

JRPP No:	2010NTH023
DA No:	DA0081/2011
PROPOSED DEVELOPMENT :	Major Retail Premises (comprising supermarket and three retail tenancies), associated car-parking and Subdivision to create one new lot, Lot 1 DP 534154, Lots A & B DP 398476, Lot 6 DP 230958, Lots 51 & 52 DP 710142, Lot 467 DP 871160, Lot 16 DP 758951, Lot A DP 339895, Lot 18 DP 758951, Lot B DP 396828, Lot 244 DP 1014012, Lot 42 DP 708583, Marius Street, Hill Street and Peel Street, Tamworth.
APPLICANT:	Hill Lockart Architects
REPORT BY:	Lucy Walker, Senior Development Assessment Planner Alison McGaffin, Director, Environment, Planning and Economic Development

Assessment Report and Recommendation

Application Number:	DA0081/2011
Application is for:	Major Retail Premises (comprising supermarket and three retail tenancies), associated car-parking and Subdivision to create one new lot.
Owners' names:	Charlie One Pty Limited Mr DJ & Mrs DR Bath Tamworth Regional Council
Applicant's name:	Hill Lockart Architects
Lodgement date:	26 August 2010
Statutory days:	40 days
Land/Address:	Lot 1 DP 534154, Lots A & B DP 398476, Lot 6 DP 230958, Lots 51 & 52 DP 710142, Lot 467 DP 871160, Lot 16 DP 758951, Lot A DP 339895, Lot 18 DP 758951, Lot B DP 396828, Lot 244 DP 1014012, Lot 42 DP 708583, Marius Street, Hill Street and Peel Street, Tamworth.
Land zoning:	3(a1) Central Business and 9(b) Reservation - Proposed Car Park
Value of development:	\$12 million
Capital Investment Value:	\$14 million
Current use and development	Motel, commercial premises (office), public car parking and vacant land
Report author/s	Lucy Walker, Senior Development Assessment Planner Alison McGaffin, Director, Environment, Planning and Economic Development

EXECUTIVE SUMMARY:

Reason for Consideration by Joint Regional Planning Panel:

The application has been referred to the Joint Regional Planning Panel pursuant to clause 13B(2)(b) of the State Environmental Planning Policy (Major Development) 2005 as the Capital Investment Value exceeds \$5 million and Council owns part of the land on which the development is proposed to be carried out.

Brief Description of Proposal:

The development application seeks approval for construction of retail premises (comprising a supermarket and three (3) retail tenancies), associated basement car parking and a subdivision involving the excision of the Council-owned land and consolidation with two (2) lots to create one new lot. The submitted development plans are attached to this report as Annexure 1.

Compliance with Planning Controls:

The site is part zoned 3(a1) Central Business and part 9(b) Reservation - Proposed Car Park under Tamworth Local Environmental Plan 1996. The proposal is defined as a “*major retail premises*” which is permissible in zone 3(a1) with consent.

That part of the site affected by the Reservation - Proposed Car Park is proposed to be used for vehicular access to the development and future car parking. The proposal is consistent with the objectives of the 3(a1) Central Business zone which promote the development and expansion of retail and commercial land uses within the Tamworth CBD.

Consultation:

The application was exhibited in accordance with Tamworth Development Control Plan No. 20 - Advertising/Notification of Development Applications on two (2) separate occasions. Four (4) submissions were received in response to the first exhibition period, eight (8) submissions in response to the second and one (1) submission was received after the exhibition period closed. Copies of the submissions are contained within Annexure 2.

Recommendation:

It is recommended that DA081/2011 be approved subject to the conditions contained in Annexure 3.

Annexures:

Annexure 1	Plans
Annexure 2	Submissions
Annexure 3	Draft Conditions
Annexure 4	Roads and Traffic Authority response

EVALUATION OF DEVELOPMENT APPLICATION

1 Proposal

The proposal seeks consent to the development of retail premises containing a supermarket having a total gross floor area of 4211m², three (3) retail tenancies (1422m², 600m² and 523m²), basement car parking for 200 vehicles, two truck docks and associated landscaping.

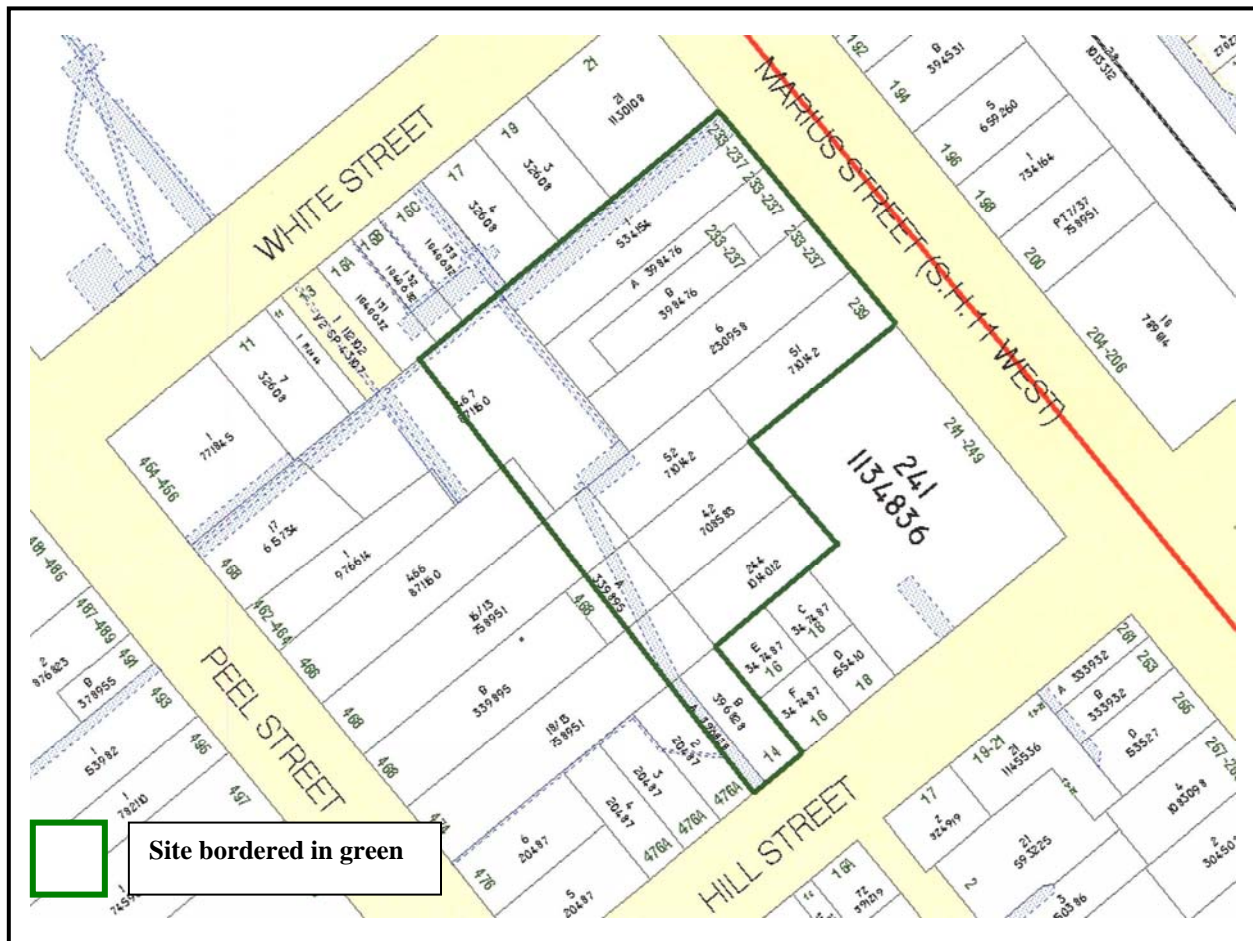
The proposal also involves demolition of an existing motel, commercial premises (offices) subdivision of Lot 467 DP 871160 and Lot 42 DP 708583 and creation of rights of carriageway to facilitate lawful access to the development.

2 Site Description

The subject land comprises Lot 1 DP 534154, Lots A and B DP 398476, Lot 6 DP 230958, Lots 51 and 52 DP 710142, Lot 467 DP 871160, Lot 16 DP 758951, Lot A DP 339895, Lot 18 DP 758951, Lot B DP 396828, Lot 244 DP 1014012, and Lot 42 DP 708583. The main frontage of the development site is to Marius Street; however the primary vehicle access is from Hill Street. Vehicles will also access the site from Peel Street using an existing right-of-way.

The land on which the building is to be constructed is approximately 8184m² in area and is currently occupied by a motel, commercial premises (offices) that both front Marius Street. At the rear there is Council owned land which comprises part of a public car park and vacant land.

Diagram 1 below identifies the location of the development site relevant to adjacent properties. The plan shows the land to be occupied by the proposed building as well as land affected by vehicle access routes.



3 Referrals

The application was referred to the Roads and Traffic Authority (RTA) on 9 September 2010. A response was received on 19 October 2010 and is contained in Annexure 4.

Comments concerning the proposed access arrangements and traffic implications of the proposed development are made in Section 4 of this Report.

The application was also referred to the NSW Police under the "Protocol for Review of Development Applications between the NSW Police Service and Tamworth City Council" on 27 September 2010. A response was not received.

Referrals were made to internal Council specialists including the Environment and Health Officer, Strategic Planner (Sec 94), Project Manager (Water Enterprises), Team Leader- Building Certification and Economic Development Planner. Their responses are addressed within the relevant sections of this report.

4 Environmental Planning and Assessment Act 1979

In determining a development application, the consent authority must take into consideration matters referred to in Section 79C(1) of the Environmental Planning & Assessment Act 1979 as are of relevance to the development. The following section of this report summarises the relevant matters for consideration and provides a planning response.

Section 79C(1)(a)(i) any environmental planning instrument

State Environmental Planning Policies

State Environmental Planning Policy No. 55- Remediation of Land

A preliminary site contamination assessment was prepared by Ellis Environmental Pty Ltd for the proposed development. The assessment identified the potential contamination of Lot 1 DP 534154 due to the previous use of the site as a service station and for motor vehicle repairs. A detailed site contamination investigation is unable to be completed as the site is currently occupied by a motel.

Council's Environment and Health Officer has advised that a detailed site contamination investigation should be completed following demolition of the motel. If the investigation indicates that contamination is present then a remediation plan will need to be prepared and implemented to ensure all contamination of the site is removed or remediated.

