

Ref: DA-312/2011  
DP:LK

Your application for	NEW FULL-LINE SUPERMARKET
on land described as	LOT 1 DP 305223, LOT 1 DP 577194, LOT 2 DP 577194, LOT 4 SEC 5 DP 759005, LOT 5 DP 416145, LOT 11 DP 416145, LOT 12 DP 416145, LOT 13 DP 416145, LOT 1 DP 591283 17 - 23 PEEL STREET, TUNCURRY NSW 2428 24 MANNING LANE, TUNCURRY NSW 2428 3-7 KENT STREET, TUNCURRY NSW 2428
was determined on	14 April 2011
by	<b>GRANTING DEFERRED COMMENCEMENT CONSENT</b> <b>Subject to conditions attached hereto</b>
Consent operates from	TO BE ADVISED
Consent lapses	FIVE YEARS FROM THE DATE OF CONSENT THAT THIS CONSENT IS OPERABLE; <b>OR</b> AT THE END OF THE TIME SPECIFIED IN THE DEFERRED COMMENCEMENT CONDITIONS.

Right of appeal: If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice. *(Not applicable to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry)*

Review of determination: Under S82A of the Act, an applicant may request the council to review a determination of the applicant's application other than:

- \* a determination in respect of designated development, or
- \* a determination in respect of integrated development, or
- \* a determination made by a Joint Regional Planning Panel.

The request for a review must be made within 12 months after the date on which you receive this notice. The prescribed fee must be paid in connection with a request for a review.

Signed on behalf of Consent Authority: DIRECTOR 28 April 2011  
PLANNING & ENVIRONMENTAL SERVICES  
Per:

Contact for further advice: Mr David Pirie Phone: 02 6591 7260

**CONSENT FOR NEW FULL-LINE SUPERMARKET**

**ON LOT 1 DP 305223, LOT 1 DP 577194, LOT 2 DP 577194, LOT 4 SEC 5 DP 759005, LOT 5 DP 416145, LOT 11 DP 416145, LOT 12 DP 416145, LOT 13 DP 416145, LOT 1 DP 591283, 23 PEEL STREET, TUNCURRY NSW 2428**

In accordance with Section 80(3) of the Environmental Planning and Assessment Act, 1979, this is a deferred commencement consent. The consent will not operate until the following evidence, as specified in the deferred commencement condition, has been submitted to and approved by the consent authority.

**DEFERRED COMMENCEMENT CONDITION/S**

AA1. The proposed design and functioning of the loading dock is to be modified to satisfactorily address concerns raised in relation to residential amenity, pedestrian safety, traffic impacts on the surrounding road network and car parking. Amended plans, a revised traffic study and revised transport management plan for the supermarket operation which address the above matters are to be submitted to Council for assessment with the matter then reported to a meeting of the Joint Regional Planning Panel for determination. The design and functionality of the proposed loading dock as it relates to these issues must be to the satisfaction of the Hunter and Central Coast Joint Regional Planning Panel.

**Note: Pursuant to Clause 95(3) of the Environmental Planning and Assessment Regulation 2000, the “deferred commencement” consent condition must be satisfied within 12 months from the date of the consent to the satisfaction of the Hunter and Central Coast Joint Regional Planning Panel.**

The following conditions will apply following written notice given under Section 100(4)(b) of the Environmental Planning and Assessment Regulation 2000 that the deferred commencement condition has been satisfied and the date from which the consent operates:-

**DEVELOPMENT CONSENT CONDITIONS**

**A General Conditions**

- A1. The development must be implemented substantially in accordance with the plans numbered A-001 to A-006 and A-009, all Revision K, dated 11 January 2011 and A-007 and A-008, both Revision K dated 22 February 2011, all plans prepared by Cox Richardson and landscape plans numbered 1032/1 to 1032/3, dated 17 December 2010, all prepared by Pamela Fletcher, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:
- A2. Hours of operation of the supermarket shall be restricted to 6:00am to 12:00 midnight Monday to Sunday.
- A3. The trading hours for the liquor store are restricted to maximum trading hours of 9am to 9pm.
- A4. The butchery must be licensed as a meat retail premises in accordance with the Food Regulation 2010
- A5. All vertical plumbing, other than rain water heads and downpipes, to be concealed within the building.

- A6. The garbage storage area is to be provided with a tap and hose and the floor is to be graded and drained to an approved floor waste.
- A7. Should any Aboriginal site or relic or material considered likely to be an Aboriginal site or relic be disturbed or uncovered during the construction of this development, all work that could affect the relic or site must cease and the relevant government department must be consulted. Any person who knowingly disturbs an Aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974. With regards to Aboriginal sites and relics, all directions of the relevant government department pertaining to such must be duly complied with at all times as part of this consent.

**B Conditions which must be satisfied prior to the demolition of any building or construction**

- B1. The details of the demolition contractor engaged to remove the existing buildings must be provided to Council prior to any demolition work being undertaken.
- B2. A dilapidation report prepared by a professional engineer or suitably qualified and experienced building surveyor shall be submitted to the certifying authority prior to the commencement of demolition, excavation or building works detailing the current condition and status of all buildings, including ancillary structures (i.e. including dwellings, residential flat buildings, garages, carports, verandahs, fences, retaining walls and driveways, etc.) located upon:
  - (a) all of the premises adjoining the subject site to the north (SP 12913), and
  - (b) any other properties in the opinion of the author of the report that may be impacted upon taking into account the final engineering design and construction methodology of the development.

The report is to be supported with photographic evidence of the status and condition of the buildings and a copy of the report must also be forwarded to the Council and to the owners of each of the above stated premises, prior to the commencement of any works.

