out of the development is necessary, in the opinion of the council, due to planning, design, servicing or similar requirements relating to the optimum development of land to which this plan applies.*

Comment: *In order to provide a larger and better range of products to the local customers want to expand the floor space of their existing supermarket (sic). There are a significant number of constraints to horizontal expansion to the existing supermarket. These are location of cool and freezer rooms, the loading docks, accessways and other tenancies.*

The internal configuration of a modern supermarket is carried out to a well defined formula based on the width and length of grocery aisles. If an aisle is too long customers will not walk down there, if they cannot see the end easily they will not use the aisle, if the aisle are too wide then there is a waste of floor space etc. It is quite critical for a pleasant shopping experience to conform to this formula. The expansion can therefore only be achieved expansion out over York Street so that the development has no changes in floor level for shopper convenience within the one store.

Therefore, due to the social planning, efficient design and servicing this development proposal provides the optimum development of this land.”

This amended SoEE was referred to LTL for consideration and the following provides details of that consideration.

4 Further Legal Advice

This further legal advice is dated 18 February 2011 and is attached as **Annexure B**. The advice states as follows:

Addendum to the SEE

- 5 The Addendum states that the areas of the Proposal which are not shown as general store are for the purpose of allowing the general store to operate by providing storage areas and ancillary uses, such as lay-by areas etc. In my view, the whole of development can be reasonably characterised by reference to the general store use in accordance with the relevant principles: see *Chamwell Pty Limited v Strathfield Council* [2007] NSWLEC 114.

- 6 The Addendum also identifies the nature of the range of items to be sold in the Big W. In my view, the range of items to be sold by retail in the Big W is sufficient to satisfy the requirement that it is a *range of general* (rather than specialty) *merchandise*: see *Maryland Development Co Pty Limited v Penrith City Council & Anor* (2001) 115 LGERA 75.
- 7 As advised in my letter dated 27 January 2011, if clause 37 of the WLEP is to be relied on to permit the Woolworths extension, the SEE must to be amended to provide a *detailed assessment of the proposed extension to the Woolworths against the planning controls in clause 37*.
- 8 Such a detailed assessment is required so that the Council could form an opinion as to whether the Woolworths extension *is necessary, ... due to planning, design, servicing or similar requirements relating to the optimum development of land*.
- 9 In my view, whilst the Addendum attempts to address the issue, it does not address the relevant question, namely whether the expansion is, in fact, the optimal development of the land over which the expansion will take place. The argument presented actually presupposes that this is the case and proceeds to argue why the supermarket would benefit from an expansion over York Street. In my view, the Council could not reasonably form the opinion that the test in cl37 is made out unless it is of that opinion the optimal development of the land over which the expansion will take place is a supermarket.

Amended Architectural Plans

- 10 I have reviewed the amended architectural plans referred to above and note that the references to retail space and commercial uses which are not for the proposed general store use have been removed.
- 11 Having regard to my comments above that the range of goods to be sold is general merchandise, I am satisfied that the architectural plans now show a proposal that has a number of aspects which are all for the same general store purpose.
- 12 Accordingly I am now of the view, that the Proposal as proposed on the documents referred to in this advice meets the definition of a general store as defined in the WLEP. In forming this view, I have also considered my previous letters of advice dated 23 December 2010 and 27 January 2011.

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.

It is not proposed to address these instruments again, except the requirements under Wollondilly Local Environmental Plan 1991 and in particular Clause 37.

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).”

Two aspects of the proposal required clarification, they being:

- Whether the relevant part of the proposed development meets the definition of a General Store as defined in *Wollondilly Local Environmental Plan 1991 (WLEP)*?
- Whether the extension of the commercial building over York Street is permissible under WLEP, given that the road is currently zoned 2(a) Residential “A”? In this regard is the operation of clause 37 of WLEP (development near boundary of adjacent zones) sufficient to permit this building extension?

WLEP 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.

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.

The applicant has submitted an amended SoEE addressing the range of goods or merchandise to be sold within the general store. The legal advice from LTL states that the range of goods 'fits' the definition of a general store and provides a number of Land & Environment Court decisions in respect of this component of the development.

In respect of clause 37, this clause provides for the following:

Clause 37 Development near boundary of adjacent zones

- (1) *Subject to subclause (2), development which is permitted within a zone may, with the consent of the council, be carried out on land in an adjacent zone other than Zone No 6 (a), 6 (b), 7 (a), 7 (b), 8 (a) or 9 (d) within 20 metres of the boundary between the zones.*
- (2) *The council may grant consent under the Act to the carrying out of development pursuant to subclause (1) only where the carrying out of the development is necessary, in the opinion of the council, due to planning, design, servicing or similar requirements relating to the optimum development of land to which this plan applies.*

This clause essentially permits Council to approve a landuse that is permissible in one zone (commercial), but prohibited in an adjoining zone (residential) provided that it is within 20m of a zone that permits that development and is necessary due to planning, design, servicing or similar requirements. The existing supermarket is constructed on land zoned for commercial purposes and is therefore permissible. York Street is zoned for residential purposes, but is proposed to be closed and rezoned under draft LEP 2009 for commercial purposes.

Notwithstanding, the application was lodged under the provisions of WLEP 1991 and under the savings provisions of draft LEP 2009, the application must be assessed under WLEP 1991.

The amended SoEE states that there is a need to extend the supermarket to provide a better range of products to customers. The current supermarket has a floor area of 3200m² and the additional floor space of 1000m² will bring the supermarket up to industry standard for supermarkets providing a full range of products, which is approximately 4500m². The expansion of the supermarket has been addressed in the Economic Impact Assessment prepared by HillPDA.

The amended SoEE states that subclause (1) has been satisfied in terms of being within 20m of the zone boundary. This is clear, as York Street immediately adjoins the existing shopping complex site.

In terms of (2), a review of the plans clearly indicates that there are no opportunities to expand in any other direction other than towards York Street, as proposed by the application. The expansion could occur in the loading dock area to the south, but then a new loading dock would be needed constructed elsewhere, and there appears to be no opportunities to do this, as the loading dock area would then be within the road reserve. It would also be noted that the loading dock services other uses within the complex and a relocation of the loading dock area elsewhere would result in these businesses being potentially without a loading dock area or requiring servicing from the carparking area at the front of the shops. This loading dock area also services several other shops fronting Remembrance Driveway and connects to Crawford Lane, which has access to Larkin Street. Therefore the optimal development of supermarket is over York Street.

It should be noted that whilst York Street is zoned for residential purposes, the expansion of the Woolworths Supermarket over part of York Street will not result in the loss of land that could be development for residential dwellings or other residential development permitted under the zone.

In addition, it is considered that the general objective of the clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.

Notwithstanding the above, a supermarket is deemed to be a general store under the abovementioned Land and Environment Court decisions and those previously cited in the original planning report prepared by this firm. As such, the expansion of the supermarket is permissible in the Residential zone as a general store (refer to definitions above).

Therefore in respect of subclause (2) this aspect of the proposed development has been satisfied, in my opinion.

Having regard to the legal advice, it is recommended that the application be approved subject to conditions.

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 or 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 shall only enter the loading dock on Larkin Street by travelling along Thirlmere Way and then George Street. All other routes to access the loading dock are not permitted.
- (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