Consequently, it is recommended that a condition be imposed to require the developer to engage a consultant to undertake a more detailed study of the site in relation to potential land contamination following demolition of the motel. The report shall be submitted and approved by Tamworth Regional Council prior to the issue of a Construction Certificate for the development.

State Environmental Planning Policy (Infrastructure) 2008 (ISEPP)

The proposal is identified under Schedule 3 of the ISEPP as a Traffic Generating development. As such the proposal was referred to the Roads and Traffic Authority for consideration. Matters raised by the RTA for consideration are shown in **ANNEXURE 4** to this report. A number of matters raised by the RTA have been addressed by proposed conditions of consent, including pavement reconstruction in the existing car park, bicycle parking facilities, appropriate traffic control signage and prevention of unauthorised vehicle access to White Street.

One of the main issues raised by the RTA is the need to consider the traffic impacts of the development on the existing road network and nearby intersections. In particular, reference is made to the intersection of Hill and Marius Streets and the potential for increased delays. In this regard the Gennaoui Consulting report outlines their assessment of the performance of this intersection under pre and post development conditions and has found that the existing Level of Service, which is an indicator of delay experienced by drivers at the intersection, will remain at its current level "B". The analysis found that the other major intersections: Marius/White, Peel/White and Peel/Hill, will all continue at their very good Level of Service "A".

The RTA also refer to Clause 101(2) of the SEPP which requires that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

In response to these matters:

- (a) The major vehicle access to the development for customers and delivery vehicles will occur from Hill Street. Access will also be available from Peel Street. It is also proposed that traffic generated by the development will exit to Marius Street (a "Classified Road") using the existing right-of-way over Lot 1 DP 534154. The direction of traffic flow will be required to be one-way onto Marius Street to minimise conflict between customer vehicles and delivery trucks.
- (b) (i)(iii) The Parking and Traffic Report prepared by Gennaoui Consulting Pty Ltd confirms that neither the design of the vehicular access to the development nor the nature, volume or frequency of vehicles using the classified road to gain access to the

development will adversely affect the operational considerations described by this clause.

- (ii) The proposal is for a shopping centre which does not produce smoke or dust. A Construction Management Plan will be required prior to commencement of construction to address matters such as control of dust, fumes and erosion during the construction phase.
- (c) The development is not sensitive to traffic noise or vehicle emissions that may arise from the adjacent classified road.

Regional Environmental Plans

There are no regional environmental plans that apply to the land.

Local Environmental Plans

All lots within the development site are zoned 3(a1) Central Business, with the exception of Lot 244 DP 1014012 which is zoned 9(b) Reservation - Proposed Car Park pursuant to the provisions of the Tamworth Local Environmental Plan 1996. The proposal is defined as a “major retail premises” by this Plan as follows:

“major retail premises means:

- (a) a supermarket or department store, or*
- (b) a shop or group of adjoining shops (other than bulky goods salesrooms or showrooms) having or together having a gross floor area exceeding 2,500 square metres”*

A “major retail premises” is a permissible form of development in zone 3(a1), subject to development consent. The building is not proposed to be constructed on any part of Lot 244 DP 1014012 which is zoned 9(b).

The specific objectives of the 3(a1) zone are as follows:

- (a) to facilitate the development and expansion of a diverse range of retail and commercial land uses located to maximise business and community convenience,*
- (b) to facilitate development for a variety of allied business activities associated with, ancillary to, or supportive of, the main functions of the business area,*
- (c) to permit residential development where attainment of the commercial and service objectives are not prejudiced,*
- (d) to permit development for other purposes where it can be demonstrated that suitable land or premises are not available elsewhere and that the proposed use will not prejudice either any existing use of, or future development on, other land in the locality for business purposes or the other main functions of the business area, and*
- (e) to promote and facilitate the maintenance and enhancement of visual variety, diversity and interest through the rejuvenation and redevelopment of the CBD in accordance with its heritage character.*

Objective (a) is specifically applicable to the proposal. In this regard, the proposed development contributes to the range and diversity of retail land uses in the Tamworth CBD, comprising a supermarket and 3 speciality shops. The site is located within close proximity to public transport in White Street and the completed development will provide a significant number of additional car parking spaces in conjunction with existing public car parking facilities in this location.

Access to the development is proposed to be constructed over the land included in the 9(b) zone, being Lot 244 in DP 1014012. The general objective of the 9(b) zone is:

to provide for the acquisition and development of land for the purpose of providing public car parking.

A concept plan for the future parking has been prepared which identifies there is sufficient area for development of a functional car park around the proposed access. Consequently, the future use of the land for public car parking will not be prejudiced by the development.

Clause 21 What floor space ratios apply in this plan?

The floor space ratio (FSR) of a building erected on an allotment of land within zone 3(a1) is not permitted to exceed 4:1. In this regard, the area of land on which the building is proposed to be constructed is approximately 8184m². The gross floor area of the building is proposed to be 7576m². As such, a floor space ratio of 0.93:1 is proposed which is well below the permissible maximum.

Clause 35 What subdivision controls apply in this plan?

Land must not be subdivided except with the consent of the Council.

Clause 39 What factors will the Council take into consideration when assessing an application for development fronting a classified road?

When determining an application for consent to carry out development on land within any zone fronting a classified road, the Council must consider:

- (a) *whether there is a better alternative means of access to the land from a road other than the classified road,*
- (b) *whether the safety and efficiency of the classified road will be adversely affected by:*
 - (i) *the design of the access to the site of the proposed development,*
 - (ii) *the emission of smoke or dust from the proposed development, and*
 - (iii) *the nature, volume or frequency of vehicles gaining access to the site of the development by using the classified road,*
- (c) *whether the proposed development has been designed at an appropriate scale so as to maintain the character of the locality and minimise disturbance to the landscape and the skyline, and*
- (d) *whether the proposed development should be set back from the classified road, having regard to:*
 - (i) *the nature, scale and function of any proposed buildings,*
 - (ii) *the maximisation of sight distances for drivers, including visibility of points of access,*
 - (iii) *the minimisation of distractions to drivers using the classified road, and*
 - (iv) *any possible need to alter the road alignment in the future.*

In this regard:

- (a) The right-of-way over Lot 1 DP 554154 is proposed to be restricted to one way vehicle movement as a consequence of the development. Although Marius Street is a classified road, the applicant has demonstrated that the exit to Marius Street will have minimal impact on traffic using the classified road.
- (b) This clause has been considered under SEPP (Infrastructure) 2008 above.
- (c) When viewed from Marius Street, the building is approximately 7.5 metres in height. The submitted plans include an illustration of the Marius Street streetscape, confirming that the development is consistent with the surrounding development in terms of bulk, scale, colour and construction materials. Consequently, it is considered that the building is designed at an appropriate scale to maintain the character of the locality and minimise disturbance to the landscape and the skyline.
- (d)
 - (i) The building is proposed to be constructed to the front (Marius Street) property boundary with an awning over the public footpath. Having regard to the nature, scale and function of the building, the location is considered satisfactory.
 - (ii) The development will not impact on the sight distances for drivers using the classified road as Marius Street is a divided carriageway with two traffic lanes and a parking lane

on both sides. Visibility from the Marius Street exit will also be maintained due to the width of the public footpath in this location.

- (iii) The development is unlikely to distract drivers using the classified road as the bulk, scale, colour scheme and construction materials proposed are consistent with other existing buildings and development in the locality.
- (iv) The construction of the development to the front property boundary is unlikely to impact on the possible need to alter the road alignment as Marius Street is already constructed as an Arterial Road with a divided carriageway, two traffic lanes and a parking lane on both sides.

Clause 46 What provisions apply to the development of land in the vicinity of a heritage item, heritage conservation area, archaeological site or potential archaeological site

Within the immediate vicinity of the development site, three properties have been identified as land containing an item of environmental heritage within Schedule 2 to Tamworth Local Environmental Plan 1996, as listed below:-

- ✂ Lot 1 DP 976614, 462-464 Peel Street is partially occupied by a building that is a former Masonic Lodge;
- ✂ Lot 103 DP 629477, 18 White Street is the site of St Nicholas Church; and
- ✂ Lot 10 DP 789014, 204-206 Marius Street contains a building, formerly a dwelling, which is part of a motor dealership.

All items are identified as being of “local” significance and the likely effect of the development on these items is discussed in the relevant section of the report.

Section 79C(1)(a)(i) any draft environmental planning instrument that is or has been placed on public exhibition

The Draft Tamworth Regional Local Environmental Plan 2009 was exhibited from 14 July to 25 August 2009. Under the Draft Plan, the land is proposed to be zoned B3 Commercial Core. The proposal is defined as a “shop” which is permitted with consent in the development control table to zone B3. The objectives of the B3 zone are as follows:

- ✂ *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community*
- ✂ *To encourage appropriate employment opportunities in accessible locations*
- ✂ *To maximise public transport patronage and encourage walking and cycling*

The proposal is consistent with the proposed objectives of the zone as follows:

- ✂ The development contributes to the range of retail services offered within the Tamworth Central Business District, incorporating a Woolworths supermarket and three speciality shops. The nominated specialty tenants include Dick Smith Electrical and Dan Murphy’s Liquor Supplies. These shops will serve the needs of both the local community and a wider shopping catchment.
- ✂ The development site is accessible to the public bus stop in White Street which will facilitate public transport patronage by customers and staff. Further, the development is accessible by walking or cycling from residential areas, primarily located to the north of the site, as well as Peel Street and the wider CBD.

The Roads and Traffic Authority have also recommended that facilities should be provided for bicycle parking close to the entrance of the development. This initiative is supported by Council and it is recommended that a condition be imposed in this regard.

Section 79C(1)(a)(iii) any development control plan

Tamworth Development Control Plan No. 1- Traffic and Parking Guidelines (TDCP 1)

A Parking and Traffic Report was prepared by Gennaoui Consulting Pty Ltd in relation to the parking demand for the development and traffic impacts. The parking rates adopted for development are for “shopping centres” as provided by the RTA Guidelines for Traffic Generating Development, rather than the more generic rates listed under Tamworth DCP1 – Traffic and Parking Guidelines.

The applicant argues that the rates adopted in the RTA Guidelines are more accurate for this form of development as they are based on the demand characteristics of different retail groups determined by shopping centre surveys. No objection is raised to this methodology. A detailed assessment of traffic, access and parking is provided under the relevant section of this report.