**C Conditions which must be satisfied prior to the issue of any construction certificate**

- C1. Work on any building shall not commence until a construction certificate, complying in all respects with the provisions of the Environmental Planning and Assessment Act 1979 and the Building Code of Australia, has been issued.
- C2. Prior to the issue of the construction certificate details are to be submitted to Council detailing the proposed method of achieving compliance with the BCA in terms of the protection of openings of the loading dock. Should a deemed to satisfy solution be proposed full details of the wing walls between the loading dock and the northern side boundary are to be submitted for approval.

C3. Structural drawings prepared by a suitably qualified and experienced Structural Engineer being submitted to and approved by the principal certifying authority prior to the issue of a construction certificate. The plans shall detail:

- (a) All reinforced concrete floor slabs and/or beams or raft slab (having due regard to the possible differential settlement of the cut and fill areas.
- (b) Footings of the proposed structure.
- (c) Structural steel beams/columns.

Where it is proposed to use driven timber piles as part of any building footing system, the following certification from a professional engineer shall be provided prior to a footing inspection:

- (i) The durability class (and/or chemical treatment grade) of all piles used within the footing system; and
- (ii) That the driven piles have achieved the required bearing capacity.

C4. In accordance with Section 94 of the Environmental Planning and Assessment Act 1979, a monetary contribution shall be paid to Council prior to the issue of a construction certificate. The services and facilities for which the contributions are levied and the respective amounts payable under each of the relevant plans are set out in the following table:

Code	Contributions Plan	Facility	quantity	unit	rate	amount
GLW-07	Great Lakes Wide	Headquarters Building	\$8,000,000	\$1 non res	@ \$0.001	= <b>\$8,000.00</b>
FD04	Forster District	Major Roads Inner Zone	1092	one way trips	@ \$491.75	= <b>\$536,991.00</b>
FD09	Forster District	Tuncurry Parking	39	spaces	@ \$16,239.33	= <b>\$633,333.87</b>
Total						<b>\$1,178,324.87</b>

Contribution rates are subject to indexation. The rates shown above are applicable until 30 June following the date of consent. Payment made after 30 June will be at the indexed rates applicable at that time.

The Contributions Plan and the Standard Schedule for Section 94 Plans may be viewed on Council's web site [www.greatlakes.nsw.gov.au](http://www.greatlakes.nsw.gov.au) or at Council's offices at Breese Parade, Forster.

C5. To minimise overlooking, windows on the northern elevation of the building shall be detailed as translucent on the construction certificate plans for the approval of Council prior to the issue of the construction certificate.

C6. Prior to the issue of a construction certificate attenuation measures for the refrigeration and mechanical plant (including vent fans) must be reviewed by an appropriately qualified person. A report stating that proposed equipment and attenuation measures comply or otherwise with the recommendations of Hunter Acoustics Acoustic Assessment dated 22 December 2010 (Report Ref 8179-401.2) must be provided to Council for approval. Any recommendations made shall be included as part of the final design.

- C7. Prior to the issue of a construction certificate, design details must be submitted to Council for approval for an additional barrier atop the roof of the mezzanine area or the application of acoustic louvres to the top of the plant to reduce sound levels to top floor residents at SP12913. A report prepared by an appropriately qualified person assessing the additional attenuation measures must be submitted to Council for approval. Any recommendations made shall be included as part of the final design.
- C8. Sanitary facilities for people with disabilities are to be provided in the building. The construction and layout of facilities is to comply with Clause AS1428.1-2001, 'Design for Access and Mobility'. Details and/or amended plans are to be submitted to Council prior to the issue of any Construction Certificate to demonstrate compliance, if necessary, with AS1428.1-2001, 'Design for Access and Mobility'.
- C9. Access and facilities for disabled people being provided in accordance with the Building Code of Australia and AS1428.1: Design for Access and Mobility. Details of the construction of the proposed facilities, including the proposed chair lift, are to be submitted to Council for approval prior to a construction certificate being issued.
- C10. Exterior finishes, materials and colours shall be in accordance with the Exterior Finishes Schedule Revision A dated 8 and 10 February, 2011 and shall be detailed as such on the construction certificate plans to the satisfaction of Council prior to the issue of the construction certificate. Pebbles shall be fixed to the loading dock roof, details of size and colour to be provided for Council's approval prior to the issue of the construction certificate. Note that white coloured pebbles or those with high reflectivity will not be acceptable.
- C11. All glass and roofing used externally having a maximum reflectivity index of 20% with certification to Council's satisfaction being supplied prior to the issue of a construction certificate.
- C12. On-site external lighting, including lighting to the car park, in accordance with the relevant Australian Standards shall be detailed on the construction certificate plans to the satisfaction of Council prior to the issue of a construction certificate.
- C13. The food premises shall at all times comply with the requirements of the Food Act 2003, the Food Standards Code and Australian Standard 4674 - 2004 *Design, construction and fit-out of food premises*. A detailed floor plan demonstrating compliance with these requirements must be submitted to Council prior to the issue of a Construction Certificate.
- C14. Prior to the issuing of the first Construction Certificate, the Registered Proprietor of the land shall prepare and submit to Great Lakes Council a Final Landscaping Plan. The Final Landscaping Plan shall be based on the detail contained within the plans entitled "Landscape Concept Plan" and "Landscape Details Sheet 1 and 2", all dated 17/12/2010, with Drawing Nos. 1032/1-3, prepared by Pamela Fletcher, but with the inclusion of the following:
- (a) Six (6) planting diamonds within the internal layout of the approved carpark that are to be established with Tuckeroo (*Cupaniopsis anacardioides*) trees, that are to be supplied in at least 75-litre pots.
  - (b) Details of the provision of an irrigation system to the proposed planting area 1 along the site's northern boundary that provides for the automatic watering of landscaping in this planting area.