Tamworth Development Control Plan No. 2 - Commercial and Retail Guidelines (TDCP 2)

TDCP 2 identifies a preferred hierarchy of business centres within Tamworth City and incorporates design guidelines for commercial and retail development.

The subject site is located in the “Central Business Area” which is the preferred location for large scale retail and commercial development. Consequently, the proposed development reinforces the predominance of the CBD within the retail hierarchy.

In terms of design, the development is consistent with the design principles identified by clause 8, which include ensuring that the external appearance of proposed buildings enhance the character of the streetscape, that the loading docks are located and designed to ensure vehicles can enter and leave the site in a forward direction and car parking is adequately landscaped.

Tamworth Development Control Plan No. 3 - Advertising Guidelines (TDCP 3)

It is proposed to display advertisements on each façade of the building. It is intended that signs will be displayed individually above each tenancy on the Marius Street elevation and as a group on the other elevations. A freestanding sign is also proposed to be constructed in Hill Street at the entrance to the car park. This land is owned by Council and an easement must be created over the land to provide for lawful access to this site.

The business identification signs for the confirmed tenants have been nominated on the submitted plans. However, a separate development application must be lodged for the installation of signage associated with the vacant tenancy. The signs are appropriate to the scale of the building and are clear simple and concise, displaying the corporate logo of each tenant. No objection is raised to the scale and design of the proposed advertising structures or advertisements.

Tamworth Development Control Plan No. 9 –Outdoor Lighting Guidelines (TDCP 9)

Pole and wall mounted lighting is proposed to be installed in a number of different locations on the site and in the loading docks to maintain security at night. Lighting will also be provided on the ceiling of the basement car park to provide lighting during trading hours.

The applicant has nominated fixtures that are shielded to prevent sky glow. Further, lights in the car park will be dimmed outside trading hours to provide the minimum ambient light to assist in security. Consequently, the proposed lighting is consistent with the requirements of the DCP.

Tamworth Development Control Plan No. 19 –Subdivision Guidelines (TDCP 19)

The development is consistent with the provisions of TDCP 19 and the relevant matters for consideration including services, developer contributions and hazards. These matters are discussed in detail under the separate sections of this report.

In relation to the minimum lot size, subdivision in commercial areas is not subject to specific dimensional standards. Rather, TDCP 19 requires that each proposal is designed to provide future development with adequate onsite parking, manoeuvring and loading areas.

It is proposed to excise approximately 950m² from Lot 467 DP 871160 and a further 30m² from Lot 42 DP 708583. These areas are to be consolidated with other lots to aggregate the development site and contain the proposed building on a single title, together with on-site parking, manoeuvring and loading areas.

Section 79C(1)(a)(iia) any planning agreement

There are no planning agreements applicable to the proposal.

Section 79C(1)(a)(iv) *the regulations (to the extent that they prescribe matters for the purpose of this paragraph)*

The regulations prescribe requirements applicable to the demolition works to be carried out as part of this development. These are standard matters and do not raise any additional considerations.

Section 79C(1)(b) *the likely impacts of the development*

Context and Setting

The land proposed to be utilised for construction of the building has an area of approximately 8184m². The land is currently occupied by a motel, commercial premises (office), public car park and vacant land which is used as an informal public parking area.

The site is predominately clear of vegetation with the exception of a small number of trees located around the existing motel and on the vacant land.

The surrounding land uses include commercial premises and shops to the north and north-west. There is a motor showroom located to the north and also the north-east and a variety of commercial premises and the Tamworth Regional Library and Art Gallery are located to the south fronting Peel Street.

Should consent be granted to the proposal, it is recommended that the land containing the new retail premises and basement car park be consolidated into a single title to ensure the requirements of the Building Code of Australia are achieved.

Traffic, Access and Transport

Parking

The Parking and Traffic Report prepared Gennaoui Consulting Pty Ltd assessed the proposed car parking facilities including the adequacy of proposed access arrangements.

The parking rates identified for “shopping centres” by the RTA Guidelines for Traffic Generating Development have been adopted by Gennaoui Consulting for the development on the basis that the RTA have identified that the division of floor area into retail categories improves the accuracy of parking predictions.

The rates adopted by the RTA for the retail categories comprising this development are as follows:

A(SS): Specialty shops, secondary retail gross leasable floor area (GLFA) - includes speciality shops and take away stores such as McDonalds. These stores are grouped as they tend not to be primary attractors to the centre.

A rate of 45 spaces per 1000m² GLFA is required for the A(SS) category. Applying this rate, parking is required as follows:

✂	electrical shop	27 spaces
✂	liquor shop	60.8 spaces
✂	vacant shop	24.8 spaces

A(SM): Supermarket gross leasable floor area (GLFA) - includes stores such as Franklins and large fruit markets.

A rate of 42 spaces per 1000m² GLFA is required for the A(SM) category. Applying this rate, parking is required as follows:

✂	Supermarket	154.2 spaces
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Based on these guidelines, a total of 267 spaces are required for the development, of which 200 spaces are proposed in the basement car park, resulting in a shortfall of 67 spaces for the development. It is recommended that a condition be imposed to require that a developer contribution toward CBD parking be paid to offset the shortfall in parking.

The parking areas are designed to provide adequate onsite manoeuvring and circulating areas to ensure vehicles can enter and leave the site in a forward direction. The parking, turning and driveway areas are to be hard sealed and line marked.

There are two disabled parking spaces associated with the library and art gallery which are located within the area proposed to be sold to the developer. These spaces will be required to be relocated to an alternative location that satisfies the minimum requirements for disabled parking as a condition of development consent, should consent be granted to the development. Disabled parking will also be provided within the basement car parking as nominated on the submitted plans.

The plans prepared for the development also include a concept for car parking on Council's land. Should consent be granted to the proposal, the applicant may negotiate with Council to construct the car parking areas as works-in-kind towards partial satisfaction of a developer contribution to be paid for the shortfall in parking. This would provide for the timely construction of parking areas and provide assurance to the developer that adequate parking is provided within close proximity to the development.

The submitted plans also nominate the parking on Council's land to be short term parking. Council is currently undertaking a parking study which will provide the basis for determining the balance of long term, short term, paid and unpaid parking in the Tamworth CBD. Therefore, the category of parking provided on the Council owned land in this area will be at Council's discretion and this will be clarified as a condition of development consent.

Traffic

The primary vehicular access to the development is from Hill Street, which has a two lane carriageway and angled parking on both sides of the road.

Secondary access is available from Peel Street via the right-of-way adjoining Lot 17 DP 6715734. Peel Street in this location also has two lanes with angled parking on both sides of the street.

There is a roundabout located on the corner of White and Peel Streets. White Street, between Peel and Marius Streets, has two lanes and angle parking on each side of the street.

Vehicles may also exit from the development to Marius Street via a right-of-way over Lot 1 DP 534154. Marius Street has a divided carriageway with two traffic lanes and a parking lane on both sides.

The study identifies that peak hours for use of the surrounding road network are between 8.30 and 9.30am and 4.30 and 5.30pm. The volume of traffic using Marius Street during the peak hours is approximately 1430 vehicles per hour. The number of vehicles recorded in the surrounding streets varies from 230 vehicles per hour in Hill Street to 660 vehicles per hour in White Street.

Gennaoui Consulting estimates that the development will generate approximately 680 vehicle movements in the afternoon peak hour and 50% of this number in the morning peak hour. The study predicts that 20% of the traffic generated by the development will arrive from Marius Street north and 20% from Peel Street south and leave in the same direction. A smaller proportion of traffic will be drawn from other surrounding areas.

The report concludes that having regard to the existing service levels of roads in the surrounding locality that the increase in traffic will have little effect on any of the approach routes or at the surrounding intersections which will continue to operate at a very good or good level of service.

Access

The primary customer access to the site is from Hill Street over Lots E and F DP 347487, Lot 244 DP 1014012 and Lot 42 DP 708583. A 6 metre wide driveway is proposed to be constructed with a 1 metre wide centre median to create a separate entry and exit. An easement must be created over these parcels to provide for lawful access to the development site.

Access for delivery vehicles is from Hill Street over Lots A and B DP 396828, Lot A DP 339895 and Lot 467 DP 871160. It is proposed to construct an 8.9 metre wide access to the site to clearly define the travel path between the proposed and existing parking areas and pedestrian walkway. An easement must also be created over these land parcels to provide for lawful access to the development site.

It is recommended that full width rigid pavements be constructed for the heavy vehicle movement paths over Lots A and B DP 396828, Lot A DP 339895 and Lot 467 DP 871160 and the existing right-of-way over Lot 1 DP 534154 to Marius Street to ensure that the pavement is sufficient to accommodate the likely load.

The existing right-of-way access from Peel Street will continue to allow vehicles access to Council's car park as well as provide a secondary access to the development car park. The Peel Street access is located within close proximity to the roundabout located on the corner of Peel and White Streets. Sight distances are limited in this location as the access lane is lower than the centre of the road. Consequently, it is recommended that a condition be imposed to require that the median strip in Peel Street be extended to prevent right turn movements in and out of the right of carriageway.

There is also an existing right-of-way to Marius Street over Lot 1 in DP 554154 (The City Sider Motel) which benefits Lot 467 DP 871160 (Council's car park). To minimise the potential for conflict between delivery vehicles associated with the development and cars using the parking areas, it is proposed to restrict the access to Marius Street to a one-way direction.

Loading

Large delivery trucks, including articulated vehicles (19 metres long) will service the development. The applicant has advised that the supermarket and liquor store will be serviced by up to 6 large trucks and 4 small trucks per day between 8.00am and 5.00pm daily. Where practical, one truck will be used to service both the supermarket and the liquor store.

The loading dock for the supermarket is proposed at the rear (southern side) of the building. The Parking and Traffic Report prepared by Gennaoui Consulting Pty Ltd demonstrates that there is sufficient turning area to manoeuvre the largest delivery truck in and out of the dock without conflict with other vehicles using Council's adjoining car park.

The area in which the dock is proposed to be constructed has historically been used to manoeuvre large delivery vehicles associated with the Art Gallery. Additional truck turning information was submitted that demonstrates that, provided the delivery trucks reverse wholly into the Art Gallery loading dock, there is sufficient area to manoeuvre within the remaining Council land.

The loading dock for the liquor store is proposed on the north-western side of the building with access from the right-of-way to Marius Street. The Parking and Traffic Report demonstrates that there is sufficient turning area to manoeuvre the largest delivery truck in and out of the dock without utilising any part of the public road or footpath.

All trucks must enter from Hill Street and exit to Marius Street. It is recommended that a condition is imposed to clarify this requirement.

Public Domain

To minimise conflict between cars and pedestrians, a separate walkway is proposed to be constructed from Hill Street to the proposed development.

Utilities

Electricity

There is an electricity substation situated within close proximity to the proposed supermarket loading dock. Further, the proposed freestanding sign in Hill Street will be located within close proximity to the overhead power lines.

While these matters are not critical to the assessment of the application, further discussion between the applicant and the electricity authority may be required to determine any requirements for relocation and/or upgrading of electricity infrastructure. Consequently, it is recommended that a condition be imposed to require this information to be provided prior to issue of a Construction Certificate for the building or the sign.

Water

There are 4 existing water services in Marius Street that must be disconnected and replaced with a single water service, including backflow prevention device. To provide a single service to the development it will be necessary to extend Council's water main from Hill Street or Marius Street. All work is to be completed in accordance with Council's Engineering Guidelines for Subdivision and Development.

Sewer

A sewer service for the development shall be provided by connecting to the sewer manhole in the south-western corner of Lot 1 DP 534154. All other sewer mains servicing the existing lots must be decommissioned.

An easement shall be provided in favour of Tamworth Regional Council over the existing sewer main adjacent to the rear boundary of Lots 3 and 4 DP32608.

Head Works Contributions

Sewer and water headworks will be levied by Council (as the local water supply authority) under the Water Management Act 2000.

Stormwater

Bath Stewart and Associates have prepared a Drainage Report for the development which investigates the local catchment drainage associated with the development.

The report identifies that there is an existing pipeline through Lot 16 DP 758951 which has been designed to cater for the Q10 storm event and incorporates a flow path for the Q100 storm event.

Two catchments have been identified in the study and it is proposed that a third of the stormwater generated within the catchment will be directed to underground stormwater mains. An overland flow path on the same alignment will be constructed to minimise the number of easements required. Part of the proposed new system will connect to the existing system through Lot 16 DP 758951.

The report concludes that the proposed arrangement will improve the existing arrangements for runoff from the land. It is recommended that a condition be imposed to require that the stormwater drainage system for the development be designed and constructed in accordance with Council's Engineering Guidelines for Subdivisions and Developments and the principles outlined in the drainage report prepared by Bath Stewart Associates Pty Ltd.

External Appearance of the Building

The building will be constructed of concrete wall panels on a steel frame with metal clad roofing. The elevation to Marius Street will incorporate feature wall cladding, glass shopfront windows and entry doors and a cantilevered awning projecting over the windows and main doorway. Finished colours will be in tones of grey, except for the feature wall cladding which will be a copper colour.

Grey will also be the predominant colour for all other external wall elevations with graduation in the shade of grey used to add interest and variation to the large wall expanses. The applicant has indicated that the roofing material is proposed to be zincalume except for prominent roof elements such as mezzanine roofs and acoustic screens to condenser units which will be clad with a coloured metal sheeting. The parapet wall construction will shield the majority of the zincalume roofing from public view.

Allowance has been made for integration of the corporate signage schemes into the external wall construction for Woolworths and other known tenants. Details of signage have been submitted with the application and the assessment of this information has found that the signage will fit appropriately with the overall building design and colour scheme.

Heritage

The following properties are identified as items of local significance by the Tamworth Local Environmental Plan 1996:

- ✂ Lot 1 DP 976614, Peel Street -the former Masonic Lodge the rear of which adjoins Lot 467 DP 87160;
- ✂ Lot 103 DP 629447 - St Nicholas Catholic Church, located on the corner of Marius and White Street; and
- ✂ Lot 10 DP 789014 - a former dwelling located on the corner of Marius and Hill Street, currently used as part of the Woodleys motor vehicle dealership.

While the three individual items have local heritage significance they are not part of a wider heritage precinct. The area is characterised by a diversity of building styles and land uses. On Marius Street in the vicinity of the St Nicholas church site, there are existing factory premises, a service station, modern offices and a large motor dealership that occupies both sides of the road.

In this context, the proposed development does not represent a significant impact on the appearance of these items or their setting in terms of the bulk, scale, colours and construction materials. Further, there is a reasonable distance between the heritage items and the proposed development which will ensure that the development will not encroach on the visual appearance, function or setting of any of these items.

Soils

The preliminary site contamination assessment prepared by Ellis Environmental Pty Ltd for the proposed development identifies the potential contamination of Lot 1 DP 534154 (City Sider Motel site) due to the previous use of the site as a service station and for motor vehicle repairs. A detailed site contamination investigation is unable to be completed until the existing motel located onsite is demolished.

Air and Microclimate

Not applicable to the development.

Flora and Fauna

There will not be any impact on fauna or flora as a consequence of the development as the development site is already highly disturbed, with minimal vegetation.

Waste

Limited information has been provided by the applicant in relation to waste collection and disposal. However, the statement of environmental effects does nominate that all waste generated by the construction phase will be collected and disposed of in accordance with the relevant regulations.

The statement of environmental effects also identifies that waste generated by the operations of the centre will be stored internally before disposal. It is expected that a commercial contractor will be engaged to collect all construction and operational waste.

Pursuant to Section 68 of the Local Government Act, 1993, approval must be obtained to dispose of waste into a sewer of the Council (trade waste agreement). It is recommended that a condition be imposed to require that a trade waste approval is required prior to issue of a Construction Certificate.

Energy

Section J of the Building Code of Australia applies to the development in relation to lighting. This requires that consideration be given to energy efficiency as a component of the Construction Certificate documentation.

Noise and Vibration

Noise will be generated during the construction phase of the development. It is recommended that a condition be imposed to limit construction hours and minimise disturbance to the surrounding locality.

In the long term, noise will be generated as a result of truck movements to the loading docks, other vehicle movements and mechanical equipment. To minimise disturbance to surrounding premises, it is recommended that a condition be imposed to require that full details of any proposed mechanical equipment (i.e. air conditioners, ventilation equipment) to service the building, including proposed screening and noise attenuation measures shall be submitted to, and approved by Council, prior to the issue of a Construction Certificate.

Natural Hazards

There are no natural hazards applicable to the land, the subject of this development.

Technological hazards

Not relevant to this application.

Safety, security and crime prevention

In addition to the lighting described above, decorative security screens and sliding gates are proposed to be installed on the open sides of the car park to maintain security after hours. These will be locked open during operating hours.

The applicant has also advised that internal electronic security systems will be installed and external security patrols will be undertaken. These methods, together with the wide aspect to adjoining properties will minimise the risk to security within the development and within the surrounding neighbourhood.

Social impact in the locality

Food Safety

The fit-out of the food preparation areas within the supermarket, and any other retail food preparation areas in the development must comply with Food Safety Standards and the Food Act 2003.

Council must assess detailed plans for the development prior to work commencing on the fit-out to ensure that the relevant requirements may be achieved. Council's Environment and Health Officer has requested plans specifying equipment, fittings, fixtures and mechanical exhaust ventilation etc in this regard. It is recommended that a condition be imposed to require that detailed plans are submitted for the approval of Council prior to issue of a Construction Certificate.

If there is to be the installation of a system as defined in Part 4 of the *Public Health Act 1991* (for example, a water cooling system), the installation, operation and maintenance of the system must comply with the *Public Health (Microbial Control) Regulation 2000*. It is recommended that a condition is imposed to clarify this requirement.

Economic impact in the locality

An objection received during the exhibition period contends that the Economic Impact Report prepared by Urban Economics over-estimates population and spending growth and under-estimates the impact on City Plaza which is located in the next block west of the development site and contains a Coles supermarket, a K-Mart store and a number of specialty shops.

Council's Economic Development Planner has reviewed the documentation submitted in relation to economic impact. It is acknowledged that a new supermarket and liquor store will attract trade from competitors such as Coles and Liquor Land located in City Plaza. Theoretically, this will increase competition and reduce prices.

Items such as electrical goods are highly elastic, meaning people will reduce or increase spending in these areas depending on prevailing economic conditions or changes to personal circumstances. A new electrical store is more likely to impact other similar stores than a new supermarket. However, in this instance Dick Smith is relocating from its existing premises in White Street to larger premises within the new centre.

The existing Coles supermarket will continue to benefit from its strategic location in Peel Street with its proximity to the main CBD shopping precinct and public transport facilities. The City Plaza complex will retain its ability to attract customers looking for variety and convenience due to the diverse mix of retailers in the centre.

It is also relevant to note that a new draft State Environmental Planning Policy has been exhibited in relation to retail competition. The draft SEPP outlines its intention to encourage competition between retail businesses to place downward pressure on prices. If adopted in its current form the Plan will provide that:

- ✂ The commercial viability of a proposed development may not be taken into consideration by a consent authority, when determining development applications;
- ✂ The likely impact of a proposed development on the commercial viability of other individual businesses may also not be considered unless the proposed development is likely to have an overall adverse impact on the extent and adequacy of local community services and facilities, taking into account those to be provided by the proposed development itself; and
- ✂ Any restrictions in local planning instruments on the number of a particular type of retail store in an area, or the distance between stores of the same type, will have no effect.

The provisions of the draft SEPP supports the view that significant weight should not be given to the impact of new commercial development on the commercial viability of another commercial competitor.

Further, the location of the proposed development is consistent with the retail hierarchy envisaged in the zoning provisions of the current Tamworth LEP adopted in 1996 and the draft Tamworth Regional LEP.

The nature and scale of the development is also relevant in terms of the impacts on other specialty stores in the City. There are only 3 specialty stores proposed within the centre and it is unlikely that the development will have a detrimental economic impact on the viability of other retailers in the local community. Rather, it is considered that the development will have a positive impact for the community by increasing product range and improving retail competition in the Tamworth CBD.

Site design and internal design

The land comprises a number of allotments. Some of those allotments will need to be consolidated and others will require easements be registered over them to provide for lawful access to the development site.

The basement car parking area is accessible from Hill Street over Council's land. Egress will be available to Hill and Marius Streets using the right-of-way. Access and egress will also be gained from Peel Street. The car parking has been designed to provide adequate onsite manoeuvring and circulating areas to allow vehicles to enter and leave the site in a forward direction.

The two loading docks are accessible from Hill Street over Council's land and it has been demonstrated there is sufficient manoeuvring area for semi-trailers and other trucks to service the development. All trucks will be required to leave the site using the right-of-way to Marius Street.