- C15. A soil survey being undertaken as part of the further geotechnical investigations of the land to verify the presence or absence of actual or potential acid sulphate soils (test procedures can be obtained from the Soil Conservation Division of the Department of Land and Water Conservation). Details of the survey are to be submitted prior to the issue of a construction certificate.

Where actual or potential acid sulphate soil conditions are identified, a strategy to control and minimise the impacts from disturbance of the soil is to be developed in conjunction with the Department of Land and Water Conservation and Environment Protection Authority and submitted to Council for approval with the application for a construction certificate.

- C16. A Certificate of Compliance being received and a copy submitted to Council, from MidCoast Water prior to the release of this development for construction stating that satisfactory arrangements have been finalised for the provision of water supply and sewerage to the development.
- C17. Prior to the issue of a Construction Certificate a Public Engineering Works Permit Application must be lodged with Council, along with the required documentation, fees and defects liability bond. Evidence of the contractor's public liability insurance (minimum value of \$20,000,000) must be provided with the application.

The contractor is to have all engineering works inspected as per Council's Holding Points and all work must comply with Council's Engineering guidelines, specifications and standards.

Upon completion of the public works, a final inspection is to be arranged by the contractor with Council. Once the works are approved by Council a Certificate of Practical Completion will be issued and is required to be provided to the Certifying Authority prior to the issue of an Occupation Certificate.

Please note that the defects liability bond will be held by Council for a maintenance period as specified in the application form.

Note: The applicable fees, defects liability bond and maintenance period are reviewed periodically by Council and shall be determined from Council's current requirements at the time of lodgement.

The following are to be included in the engineering works:

**South Street:**

- Reconstruct the existing south-eastern kerb return at the intersection of South Street and Manning Lane in accordance with Austroads turning path templates for a 19m semi-trailer with a turning speed of 5 - 15 km/hr.
- Construction of concrete foot paving 2m wide and top-dress and grass the remainder of the footway on the southern side of South Street between Manning Lane and Peel Street as per Council Standard Drawing No. 165.

**Manning Lane:**

- Reconstruction of the existing kerb and gutter to a 4m formation width between kerbs from the loading dock entry to Kent Street.
- Reconstruction of the existing carpark on Lot 1 DP 591283 to provide adequate turning path entry for semi trailer deliveries to the loading dock.
- Construction of a raised pavement treatment to define a shared pedestrian zone from the store entry to the southern extremity of the carpark exit, with the required change in speed limit being referred to Council's Traffic Advisory Committee for consideration.
- Construction of trunk drainage pit and pipe extensions to drain the raised pavement/shared pedestrian zone.
- Construct full width concrete footpaving on the western side of the lane between the realigned kerb and the building facade from the loading dock entry to the store entry.
- Construct 1.2m wide concrete footpath in accordance with Council Standard Drawing No. 28 between the store entry and Kent Street on the western side of the lane.

**Kent Street:**

- Construct 90 degree carparking in accordance with AS2890.1 to the full site frontage of Kent Street in accordance with the Cox Richardson Ground Floor Plan A-003 Revision K dated 11 January 2011.
- Formation of the northern nature strip and construction of concrete foot paving 2m wide and top-dress and grass the remainder of the footway from Manning Street to the full frontage of the development on the northern side of Kent Street as per Council Standard Drawing No 165.

**Peel Street:**

- Construct 90 degree carparking in accordance with AS2890.1 to the full site frontage of Peel Street in accordance with the Cox Richardson Ground Floor Plan A-003 Revision K dated d 11 January 2011.
- Formation of the eastern nature strip and construction of concrete foot paving 2m wide and top-dress and grass the remainder of the footway between Kent Street and South Street as per Council Standard Drawing No. 165. Note: The section of footpath fronting the proposed supermarket building shall be constructed as full width paving.
- Construct a bus stop and bus shelter complying with the requirements of the Commonwealth Disability Standards for Accessible Public Transport.

**Manning Street / Kent Street:**

- Construct a raised central concrete median to close the gap on Manning Street to restrict traffic movements left in / left into and out of Kent Street. Part of the median shall be constructed to a lower profile to allow right turn movements for ambulances only.
- Change the line marking and signage on the approaches to and at the intersection to reinforce the above turn restrictions.
- All works shall be designed and constructed in accordance with the Austroads *Guide to Road Design* and the relevant Australian Standards, to the satisfaction of the Roads and Traffic Authority (RTA).
- All works shall be carried out at full cost to the developer and at no cost to the RTA or Council.

- The developer will be required to enter into a Works Authorisation Deed (WAD) with the RTA. In this regard the developer is required to submit concept and detailed design plans and all relevant additional information, as may be required in the RTA's WAD documentation, for each specific change to the classified (State) road network for the RTA's assessment and final decision concerning the work.
- The WAD shall be executed prior to granting a Construction Certificate for the proposed development.

C18. Prior to release of the Construction Certificate or commencement of any works on the site, work site traffic control plans in accordance with the Roads and Traffic Authority (RTA) *Traffic Control at Work Sites Manual* are to be submitted by a suitably accredited person and approved by the certifying authority. (Note that the accredited person and the certifying authority are to have a suitably accredited person who is authorised by the RTA to design and approve such plans.

The traffic control plans shall include the following items related to the construction works (but not limited by):

- Deliveries (e.g. site sheds, cranes, material deliveries, etc);
- Site pick-ups (e.g. spoil from excavation, removal of site sheds, equipment, materials, etc);
- Pedestrian movements;
- Proposed construction zones;
- Truck traffic routes.