Council initially raised concern that delivery vehicles may conflict with vehicles using the basement car park or the public car parking adjacent to the development. The applicant has indicated that no more than 6 semi trailers will access the development per day and that arrival times for these vehicles will be managed by Woolworths and the other traders to occur outside peak retail trading times.

The site is easily accessible from Peel Street, Marius Street and Hill Street. A new pedestrian pathway is proposed to be constructed from Hill Street to the centre as a component of the development. Pedestrian pathways are also incorporated within the basement car park to provide for safe movement to the shopping level entrance.

As stated previously, the location of the shopping centre reinforces the CBD retail hierarchy as envisaged in the Tamworth LEP 1996 and the draft Tamworth Regional LEP and it has been demonstrated that the operation of the centre will have minimal impact on adjoining operations or access to the existing public car parking.

Construction

Given the location of the development site, construction methods, timeframes and hours may impact on the surrounding locality. Consequently, it is recommended that a condition is imposed to require that prior to the issue of a Construction Certificate, a Construction Management Plan is prepared and submitted to Council to address the methods employed during construction to minimise the impacts of the construction activities on:

- ✂ adjoining or adjacent businesses;
- ✂ users of public footpaths and roads;
- ✂ parking in the vicinity of the site; and
- ✂ surrounding streets used to access the site.

Cumulative impacts

Nil

Section 79C(1)(d) any submissions

The development application was exhibited on two (2) separate occasions in accordance with Tamworth Development Control Plan No. 20- Advertising/Notification of Development Applications. The first exhibition period from 13 to 27 September 2010 failed to identify that the application also included the proposed subdivision of the land. Consequently, the application was re-exhibited from 27 February to 12 October 2010.

Four (4) submissions were received in response to the first exhibition period, eight (8) submissions in response to the second and one (1) submission was received after the exhibition period closed. A summary of the submissions and a planning response to those issues not addressed elsewhere in the report is provided below:

- ✂ *The right-of-way from White Street has not been considered in the proposal and is inadequate for traffic associated with the proposal.*
- ✂ *Access is required for 15, 17 and 19 White Street to the right-of-way to Marius Street and Council should negotiate access to the right-of-way to Marius Street for 17 and 19 White Street. Access to the right-of-way to Marius Street for 15 White Street may be affected by the development.*

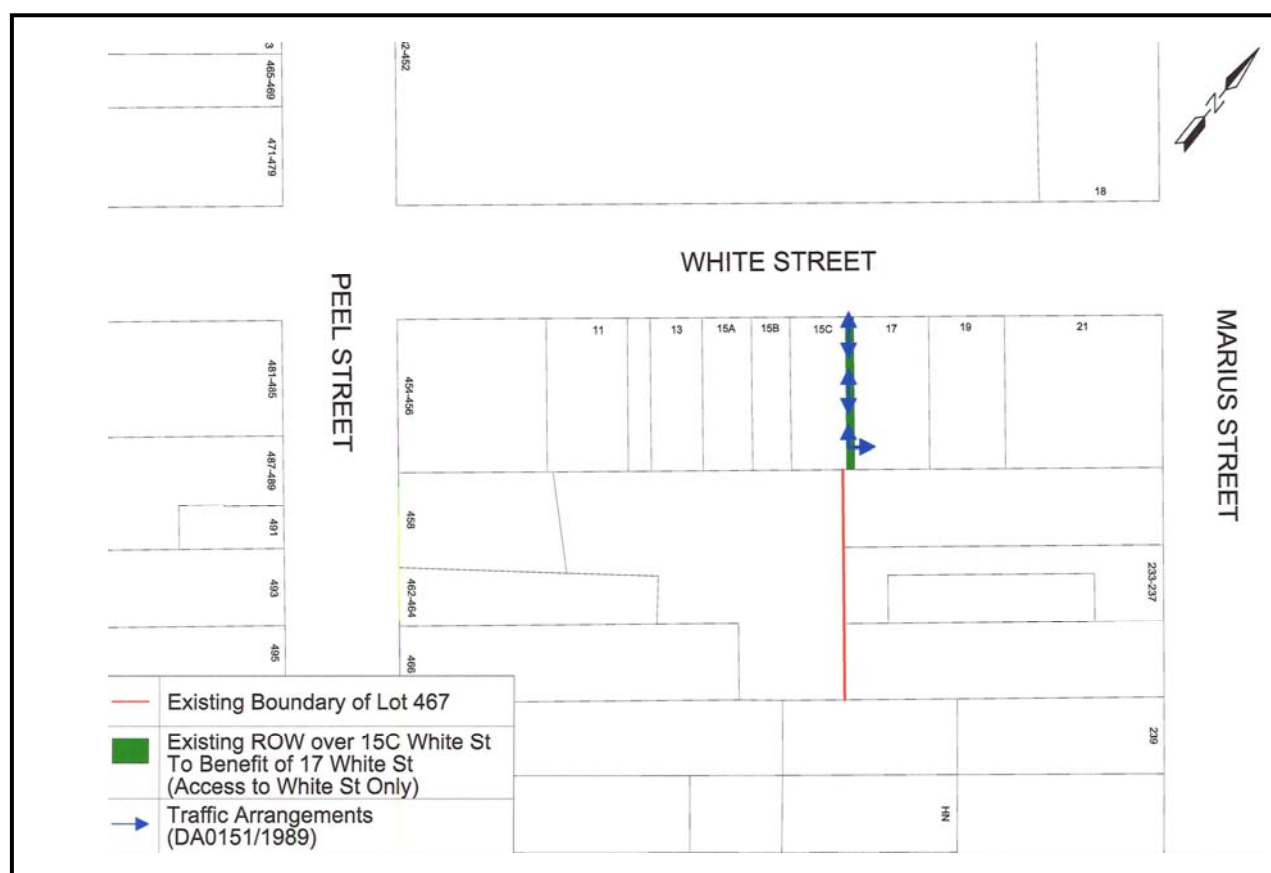
The development does not rely on any right-of-way to or from White Street. The matter of vehicle and pedestrian access between the adjoining White Street properties and the existing rights of carriageway to Marius and Peel Streets have been raised in a number of public submissions.

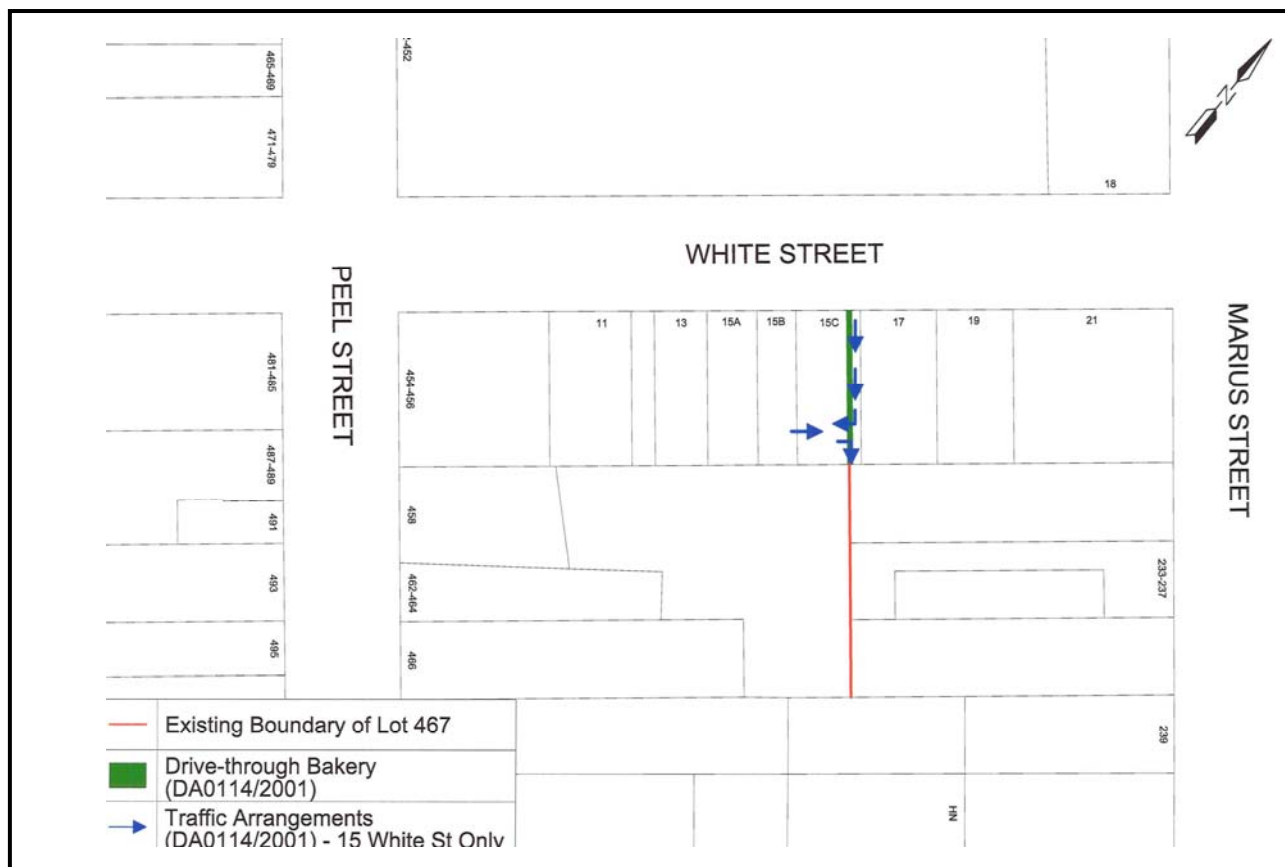
Properties at 17 and 19 White Street do not currently have a legal access through the right of carriageway that runs at the rear of these properties up to Marius Street.

If such an access is to be obtained the respective owner may negotiate with the land owner of the development site to secure legal access to the right-of-way and then seek the approval of Council to modify any existing development consents which currently do not provide for a legal right of access between these White Street properties and the land at the rear. Any such application will need to address the traffic implications of this arrangement.

The property at 15 White Street has an approved exit to Council land at the rear (Lot 467 DP 87160). Vehicles accessing the Centrelink premises on 17 White Street are also gaining access to this connection but there is no legal right for this to occur.

The existing approved access arrangements for the properties at 15, 17 and 19 White Street are illustrated in the plans below.