**Note:** An approved construction zone and traffic route shall not block or adversely affect (e.g. no traffic hindrance is to occur in the street/road system) a major public event and the public during the main tourist seasons.

The major events and holidays (but not limited to) are as follows:

- Easter school holidays.
- Anzac Day.
- Christmas school holidays.

C19. Lodgement of a separate Driveway Levels Application form for each driveway to be constructed, prior to the issue of a construction certificate.

Driveway levels will not be supplied by Council until the relevant fee/s and all required documentation are provided as outlined within the Driveway Levels Application form.

All driveway construction works must be completed in accordance with the Driveway levels and standards issued by Council and the following requirements:

- (a) Driveways being constructed in concrete over the footpath, at right angles to the kerb and gutter.
- (b) Existing driveways and laybacks, which are not approved as being required for the development, are to be removed and the footpath and kerb reinstated.

All driveway construction works are to be completed at the developer's expense and be undertaken by a qualified/licensed contractor.



C20. All carparking and vehicular manoeuvring areas shall comply with Australian Standard (AS) 2890.1. All car parking and vehicular manoeuvring areas must be sealed with concrete or equivalent to Council's satisfaction. Details are to be submitted with the application for a construction certificate.

C21. Submission of a Damage Bond Application Form and payment of a bond in the amount of \$80,000 payable for the purpose of funding repairs to any damage that may be occasioned to Council assets by activities/works associated with the construction of the development approved by this consent and ensuring Council standards and specifications are complied with. The bond shall be paid to Council prior to the issue of any Construction Certificate that may be issued for any component of the development.

The Damage Bond is reviewed periodically and therefore the fee and bond amount payable shall be determined from Council's current fees and charges document at the time of lodgement of the Damage Bond.

C22. Engineering details of stormwater management systems for the development are to be submitted to Council and approved prior to the issue of the first construction certificate. Stormwater design shall address runoff quantity and quality criteria. The design shall provide the following:

- (a) The stormwater management system shall provide detention and/or infiltration capacity to limit the post-development site runoff from a 10 year Average Recurrence Interval (ARI) storm to the equivalent 10 year ARI discharge from the undeveloped site. A suitable system of pipes, pits and other measures shall be designed to convey major and minor flows safely to the receiving waters or downstream drainage infrastructure.
- (b) The final water treatment strategy as prepared by consultants BMT WBM shall be installed including:
  - A bio-filtration swale for treating the off-street supermarket car park. The bio-filtration swale will have vertical sides and an overall minimum area of 145 m<sup>2</sup>.
  - A 4000 litre rainwater tank to collect roof water from a minimum 50% of the supermarket roof area. The rainwater tank would supply water for toilet flushing and landscape irrigation with overflow directed to a bio-filtration swale located adjacent to the off-street car parking.
  - Supermarket footpath rain-garden - a small 15 m<sup>2</sup> bio-retention garden will be located within the footpath on the south-eastern side of the supermarket building. The garden shall collect runoff from 10% of the supermarket roof area and part of the footpath surrounding the building.
  - Peel Street rain-gardens - Four (4) small rain-gardens (2m x 2.5m) or bioretention pods will be provided adjacent to the Peel Street car parking bays.
  - A small rain-garden or bio-retention system of 20m<sup>2</sup> will be provided within the footpath on the northern side of the Peel Street and Kent Street Intersection.
- (c) Bio-retention systems shall be designed to receive runoff from all impervious areas. The minimum basin surface area shall be as per the final design prepared by BMT WBM and shall be constructed commensurate with *Australian Runoff Quality: A Guide to Water Sensitive Urban Design* (Engineers Australia, 2006) and *Water Sensitive Urban Design Engineering Procedures: Stormwater* (Melbourne Water, 2005).

- (d) Stormwater drainage systems shall cater for excess flows from the stormwater quality measures with capacity for the 5 year ARI peak storm event (minor flows). Safe overflow routes for major flows shall be identified and designed to convey the difference (gap flows) between the 5 year and the 100 year ARI discharge from the catchment.
- (e) Bio-retention filters shall be planted with *Carex appressa* and/or other native plant species that have confirmed performance characteristics in the removal of nitrogen and tolerance of a range of moisture conditions. These are to be planted at a minimum density of 8-10 living plants/m<sup>2</sup>. During the maintenance period any dead plants shall be immediately removed and immediately replaced with living plants of the selected native species. An appropriate timber or other material border shall be provided to demarcate the filter area from the remaining planted/grassed area within the bio-retention measure.
- (f) Bio-retention filter media shall have the following characteristics, consistent with *WSUD Engineering Procedures: Stormwater* (Melbourne Water, 2005). Characteristics may need to be confirmed by National Association of Testing Authorities (NATA) certified testing as required:
  - Filter media shall be of uniform sandy loam texture, placed and lightly compacted to achieve a consistent density throughout.
  - Saturated hydraulic conductivity of no less than 200mm/hr (AS 1574:2000) as placed in bed. NATA certified testing may be required to confirm that filter media have adequate water-holding capacity and are suitable to support initial and continuing growth of the selected vegetation.
  - Bio-retention transition and drainage layers shall be of suitable grading and material to ensure continued hydraulic conductivity and prevent the loss of fines (clays & silts) from overlying filter media. These layers should also comply with *WSUD Engineering Procedures: Stormwater*.
- (g) Design and construction of water management including associated landscaping, drainage channels and infiltration measures shall ensure that they do not become potential breeding sites for mosquitoes, midges, plague minnows and general vermin.
- (h) Enviropod pit inserts with a mesh opening size of 20 $\mu$ m shall be provided within all road overflow stormwater pits located within the development unless it is shown that during construction sediment will not enter the bio-retention system.
- (i) Engineering drawings shall show details and configurations of water quantity and quality systems:
  - Longitudinal sections showing pit/pipe sizes, ground levels, design levels, grades, hydraulic grade line, flow rates and velocities, as required.
  - Details of specific components such as diversion pits and overflow system arrangements, detention basin outlets, infiltration arrangements, sediment forebays, filter media and dewatering measures, as required.
  - Access arrangements for operation and maintenance.