Should consent be granted to the development, it is recommended that the legal access requirements for 15 and 17 White Street are enforced. Bollards should be installed by the developer at the boundary of the right-of-way and Lot 467 DP 87160 as a component of the development.

- ✂ *Increased traffic will generate additional noise and additional pollution may be taken into the air conditioning system at 17 White Street which will result in the need for additional filtration, cleaning and maintenance costs*

There will be increased traffic movement as a result of the development. However it is difficult to attribute direct responsibility to the development for any maintenance of air conditioning units at 17 White Street or any other premises. There is already a significant level of vehicle traffic using the right of carriageway and car parking at the rear of 17 White Street.

- ✂ *Council should require that the right-of-way to Marius Street is dedicated as public road to allow the continued use by all properties*

The right-of-way to Marius Street is of insufficient width to be a public road, being 7.315 metres wide, and there is no traffic-related reason to dedicate the land as a public road to serve as a general thoroughfare. The right-of-way is adequate for its intended purpose associated with the development, subject to the requirement for one way traffic connecting with Marius Street.

- ✂ *Council has installed a no entry sign in the right-of-way to prevent vehicle access from the Council car park to White Street (through 15 White Street.)*

Records confirm that Council installed this sign. However, it is not clear whether the installation was at the request of the landowner/s or whether it was in response to Council's concerns. In any case the placement of the sign has no relevance to the consideration of the traffic arrangements for the subject development.

- ✂ *A set of fire stairs are proposed to exit to the right-of-way to Marius Street. Fire exits are not permitted to open directly onto rights of way and the location may prevent construction of an underground car park for 19 White Street in the future*

The fire stairs proposed to the right-of-way comply with the Deemed to Satisfy requirements of the Building Code of Australia (BCA), which require fire stairs discharge to a road or open space or to an area within the building that is not enclosed by walls. The right-of-way complies with the BCA definition of open space.

As mentioned above, 19 White Street does not benefit from a legal access to the right-of-way to Marius Street.

✂ *The Traffic Report references Ryde Road*

This is a typographical error.

✂ *Fencing will be required around 462-464 Peel Street to prevent customers using the parking spaces onsite, discarding shopping trolleys and to maintain security at night*

As the majority of the existing Council parking area will be unaltered and does not form part of the development, it is unreasonable to require the developer to fence the objector's land.

Further, it will be difficult for shoppers to push their trolleys out of the centre toward the objector's property due to the distance, difference in ground levels and location of the supermarket loading dock.

✂ *Insufficient landscaping is proposed to the existing public car parking areas*

As there are no significant changes proposed to the majority of the existing parking areas, it is not practical, nor necessary to incorporate landscaping in these areas.

✂ *The development should be designed to incorporate a rear entrance to facilitate a connection through to the existing car park to the CBD*

The provision of a rear access to the development would encourage customers to park in the long term parking area or private parking on adjoining land. A rear access would also result in increased pedestrian movements which may conflict with the public car parking areas and loading docks.

✂ *241-249 Marius Street (existing motor vehicle dealership) has a gate on the shared property boundary with Lot 244 DP 1014012 which is used for access and intended to be used for future development. Assurance is required that this access will be maintained*

241-249 Marius Street does not benefit from a legal access to the Council owned land and as a consequence the existing arrangement may not continue.

✂ *Confirmation is required as to whether any works will be carried out at 241-249 Marius Street to facilitate the development and if works are required that all damage will be "made good"*

There are no works proposed to be undertaken on the adjoining land

✂ *Was the land proposed to be sold to the developer purchased by Council with funds paid by other developers toward car parking? The public car parking area has been funded by developer contributions, yet the land is proposed to be sold to a developer to the detriment of the CBD*

The land was not purchased from monies collected from section 94 contributions.

✂ *The terms of Council's agreement to the sale of the land have not been made public and did not form part of the exhibition material. The terms of the sale may have a significant adverse impact on adjacent property owners.*

This information is not relevant to the assessment of the development application.

✂ *The height of the building opposite 17 White Street has not been identified on plans*

The height of the building is identified on the plans by FFL (Finished Floor Level). On the White Street side, the actual height above ground level varies according to the slope of the land along the right-of-way. At the lower end of the building, close to the rear of No. 15 White Street, the external wall of the proposed building is 13.3 above the ground level. Approximately half way along the same elevation near the rear of No. 19 White Street the height is 10.0 metres.

✂ *Will all day parking in the right-of-way to Marius Street continue? Currently 16 vehicles park in this location.*

Parking will no longer be permitted in this location as the fire stairs for the building discharge into the right-of-way and must remain free of obstruction. Further, vehicles parked in this location will conflict with delivery trucks.

The following objections have been addressed in the body of the assessment report.

- ✂ *an insufficient timeframe was provided for public exhibition;*
- ✂ *the right-of-way to Marius Street collects stormwater runoff which has on occasion flooded the underground car park at 17 White Street. This has not been addressed in the submitted documentation;*
- ✂ *who will be responsible for the ongoing maintenance of the right-of-way to Marius Street?*
- ✂ *there will be a significant loss of long term parking to the development;*
- ✂ *the parking entrance from Hill Street does not have a pedestrian pathway;*
- ✂ *the footpaths in Hill Street will need to be upgraded to cater for an increase in traffic in the area;*
- ✂ *no accessible parking spaces have been nominated in the Hill Street parking section;*
- ✂ *the library/art gallery was designed to provide flat and accessible access and parking behind building. This will no longer be available;*
- ✂ *the south west elevation of the building is featureless, with the exception of a sign; this facade will eventually become tired, worn and ugly;*
- ✂ *the appearance of the south western elevation and significant increase in traffic movements in the public car park will impact on the future development at 462-464 Peel Street;*
- ✂ *the submitted information does not detail how traffic using the right-of-way to Peel Street, adjoining NRMA, will be controlled;*
- ✂ *the traffic report does not consider the impact of smaller delivery trucks, such as pantechs or methods to prevent them accessing the right-of-way to Peel Street. It is suggested that a height limiting device is installed adjacent to the Peel Street entrance;*
- ✂ *pedestrian movements have not been addressed in the submitted information;*
- ✂ *security lighting should be installed in the existing car park;*
- ✂ *what are the minor and major stormwater flow paths? Is the system adequate for the 10 year and 100 year events? What are the effects of the development on the existing stormwater system? Are drainage easements required?*
- ✂ *the addition of another supermarket will be detrimental to small business in Tamworth; and*
- ✂ *the Economic Impact Assessment over-estimates population and spending growth and under estimates the impact on City Plaza.*

Council has two distinct roles in this development; the first being the organisation responsible for processing the development application; and the second as landowner. The following objections are matters for investigation and negotiation by Council, as landowner and are therefore not matters to be addressed in the development assessment process:

- ✂ *the objector and Tamworth Regional Council has previously made an agreement for access to the rear of their land via Lot E DP 347487 and Lot 124 DP 1014012. The proposal does not honor this agreement*
- ✂ *Council's existing car parking spaces encroach on a right-of-way that benefits 462-464 Peel Street. This proposal represents an opportunity to rectify the encroachment by creation of a new easement or adjustment to the parking configuration; and*
- ✂ *Council should consider linking the proposed development and the library/art gallery to the CBD by a designated paved tree lined walkway in a theme consistent with the Fitzroy Street beautification project.*

Section 79C(1)(e) the public interest

The submissions received from public authorities and from the public in response to the exhibition period have been considered in the preceding section of the report. The proposed development is considered to be in the public interest.

5 Recommendation

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000. The evaluation demonstrates that the proposal is satisfactory in terms of the matters for consideration identified in the legislation.

It is recommended that the proposal be granted conditional development consent.

.....
Lucy Walker
Senior Development Assessment Planner

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Alison McGaffin
Director, Environment, Planning & Economic Development

25 October 2010

ANNEXURE 1	PLANS
ANNEXURE 2	SUBMISSIONS
ANNEXURE 3	DRAFT CONDITIONS
ANNEXURE 4	RTA RESPONSE

Prior to Work Commencing

- 1 Pursuant to s.81A of the Act, the following matters must be satisfied prior to the commencement of work:
 - (i) Obtain a construction certificate from either Council or an accredited certifier;
 - (ii) Appoint a Principal Certifying Authority (and advise Council of the appointment, if it is not the Council); and
 - (iii) Give at least two days notice to Council of the intention to commence work.
- 2 Toilet facilities are to be provided, prior to the commencement of work, 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.

Facilities are to be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a standard flushing toilet, and must be connected to a public sewer. If connection to a public sewer is not practicable, then the toilet is to be connected to an accredited sewage management facility approved by the council. If connection to a public sewer or an accredited sewage management facility is not practicable, then connection to some other sewage management facility approved by the council is required.
- 3 A sign is to be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out stating that unauthorised entry to the work site is prohibited and showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. The sign is to be removed when the work has been completed. This condition does not apply to building work carried on inside an existing building, or building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is carried out.
- 4 A minimum one (1) week's notice shall be given in writing to Council of the intention to commence works, together with the name of the principal contractor and any major sub-contractors engaged to carry out works.
- 5 Traffic Control Plans are to be prepared by a certified and approved person in accordance with AS1742.3-1996 and the Road and Traffic Authority's current version of the "Traffic Control at Worksites" manual.
- 6 A hoarding is to be erected and maintained in accordance with Council's adopted guidelines to ensure the safety of pedestrians and preservation of Council's assets.
- 7 Erosion and sediment controls for the construction works are to be installed and approved by Council before any site works begin, and maintained effectively for the duration of the construction works.
- 8 The contractors engaged on the development must maintain public liability insurance cover to the minimum value of \$20 million. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Documentary evidence of the currency of the policy shall be provided to Council prior to the commencement of work and upon request, during the progress of the work.