- (k) An operation and maintenance plan be prepared for components of the combined system and submitted to Council for approval. The plan should detail:
- Maintenance schedule for each component.
  - A maintenance and reporting template to be completed by the maintenance supervisor and provided to Council annually for a minimum of two years during the maintenance period.

C23. Signs on the northern elevation of the building shall be clearly shown as being non illuminated signs on the construction certificate plans for the approval of Council prior to the issue of the construction certificate.

C24. Public toilets, including an accessible toilet are to be provided within the supermarket development for use by shoppers. Details demonstrating compliance with this condition are to be provided to Council prior to the issue of a Construction Certificate.

**D Conditions which must be satisfied prior to the commencement of any development work**

D1. To minimise soil erosion, the following measures shall be implemented in the sequence outlined:

- (a) Approved run-off and erosion controls shall be installed prior to clearing of site vegetation (other than that associated with the construction of the controls). These shall be as shown on an Erosion and Sediment Control Plan approved by Council.
- (b) Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping.
- (c) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, natural or artificial water body, footpath, kerb or road surface and shall have measures in place to prevent the movement of such materials onto the areas mentioned.
- (d) Uncontaminated runoff shall be intercepted upsite and diverted around all disturbed areas and other areas likely to be disturbed. Diversion works shall be adequately stabilised.
- (e) Runoff detention and sediment interception measures shall be applied to the land. These measures will reduce flow velocities and prevent topsoil, sand, aggregate, road base, spoil or other sediment escaping from the site or entering any downstream drainage easements or natural or artificial water bodies.

D2. Buildings to be set out by a Registered Surveyor to ensure compliance with this consent, and the approved plan/s, and a copy of plan to be supplied to the principal certifying authority prior to the pouring of any concrete slabs / placement of flooring materials.

**E Conditions which must be satisfied during any development work**

- E1. The existing northern boundary fence shall be maintained in good repair during construction.
- E2. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS2601-1991: The Demolition of Structures, as in force 1 July 1993.

All utility services are to be disconnected to the requirements of the relevant authorities.

- E3. The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times in accordance with Council's Erosion and Sediment Control Policy.
- E4. The building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority subject to the provisions of the Environmental Planning and Assessment Act 1979 and Regulation 2000) to verify compliance with this consent and the standards of construction detailed in the Building Code of Australia. Inspections shall be carried out as required by Section 162A of the EP&A Regulation 2000.
- E5. It is a condition of approval that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
- E6. A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:
- (a) The name, address and telephone number of the principal certifying authority for the work; and
  - (b) The name of the principal contractor and a telephone number at which that person may be contacted outside of working hours; and
  - (c) The sign must state that unauthorised entry to the work site is prohibited.

Any such sign is to be removed when the work has been completed.

- E7. Toilet facilities are to be provided at 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:
- (a) Each toilet provided must be a standard flushing toilet and must be connected to MidCoast Water's sewer; and
  - (b) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- E8. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life or property.
- E9. Retaining walls or other approved methods of preventing movement of the soil must be provided if the soil conditions require it and adequate provisions made for drainage. Where retaining walls exceed one (1) metre in height, Engineers details must be submitted to and approved by the Principal Certifying Authority.

E10. 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.
- (b) if necessary, must underpin and support the building in an approved manner.
- (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.

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 places.

E11. A hoarding or fence is to be erected between the building or site of the proposed building and the public place. If necessary, an awning sufficient to prevent any substance from or in connection with the work, falling onto the public place is also to be erected.

The work is to be kept lit during the time between sunset and sunrise if the work may be a source of danger to persons using the public place.

A hoarding, fence or awning is to be removed when it is no longer required for the purpose for which it was provided.

E12. Public access to the site and building works, materials and equipment on the site is to be restricted, when building work is not in progress or the site is unoccupied.

The public safety provisions must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

E13. There is to be no encroachment of the structure/s (including roof guttering or footings) onto the adjoining premises or onto Council's footway/road reserve, excluding the awning as detailed on the approved plans.

E14. Building materials, sand or waste materials shall not be placed on the footway or road reserve at any time.

E15. The installation and operation of the loading dock fan/s shall comply with the recommendations of Hunter Acoustics letter dated 4 March 2011.

E16. The demolition and removal of all asbestos material is to be undertaken in accordance with WorkCover requirements.

E17. If asbestos is present in a greater amount than 10m<sup>2</sup>, then the demolition and removal must be undertaken by a WorkCover licensed demolition contractor who holds the appropriate WorkCover licence (e.g. Asbestos Demolition Licence) for the material to be removed.

E18. All asbestos is to be removed from the site and be disposed of at an approved licensed waste facility.

- E19. All asbestos waste shall be delivered to an approved licensed waste facility in heavy duty sealed polyethylene bags. The bags are to be marked "Caution Asbestos" with 40mm high lettering. Twenty four (24) hours notice must be given to the waste facility prior to disposal.
- E20. A qualified landscape consultant shall be retained for the duration of the construction of the development and upon the satisfactory completion of the landscaping work and prior to the issue of the occupation certificate shall submit to the Great Lakes Council a Certificate of Practical Completion stating that the landscaping work has been carried out in accordance with the approved Final Landscaping Plans and that a maintenance program has been established.
- E21. All existing Cabbage Tree Palms (*Livistona australis*) on the subject land shall be excavated and relocated alive from the subject land as part of the construction works and established at a site(s) nominated by Great Lakes Council such that there is no loss of Cabbage Tree Palms in the locality as a consequence of this development. The relocation process shall be undertaken by suitably experienced contractors working under the supervision and direction of Council's Tree Management Officer. All necessary nurturing and maintenance shall be undertaken to maximise the success of the required Cabbage Tree Palm relocation procedure.
- E22. Other than the Cabbage Tree Palms, which are to be managed in accordance with the condition specified above, all existing landscaping and vegetation of the subject land shall be removed as part of the construction works. The clearing works for the approved development shall be conducted in the following manner:
- (a) Tree removal shall be conducted by dismantling or selective directional felling only, with all works to be confined within the bounds of the subject land and approved development footprint.
  - (b) Trees and shrubs removed from the study area shall be mulched for use in site and off-site landscaping. Stumps and other material that cannot be processed by mulching shall be disposed at an approved waste management facility.
  - (c) Machinery operators shall inspect the crown, foliage and trunks of trees marked for removal prior to any felling to investigate the presence of arboreal fauna. If such fauna is detected, the tree shall not be cleared until the animal has dispersed from the area of its own free will. No adverse means, such as horns or noise, of dispersing the animals shall be used.
- E23. All adjustments to existing utility services made necessary by the development are to be undertaken at the developer's expense.

**F Conditions which must be satisfied prior to any occupation or use of the building**

- F1. The noise attenuation methods recommended by Hunter Acoustics' Acoustic Assessment dated 22 December 2010 (Report Ref 8179-401.2) are to be implemented prior to the issue of any Occupation Certificate.
- F2. A certificate from a mechanical ventilation engineer stating that all mechanical exhaust systems comply with Australian/New Zealand Standard AS/NZS 1668.1 and Australian Standard AS 1668.2 must be provided to Council prior to the issuing of an Occupation Certificate.

- F3. A lighting maintenance plan for all on-site external lighting, including lighting of the car park, shall be provided to Council for approval prior to the issue of the occupation certificate
- F4. A hand washing basin that is of an adequate size to allow hands and arms to be easily cleaned must be installed in all parts of the premises where open food is handled. Small domestic type hand wash basins are not adequate in commercial situations. The hand wash basins must be in addition to any wash-up sinks.
- F5. Hot and cold water to the hand wash basins shall be delivered through a hands free mixer tap. The hand basins shall be provided with liquid soap and single-use towels at all times.
- F6. A minimum of a single bowl sink and a commercial grade dishwasher or double bowl sink shall be provided in each area where food is prepared or handled and shall be connected to a continuous supply of hot and cold water. The pot size of the sinks must be adequate in size to effectively clean and sanitise the largest item of equipment.
- F7. All cupboards, benches and shelving must be constructed of materials that are smooth, impervious to moisture and able to be easily cleaned. Note: Particular attention must be made to the underside of the benches to ensure that they are constructed so they are impervious and can be easily cleaned.
- F8. Ceiling, wall and floor finishes in the food premises shall comply with AS 4674-2004 *Design, construction and fit-out of food premises*.
- F9. Ceiling lights shall be either installed flush with the ceiling surface or designed free from any features (such as ledges) that would harbour dirt, dust or insects or make the fitting difficult to clean.
- F10. Coving shall be installed at the intersection of floors with walls in the food premises in accordance with Australian Standard 4674-2004 *Design, construction and fit out of food premises*. Coving shall be integral to the surface finish of both floor and wall and installed in such a manner as to form a continuous uninterrupted surface.
- F11. Either a floor waste with a solids trap and stand alone tap or a cleaners sink (sluice sink) is to be provided in each food preparation area. Cleaners sinks must be provided with an adequate supply of hot and cold water and be located away from food preparation areas.
- F12. Prior to the issue of an occupation certificate, a food notification must be completed. This can be done either through Council or on the Internet at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au)
- F13. A final inspection of the premises must be undertaken by Council's Environmental Health Officer prior to the operation of the business and/or the issue of an occupation certificate.
- F14. Receipts of the disposal of all asbestos to a licensed waste facility must be provided to Council prior to the issue of an occupation certificate.