Prior to Issue of a Construction Certificate

- 9 Pursuant to section 68 of the Local Government Act 1993, the following approvals must be obtained:
 - (i) Carry out water supply work;
 - (ii) Carry out sewer work;

- (iii) Carry out stormwater work; and
 - (iv) Dispose of waste into a sewer of the council (trade waste).
- 10 Prior to issue of a Construction Certificate for the shopping centre building or the freestanding sign in Hill Street, confirmation shall be provided from Country Energy that arrangements have been made for relocation of the existing electricity sub-station on Lot 467 DP 871160 and that installation of the sign on Lot F DP 347487 complies with their requirements for development under powerlines.
 - 11 Full details of any proposed mechanical equipment (i.e. air conditioners, ventilation equipment) to service the building, including proposed screening and noise attenuation measures shall be submitted to, and approved by Council prior to the issue of a Construction Certificate for each building.
 - 12 To enable the adequacy of proposed site landscaping to be properly assessed prior to site development works commencing, a landscape design plan in respect of the proposed landscaping is to be submitted to Council for approval. Such plan to include botanical names, quantities and state of maturity of all proposed trees, shrubs and ground covers.
 - 13 An Erosion and Sediment Control Management Plan prepared in accordance with the relevant sections of the Department of Housing manual "Soil and Water Management for Urban Development", and Council's current Engineering Guidelines for Subdivisions and Developments shall be submitted to and approved by Council with the application for construction certificate.
 - (i) Measures to prevent site vehicles tracking sediment and other pollutants from the development site;
 - (ii) Dust control measures;
 - (iii) Control structures such as sediment basins, sediment fences and sediment traps to trap sediment and allow filtered water to pass through;
 - (iv) Safety measures for temporary and permanent water bodies including fencing and maximum batter slopes; and
 - (v) Contingencies in the event of flooding.

The erosion and sediment control measures shall be provided to avoid damage to the environment during construction and are to be maintained throughout the construction of the development.

- 14 Detailed engineering drawings and construction specifications, specific to the works, prepared in accordance with Council's Engineering Guidelines for Subdivisions and Developments, are required for the following, as a minimum, to ensure all works are designed and constructed in accordance with recognised and accepted standards and guidelines:
 - (i) Stormwater drainage;
 - (ii) Car park construction;
 - (iii) Rigid pavement construction for heavy vehicle access from Hill Street through to Marius Street;
 - (iv) Median Island construction in Peel Street;
 - (v) Footpath construction in Marius Street;
 - (vi) Retaining wall, inclusive of safety barrier and pedestrian fencing;
 - (vii) Signs and linemarking;
 - (viii) Erosion and sedimentation control; and
 - (ix) Location of utility services.

The engineering drawings including stormwater drainage calculations shall be submitted to Council for approval prior to the issue of a Construction Certificate.

All engineering drawings and specifications are to be certified by a Chartered Professional Engineer or Surveyor.

- 15 A structural pavement design report, including geotechnical test results, shall be prepared that demonstrates compliance with the Australian Road Research Board "Special Report 41" and shall be submitted for approval by Council to ensure that the minimum requirements of Council's Engineering Guidelines for Subdivisions and Developments have been met for all proposed vehicle access paths through Council owned land and rigid pavements for all heavy vehicle access as outlined in the development application.
- 16 All allotment filling shall require a submission from the applicant's Consulting Engineer. The submission shall be provided to Council prior to issue of a Construction Certificate and shall include drawings/specifications which shall clearly identify the location and depth of proposed filling. Matters to be taken into consideration in the submission shall be drainage, services, fill material standards, compaction standards, dust control, impact on adjacent lands and the requirements of AS3798 (as amended) and AS2870 (as amended).
- 17 The design of the heavy vehicle delivery routes shall be such that it complements the existing vehicle manoeuvring space, parking areas and loading docks of all adjacent lots, particularly with the transition from the rear of the Parry Building site (Lot 16 DP 758951) to the rear of the Library/Art Gallery site (Lot 466 DP 871160). Preliminary engineering designs shall be submitted to Council for approval prior to the completion of detailed engineering drawings.
- 18 Prior to the issue of a Construction Certificate, a Construction Management Plan shall be prepared by a suitably qualified person and submitted to Council to address the methods employed during construction to minimise the impacts of the construction activities on:
 - (i) Adjoining or adjacent businesses;
 - (ii) Users of public footpaths and roads;
 - (iii) Parking in the vicinity of the site;
 - (iv) Surrounding streets used to access the site; and
 - (v) The functions of the Tamworth Regional Library and Art Gallery, specifically the collection and delivery of large art exhibitions.
- 19 To ensure compliance with the Food Safety Standards and the Food Act 2003, the following information is required to be submitted to, and approved by Council prior to issue of a Construction Certificate:
 - (i) A floor plan showing all equipment, fittings and fixtures, including benches, storage cupboards (storage of staff personal items), sinks, basins, door/window openings, and chemical/cleaning equipment storage areas. Details are to include finishes to walls, floors and ceilings, heights of fixtures from floors and benches, junctions of walls and floors and lighting provisions;
 - (ii) Sectional elevations of all benches, equipment and fixtures; and
 - (iii) Mechanical exhaust ventilation plans showing all dimensions, details and specifications of *cooking equipment (ie. gas, electricity) and external discharge points*
- 20 A detailed study of the site in relation to potential land contamination shall be undertaken following demolition of the motel. This should include sampling of the site including the area under the existing motel buildings. The report produced should state whether the site is suitable for its intended use or whether remediation is required. If remediation is required then a Remediation Action Plan (RAP) may be included in the report or as a separate document.

Where a RAP is required, it shall be submitted and approved by Council prior to the issue of a Construction Certificate.

Dependent upon the content of the RAP, a Validation Report shall be submitted to Council prior to the issue of a Construction Certificate.

- 21 Council is satisfied that the proposed development is likely to increase the demand for car parking within the area.

Pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 Council requires the payment of a monetary contribution towards the provision of sixty seven (67) car parking spaces.

The fee prescribed by Council's Management Plan for 2010/2011 is \$14,895 per space, being a total contribution of \$997,965.

The contribution shall be paid prior to issue of a Construction Certificate or as otherwise satisfied through a Works in Kind agreement between Council and the Developer.

The contributions required by this condition are allowed by and determined in accordance with the Tamworth Urban Section 94 Contributions Plan 2006-2011 commencing on 01 August 2005, a copy of which may be inspected at the office of the Council.

The above contributions have been adopted under the 2010/2011 Council Management Plan. Revised rates adopted in subsequent Management Plans will apply to development undertaken in later financial years.

- 22 A compliance certificate under section 306 of the Water Management Act 2000 must be obtained from the Council (as the local water supply authority). All payments must be received and documentation approved prior to the issue of a Construction Certificate:

- (i) Sewer headworks contribution: \$50,177
- (ii) Water headworks contribution: \$33,090
- (iii) Engineering drawings and construction specifications for the extension to Council's water supply shall be prepared in accordance with Council's Engineering Guidelines for Subdivision and Development and submitted and approved prior to the issue of a Construction Certificate for building work.

Note: The above contributions have been adopted under the 2010/2011 Council Management Plan. Revised rates adopted in subsequent Management Plans will apply to lots released in later financial years.

General

- 23 The development must be carried out in accordance with the Development Application and accompanying plans, drawings and other documents as amended by conditions of this consent. Any amendment to the development or these conditions will require the consent of Council.
- 24 All proposed building, site works or property improvement indicated on the submitted plans or otherwise required under the terms of this consent shall be completed prior to occupation of the premises to ensure compliance with the provisions of the Environmental Planning and Assessment Act 1979.
- 25 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 26 The Developer is responsible for any costs relating to minor alterations and extensions of existing roads, drainage and Council services for the development.

During Construction

General

- 27 Work on the project shall be limited to the following hours to prevent unreasonable disturbance to the amenity of the area:-

Monday to Friday 7.00am to 5.00pm;

Saturday 8.00am to 1.00pm if audible on other residential premises, otherwise 7.00am to 5.00pm;

No work to be carried out on Sunday or Public Holidays if it is audible on other residential properties.

- 28 The footpath and/or road reserve are not to be used for construction purposes or placing of building materials (without Council's prior consent) to ensure safe and unobstructed access for pedestrians. Where necessary, application may be made by contacting Council's Development and Approvals Division.
- 29 A site rubbish enclosure shall be provided on the site for the period of the proposed construction works.
- 30 A copy of the current stamped approved engineering construction plans and specification must be kept on site for the duration of the works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- 31 The Developer shall ensure that dust suppression is undertaken to the satisfaction of the Responsible Authority, in the form of constant water spraying or other natural based proprietary dust suppressant, to ensure that dust caused by any vehicles moving within the site does not cause a nuisance to surrounding properties.
- 32 Stockpiles of topsoil, sand, aggregates, spoil or other material shall be stored clear of any natural drainage path, constructed drainage systems, easement, water bodies, adjacent car parks or road surface and located wholly within the site with measures in place to prevent erosion or movements of sediment in accordance with the approved erosion and sediment control management plan.
- 33 All spillage of materials, as a result of delivery or handling, must be removed as soon as practicable and placed into suitable receptacles for reclamation or disposal in a manner that does not cause pollution of the environment.
- 34 Open and piped drains, gutters, roadways and access ways shall be maintained free of sediment for the duration of the work. When necessary, roadways shall be swept and drains and gutters cleaned of sediment build up.
- 35 Any damage caused to the road pavements, public and private car parking areas, kerb and guttering and /or footpath during building operations shall be rectified by the Developer or the builder to the satisfaction of Council to ensure the integrity of Council's road infrastructure and privately owned road infrastructure adjacent to the development is maintained to an acceptable standard.
- 36 The road reserve and adjacent car parks are not to be used for construction purposes or placing of building materials (without Council's prior consent) to ensure safe and unobstructed access for pedestrians and motorists. Where necessary, application may be made by contacting Council's Development Services Division.
- 37 Erosion and sediment control measures are to be maintained at all times in accordance with the approved erosion and sediment control plan.

Stormwater

- 38 The stormwater drainage system for the development shall be designed and constructed in accordance with Council's Engineering Guidelines for Subdivisions and Developments and the principles outlined in the drainage report dated 6 September 2010 by Bath Stewart Associates Pty Ltd.

Generally the system shall be designed and constructed to accommodate runoff from rainfall events up to and including the 100 year ARI. Flows up to and including the 10 year ARI must be contained in an underground piped system. Flows greater than the 10 year ARI event up to and including the 100 year ARI event must be controlled within overland flow paths.

Where flow paths are located on private property, easements shall be provided in favour of the lots/lands that benefit.

- 39 Stormwater drainage systems and easements shall be provided in accordance with Council's Engineering Guidelines for Subdivisions and Developments for all roads and lots created by the development.

Roads

- 40 A median island shall be designed and constructed in Peel Street from the existing median island located in Peel Street at the White Street roundabout. The median island shall have a

minimum width of 1.2 metres and extend a minimum of 10 metres past the existing car park ingress/egress right-of-way located on Lot 1 DP 771845 and Lot 17 DP 615734. The median island shall transition from the existing median island and be designed and constructed to match the existing.