- F15. Prior to the issue of the occupation certificate, a Certificate of Practical Completion stating that the landscaping work has been carried out in accordance with the approved Final Landscaping Plans and that a maintenance program has been established shall be provided to Great Lakes Council from the qualified landscape consultant retained for the duration of the construction of the development as required by Condition E20.
- F16. All overhead low voltage wires located along/adjacent to the site frontages in the Peel Street and Kent Street footpath, to the nearest power pole outside the site frontage shall be relocated to underground. Within the site, cables are to be located underground.
- The applicant shall liaise directly with the relevant service utility authority. All cables (other than high voltage) must be relocated underground to the satisfaction of the relevant authority prior to the issue of an occupation certificate.
- F17. A Certificate of Compliance being received and a copy submitted to Council, from MidCoast Water prior to the release of this development for occupation stating that satisfactory arrangements have been finalised for the provision of water supply and sewerage to the development.
- F18. Street trees shall be planted within Council's nature strips on the subject site frontages. Tree species shall be determined in accordance with the requirements of Council's Tree Management Officer. Details of the location of the street trees are to be approved and:
- Kept clear of underground public utility services.
  - Located not to impede/reduce sight distance of drivers entering/exiting the site.
  - Constructed with a root barrier system where the trees are to be located adjacent to any kerb and gutter or any stormwater infiltration/detention system.
- F19. A bicycle parking rail capable of accommodating five (5) bicycles shall be provided on-site in accordance with current Australian Standards (AS 2890.3) and shall be located near the store entrance.
- F20. The parking and manoeuvring areas must be fully line marked prior to the issue of an occupation certificate. Carparking shall comply with the requirements of AS2890.1. Car parking for people with disabilities shall comply with the requirements of AS2890.6.
- F21. The street awnings are to be designed by a professional engineer and in accordance with Council's Policy for *Awnings, Verandahs & Balconies over Footways*. The awnings shall be designed to the following details and requirements:
- (a) The minimum underside clearance:
    - between the lowest part of the fascia or outer beam of an awning, verandah or balcony and the footpath shall be 2600mm;
    - to the underside of the awning and fittings shall be 3.0 metres.
  - (b) Where awnings are to be located within 600mm of the street kerb face, bollards are to be erected to prevent vehicle impact on the awning.
  - (c) The awning, verandah or balcony shall be designed to be supported by beams and/or stays attached to the building. All structural metal fasteners including nuts, bolts should be as a minimum, hot dipped galvanized (preferably stainless steel).



- (d) Roof water from awnings is to be drained by an approved method to the internal property drainage system.
- (e) A qualified structural engineer is to inspect and certify that the awning is structurally adequate and in good repair, at a maximum of 5 year periods.

F22. The applicant must obtain a Certificate of Compliance from Council stating that the driveway within the public road reserve has been constructed to comply with Council's requirements. This certificate is to be provided to the Certifying Authority prior to the Final occupation certificate being issued and the Damage Bond being refunded.

It is to be noted that any works undertaken without Council's approval or provision of the above documentation will be subject to the relevant penalties applied by way of infringement notice for works undertaken without development consent.

F23 Prior to the issue of an occupation certificate a final inspection of Council's assets must be carried out by Council's responsible officer and the Damage Bond (minus the administration fee) will be considered for refund:

- 1. Once all works, including landscaping, driveway construction, turfing, etc, have been completed.

Following issue of an occupation certificate by the certifying authority for the development a fee of \$330.00 will be deducted from the bond to cover administration costs.

F24. The carpark shall be an exit only onto Manning Lane and shall be line-marked and signposted as such prior to the issue of an occupation certificate.

F25. All road works required under Works Authorisation Deed with the Roads and Traffic Authority shall be completed prior to issuing an occupation certificate (interim or final) for the proposed development.

F26. Any damage to the northern boundary fence as a result of the development works shall be repaired at the developer's cost prior to the issue of the final occupation certificate.

F27. Prior to the issue of an occupation certificate, the following details are to be submitted to Council:-

- (a) Copy of the plan of consolidation of the allotments, being Lot 1 DP 305223; Lots 1 and 2 DP 577194; Lot 4 Section 5 DP 759005; Lots 5, 11, 12 and 13 DP 416145; Lot 1 DP 591283, submitted to the Registrar General (Land Titles Office).
- (b) Copy of the receipt received from the lodgement of the above plan of consolidation with the Registrar General (Land Titles Office).

F28. All exterior finishes, materials and colours shall be in accordance with the Exterior Finishes Schedule Revision A dated 8 and 10 February, 2011, and as required by Conditions C5, C10 and C11 shall be detailed as such on the construction certificate plans to the satisfaction of Council prior to the issue of the construction certificate. Pebbles shall be fixed to the loading dock roof, details of size and colour to be provided for Council's approval prior to the issue of the construction certificate. Note that white coloured pebbles or those with high reflectivity will not be acceptable.

- F29. Only the approved signs on the eastern (Manning Lane), southern (Kent Street) and northern (Peel Street) elevations shall be illuminated. Prior to the issue of the occupation certificate a dimmer switch must be installed capable of controlling the lighting levels of the illuminated signs so that lighting levels can be reduced if the intensity of illumination results in unacceptable glare that detracts from the amenity of nearby residences.

**G Conditions which must be satisfied during the ongoing use of the development**

- G1. Noise levels from the premises must not exceed those specified in Hunter Acoustics Acoustic Assessment dated 22 December 2010 (Report Ref 8179-401.2) at any residential premises: Intrusive noise levels are:

- Day – 46dB(A) LAeq15min
- Evening – 44dB(A) LAeq15min
- Night – 37dB(A) LAeq15min

- G2. Noise associated with the premises including all associated mechanical plant and equipment must not be a source of 'offensive noise' at the nearest affected premises:

"offensive noise" means noise:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
  - (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
  - (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- (b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulation.

- G3. Odour associated with the premises must not be a source of 'offensive odour' at the nearest affected premises:

'offensive odour' means an odour:

- (a) that, by reason of its strength, nature, duration, character or quality, or the time at which it is emitted, or any other circumstances:
  - (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
  - (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- (b) that is of a strength, nature, duration, character or quality prescribed by the regulations or that is emitted at a time, or in other circumstances, prescribed by the regulations.

- G4. The Registered Proprietor, or their agents, shall carry out or ensure that actions specified in accordance with the approved Final Landscaping Plans including maintenance and tree protection are carried out in accordance with that plan at all times.
- G5. The food premises shall at all times comply with the requirements of the Food Act 2003, the Food Standards Code and Australian Standard 4674 - 2004 *Design, construction and fit-out of food premises*.
- G6. The car parking area being freely available for public use. Notices indicating the location of public car parking are to be displayed at the entrance to and within the carpark.
- G7. All articulated truck deliveries shall be restricted to the following vehicle route: Manning Street > South Street > Manning Lane > Peel Street > South Street > Manning Street
- G8. Water quantity and quality components of the stormwater management systems, including associated drainage pits, inlets and overflow weirs, vegetation and landscaped areas as required by Condition C22 of this consent shall be maintained.
- G9. All on-site external lighting, including lighting to the car park shall be maintained in accordance with the approved lighting maintenance plan approved by Condition C12 of this consent.
- G10. No goods/vehicles/materials being shall be stored in the front of the building or in any place visible from a public area.
- G11. Waste storage and collection shall be in accordance with the Waste Management Plan, prepared by Coastplan Group, dated 11 February 2011, approved by Council's Manager, Waste, Health and Regulatory Services and shall include the following requirements:
- (a) All bins are to be located within the loading dock area and not outside near neighbours nor subject to the elements (weather, vermin, etc).
  - (b) There are to be sufficient bins for residual waste, recycling and organic waste.
  - (c) Destinations for all waste products are to be at approved recycling, processing or disposal facilities.
  - (d) Bins are to be emptied before they become odorous or overfull.
  - (e) At the time of collection the loading dock doors are to be closed to minimise noise impacts.
- G12. Only the approved signs on the eastern (Manning Lane), southern (Kent Street) and northern (Peel Street) elevations shall be illuminated. All illuminated signs shall cease illumination upon the close of business each night. The lighting of the illuminated signs must be capable of being controlled by a dimmer switch so the lights can be lowered if the intensity of illumination results in unacceptable glare that detracts from the amenity of nearby residences.
- G13. Signs on the northern elevation of the building shall not be illuminated.
- G14. A trolley collection plan from the surrounding residential area must also be implemented by the supermarket as part of the on-going operations of the supermarket.

## **H Other Agency Conditions**

### **NEW SOUTH WALES POLICE SERVICE**

The following conditions have been imposed on the recommendation of the New South Wales Police Service and details must be provided to Council prior to the issue of an occupation certificate from an appropriately qualified person demonstrating compliance with these requirements where appropriate.

- H1. The trading hours for the liquor store are restricted to maximum trading hours of 9am - 9pm.
- H2. CCTV must be located within the interior of the supermarket and car park area. The quality of the installation should be of a high quality digital system which allows a back up system of a minimum 28 days.
- H3. CCTV must be of a standard that prevents lighting, or natural lighting from interfering with the quality captured on the system.
- H4. Australia and New Zealand Lighting Standard 1158 - must be used throughout the development.
- H5. Landscaping close to the building must be regularly maintained to ensure branches cannot act as a natural ladder to gain access to higher parts of the building.
- H6. A street sign shall be prominently displayed at the front of the development clearly identifying the street name and number.
- H7. A graffiti management plan (GMP) shall be incorporated into the maintenance plan for the development. The GMP shall include strategies for the quick removal of graffiti within a forty-eight hour period following a graffiti attack.
- H8. The number of entry/exit points to unauthorised areas shall be restricted, with clear and concise signs designating 'staff only' located at entrances to areas not to be accessed by the public. i.e. staff, cash and loading bay areas.
- H9. A supplementary alarm system such as Global Satellite Mobile (GSM) or Radio Frequency (RF) systems must be installed in order to transmit alarm signal by either mobile telephone or radio frequency in the event that telephone lines are cut in order to prevent alarms being reported to the security monitoring company.
- H10. A floor or wall safe in accordance with relevant Australian Standards must be installed.
- H11. Fire Exit doors for the development shall be fitted with single cylinder locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorised access to the development.
- H12. Staff access control treatments including electronic access control equipment to enhance physical security must be installed.

## **ROADS AND TRAFFIC AUTHORITY**

H13. The developer shall implement the following works at the Manning Street/Kent Street intersection:

- (a) A raised central concrete median shall be provided to close the gap on Manning Street to restrict traffic movements left in/left into and out of Kent Street. Part of the median shall be constructed to a lower profile to allow right turn movements for ambulances only.
- (b) Changes to line marking and signage are required on the approaches to and at the intersection to reinforce the above turn restrictions.

H14. All works shall be designed and constructed in accordance with the Austroads Guide to Road Design and the relevant Australian Standards, to the satisfaction of the RTA.

H15. All works shall be carried out at full cost to the developer and at no cost to the RTA or Council.

H16. The developer will be required to enter into a Works Authorisation Deed (WAD) with the RTA. In this regard the developer is required to submit concept and detailed design plans all relevant additional information, as may be required in the RTA's WAD documentation, for each specific change to the classified (State) road network for the RTA's assessment and final decision concerning the work.

*Comment: It is requested that Council advise the developer that the conditions of consent set by Council do not guarantee the RTA's final consent to the specific road works, traffic control facilities and other structural works, for which it is responsible, on the road network. The RTA must provide a final consent for each specific change to the classified (State) road network prior to the commencement of the work.*

H17. The WAD shall be executed prior to granting a construction certificate for the proposed development.

H18. All road works under the WAD shall be completed prior to issuing an Occupation Certificate (interim or final) for the proposed development.

## **MIDCOAST WATER**

H19. A Certificate of Compliance is to be received from MidCoast Water prior to the release of this development for construction, stating that satisfactory arrangements have been made and have been finalised for the provision of water supply and sewerage to the development.

H20. A Certificate of Compliance is to be received from MidCoast Water prior to the release of this development for occupation, stating that satisfactory arrangements have been made and have been finalised for the provision of water supply and sewerage to the development.

**Date: 28 April 2011**

**Director Planning & Environmental Services**

**Per:**