- 41 The median island shall be designed and constructed such that infiltration of stormwater runoff between the median island and the road pavement is prevented.
- 42 “No U-turn” and “Keep Left” signage shall be installed in accordance with AS1743 (as amended) at the end of the new median island in Peel Street.
- 43 Left turn only signage in accordance with AS1743 (as amended) shall be provided in the new median island in Peel Street opposite the egress located on Lot 1 DP 771845 and Lot 17 DP 615734.
- 44 Redundant laybacks located in Marius Street and Hill Street fronting the development shall be removed and replaced with concrete barrier kerb and gutter to match the existing.
- 45 The footpath in Marius Street between the kerb line and the property boundary shall be paved and finished with a nonslip surface for the full frontage of the development site. Given the existing levels of the footpath in Marius Street, the provision of drainage infrastructure in the footpath will need to be considered to ensure that stormwater runoff does not impact the development or adjacent sites.

Access

- 46 The final levels of the cross overs (the area between the kerb and gutter and property boundary) for the proposed car park ingress/egress off Hill Street and the heavy vehicle access off Hill Street shall be between 3% and 6% falling to the kerb line to ensure that drainage water present within the road reserve is contained within the road reserve.
- 47 The cross over for the Marius Street egress for the development shall be reconstructed with a base course of adequate depth to suit design traffic and shall be sealed with reinforced concrete. The cross over shall be designed to complement the proposed rigid pavement for the right-of-way which is to be used for delivery vehicles servicing the development.

Retaining Wall

- 48 A new engineered retaining wall shall be constructed by the developer to replace the existing retaining wall on the southern side of the proposed access driveway and pedestrian pathway from Hill Street. The retaining wall design and construction shall be certified by a Structural Engineer. The retaining wall shall be constructed of a masonry product, other than rock.
- 49 A road safety barrier, pedestrian fencing and a minimum 1.2 metre wide reinforced concrete footpath is to be designed and constructed for the full length of the retaining wall. The road safety barrier is to be designed in accordance with the relevant Australian Standard and be approved by Council.

Allotment Filling

- 50 Where allotment filling has been carried out, the “Works-As-Executed” plans shall indicate the contours prior to and after filling and also the compaction test results.

Traffic and Parking

- 51 Car parking accommodation shall be provided for a minimum of 267 parking spaces to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. Such being set out generally in accordance with the details indicated on the submitted plans, except as otherwise provided by the conditions of this consent. It is noted that two hundred (200) car parking spaces will be provided onsite and a Section 94 developer contribution shall be levied in lieu of the remaining sixty seven (67) car parking spaces.
- 52 All parking bays shall be permanently marked out on the pavement surface and clearly indicated by means of directional signs to facilitate the orderly and efficient use of on-site parking facilities.
- 53 All internal driveways, parking areas, loading bays and vehicular turning areas to be constructed with a base course of adequate depth to suit design traffic, being sealed with

either asphaltic concrete or reinforced concrete and being properly maintained to facilitate the use of vehicular access and parking facilities and to minimise any associated noise and dust nuisance. Full details of compliance are to be included on the plans accompanying the Construction Certificate application.

- 54 The proposed heavy vehicle delivery route with ingress from Hill Street and egress at Marius Street shall be constructed of a reinforced concrete (rigid) pavement of adequate depth to suit design traffic. The minimum width of the rigid pavement for the delivery route shall be 14.3 metres for the route parallel to Peel Street and for the full width of the right-of-way parallel to White Street.
- 55 "One Way" signage in accordance with AS1743 (as amended) shall be provided at the southern end of the right-of-way (heavy vehicle delivery route) that runs parallel to White Street, within the development site.
- 56 Bollards and "No Vehicle Access to White Street" signage shall be installed at the boundary with the right way to White Street, adjoining Lot 467 DP 871160 to prevent any vehicular access to and from the right-of-way (heavy vehicle delivery route) that runs parallel to White Street and enforce the existing legal access requirements.
- 57 Bicycle parking shall be provided within the basement car park in a location that does not impact on pedestrian accessibility, vehicle parking or loading facilities.
- 58 The existing disabled parking spaces located on Lot 467 DP 871160 shall be relocated to an alternative location in consultation with Council, as landowner. The spaces shall be constructed and line marked in accordance with relevant standards and such work shall be at full cost to the developer.
- 59 A set down and pick up area shall be appropriately signposted and line marked at the rear of the Art Gallery and Library on Lot 466 DP 871160 to clearly identify a safe stopping area for the community.

The set down and pick up area shall be located between the pedestrian walkway and the loading dock. Consultation shall be undertaken with Council, as landowner prior to works commencing to ensure that the requirements of the Library and Art Gallery are satisfied.
- 60 All internal driveways, parking areas, loading and unloading areas and vehicle turning areas are to be designed in accordance with the requirements of AS2890.1 (as amended) "Parking Facilities- Off Street Parking".

Inspections

- 61 It is required that a Principal Certifying Authority (PCA) be appointed to undertake all critical stage inspections as prescribed under the Environmental Planning and Assessment Regulations, 2000. The owner may appoint either the Council or an accredited certifier to be the PCA.
- 62 Inspections are required to be carried out by Council for works as specified below:-
 - (i) Stormwater drainage infrastructure prior to backfilling trenches;
 - (ii) Road pavement for Council's car park and the heavy vehicle delivery route prior to sealing;
 - (iii) Heavy vehicle delivery route prior to pouring of concrete; and
 - (iv) Footpath construction in Marius Street prior to the pouring of concretePlease note that Council requires a minimum of 24 hours notice to undertake inspections. Section 68 application number and property description is to be quoted to ensure the inspection is confirmed.
- 63 Inspection - As a consent authority under the Water Management Act 2000, the following inspections are required to be carried out by Council. Where Council is not the Principal Certifying Authority, an additional fee for each inspection will apply.
 - (i) Underfloor drainage under hydrostatic test prior to covering;
 - (ii) Hot and cold water plumbing under pressure test prior to covering;

- (iii) Sanitary drainage (under hydrostatic test) prior to backfilling trenches or covering; and
- (iv) Final inspection of all plumbing and drainage works.

Prior to Occupation

- 64 To ensure that the building work is completed in accordance with the approval and is in a safe and healthy condition for use by the occupants, the building (or part of the building in the case of alterations and additions) shall not be occupied or used until –
- (i) It is completed in accordance with the approval and the principal certifying authority has completed a satisfactory final inspection; or
 - (ii) The principal certifying authority gives written permission to allow the building to be occupied or used before it is completed.
- 65 One A1 set of approved construction drawings shall be amended to show the "work-as-executed" and submitted to Council. These drawings shall be revision "W" and are to be certified by a registered surveyor or a Chartered Professional Civil Engineer.
- An "AutoCAD" file of the "works-as-executed" plan shall be submitted to Council to upload into Council's Geographic Information System. A 'pdf' version of the "works-as-executed" plans shall also be submitted to ensure that adequate electronic records are maintained of community infrastructure.
- 66 A construction validation report shall be prepared by the Applicant's Consulting Engineer, inclusive of all test results and materials certificates, verifying that all works associated with Council infrastructure have been completed in accordance with the drawings and specifications.

Prior to Issue of Subdivision Certificate

- 67 Notification being provided that satisfactory arrangements have been made with Country Energy to ensure that electricity supply infrastructure is available for each lot in accordance with community expectations.
- 68 Notification being provided that satisfactory arrangements have been made with Telstra to ensure that telecommunications infrastructure is available for each lot in accordance with community expectations.
- 69 The subdivision plan shall identify that the land included in the proposed building footprint (being lot 1 DP534154, lots A & B DP 398476, lot 6 DP 230958, lots 51 & 52 DP 710142, part lot 42 DP 708583 and part lot 467 DP 871160) has been consolidated into a single title to ensure that the requirements of the Building Code of Australia are achieved and to ensure that no portion of the development site may be disposed of independently.
- 70 A compliance certificate under section 306 of the Water Management Act 2000 must be obtained from the Council (as the local water supply authority). All works must be completed prior to the issue of an Occupation Certificate:
- (i) A single water service, with backflow prevention device shall be provided to the development by extending Council's water main from either Hill Street or Marius Street in accordance with the requirements of Council's Engineering Guidelines for Subdivisions and Developments;
 - (ii) A sewer service shall be provided to the development by connecting to the sewer manhole located in the south-western corner of Lot 1 DP 534154 in accordance with Council's Engineering Guidelines for Subdivision and Development; and
 - (iii) All existing sewer mains servicing the land shall be decommissioned.
- 71 In addition to the easements identified on the submitted plans, easements are required for the following:

- (i) The existing sewer main adjacent to the rear boundary of Lots 3 and 4 DP32608 in favour of Tamworth Regional Council; and
- (ii) The freestanding sign located on Lot F DP 347487 in favour of the development site.

Continued Operations

- 72 The landscaped area of the development is to be maintained at all times in accordance with the approved landscape plan.
- 73 The sealing to all vehicular parking, manoeuvring and loading areas is to be maintained at all times.
- 74 The pavement markings of all vehicular parking areas and associated signage to be maintained at all times.
- 75 All vehicular movement to and from the site shall be in a forward direction to ensure that the proposed development does not give rise to vehicle reversing movements on or off the Public Road with consequent traffic accident potential and reduction in road efficiency.
- 76 Vehicles shall be loaded or unloaded standing wholly within the premises and within loading bays designated on the submitted plans, or as otherwise provided in accordance with the conditions of this consent to ensure that the proposed development does not give rise to street loading or unloading operations with consequent accident potential and reduction in road efficiency. Under no circumstances are vehicles to be loaded or unloaded at the kerb side, or across the public footpath.
- 77 To ensure that the required parking, loading/unloading facilities and associated driveways are able to function efficiently for their intended purpose, proposed parking areas, service bays, truck docks, driveways, vehicular ramps and turning areas shall be maintained clear of obstruction and be used exclusively for their intended purpose, and under no circumstances are such areas to be used for the storage of goods or waste materials.
- 78 All delivery trucks must enter the site from Hill Street and exit to Marius Street. B-doubles are not permitted to make deliveries to the development.

Advice

- 79 If a system as defined in Part 4 of the Public Health Act 1991 (for example, a water cooling system), the installation, operation and maintenance of the system must comply with the Public Health (Microbial Control) Regulation 2000.
- 80 The Council shall determine the category of duration for car parking on the Council land adjoining the development as part of a review of all public parking within the Tamworth Central Business District (CBD).