

SUMMARY

A development application has been received for demolition of existing structures and construction of a shopping centre including a supermarket (shop), medical centre and speciality shops, parking and landscaping on the site. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

JRPP No:	2011HCC023
Applicant	Fabcot Pty Ltd C/- The Planning Group
Owner	Fabcot Pty Ltd
Application No	DA/459/2011
Description of Land	275 Pacific Highway, Lake Munmorah, Lot 2 DP.520220
Proposed Development	Demolition of existing structures and construction of a shopping centre including a supermarket (shop), medical centre and speciality shops, parking and landscaping.
Site Area	8.167 hectares
Zoning	3(a) Business Centre and 7(a) Conservation
Existing Use	Vacated rural landscape supplies centre
Employment Generation	250 (full time, part time, apprentices & casual staff)
Estimated Value	\$14,751,000

RECOMMENDATION

- 1 That consent be granted subject to the conditions detailed in the schedule attached to the report.***
- 2 That those who made written submissions be advised of the Hunter Central Coast Joint Regional Planning Panel's (HCCJRPP) decision.***

INTRODUCTION

The Site

The site is located on the eastern corner of Tall Timbers Road and Pacific Highway at Lake Munmorah and has an area of 8.167 hectares. A signalised intersection is in operation for these roads. The site has a slope from the south-west to the north-east at the lowest point.

The site contains a number of derelict buildings, sheds, piles of bricks, timber pallets, and terra cotta piping and consists of mostly cleared, disturbed land. The site also contains remnant forest in moderate condition along the north and south-eastern areas of the site. Within the north-eastern corner of the site containing the remnant vegetation is an intermittent first order drainage line with little or no defined drainage channel and no permanent flow or freestanding water. Located in the north-western corner of the site within the conservation zoned area is a large dam and a constructed open drainage channel that extends generally parallel along side the northern boundary from the dam to the low point in the north-eastern corner.

Existing vehicular access to the site is via both the Pacific Highway and Tall Timbers Road frontages. Adjoining the northern boundary of the site is a pocket of residential development (70-80 lots), and a mining investigation base and adjoining the eastern boundary is existing rural residential development. Opposite the site on Tall Timbers Road are playing fields and rural residential development. Opposite the site on the Pacific Highway are two manufactured home estates, rural residential development and a public reserve.

Surrounding development further afield generally consists of residential and rural residential activities with Lake Macquarie being approximately 1.5 km to the north and Lake Munmorah approximately 650m to the south. The site was previously used as a rural landscape supply centre for masonry/paving products and has recently been re-zoned to allow for retail land uses.

The site is identified as Bushfire Prone Land (buffer to Vegetation Category 1) and is located within a mine subsidence district.



The Proposed Development

The proposed retail development includes:

- Demolition of all existing structures;

- Bulk earthworks for the portion of the site on which the proposed retail building and associated development are proposed;
- Access driveways and associated site infrastructure;
- Construction of a building containing a 3800m² supermarket, specialty shop space of 1250m² (15 retail tenancies) a 500m² medical centre, ancillary amenities, and service and storage areas;
- Loading dock facilities;
- At-grade parking for 342 cars including landscaping;
- Designated drop off/pick up area, provision of bicycle rails and designated location for public art wall;
- Signage; and
- Rehabilitation and revegetation of offset conservation area (7(a) zone) and construction of a rain garden/detention basin.

The proposed supermarket component of the retail development is to be operated by Woolworths and will employ 250 staff inclusive of permanent full time, part-time, apprentices and casual staff. Approximately 200 people will be employed during the construction phase.

The proposed trading hours for the development are between 7:00am and midnight daily with deliveries proposed to occur between the hours of 6:00am and midnight daily.

Up to 2-3 refrigerated trucks and 2 grocery trucks will delivery goods for the supermarket each day. A further 8-10 delivery trucks are expected to service the specialty shops each day.

Signage, including two free standing pylon signs and flush wall building signs of various sizes are proposed for the development containing the name 'Woolworths' and a corporate symbol.

INTERNAL REFERRALS

The application has been referred within Council to:

- Senior Health and Building Surveyor
- Senior Development Engineer
- Arborist & Landscape Design Assessment Officer
- Trade Waste Officer
- Development Planner (Ecologist)
- Principal Transport Engineer
- Senior Asset Engineer (Water and Sewer)
- Environmental Health Officer (Food)
- Senior Environmental Health Officer (Environmental Protection)

The issues raised in the referral process are discussed in the report and where necessary reflected in the recommended conditions of consent

SUMMARY

During the assessment of the application, a number of issues were raised in relation to the proposed design of the development and supporting documentation. The issues raised in relation to the proposal included:

- Additional information required in relation to the traffic report
- Access, internal layout and servicing
- RTA issues, including acceleration lane
- No provision of a mini bus/shuttle to service Summerland Point, Gwandalan, Chain Valley Bay, and Lake Munmorah communities. No transport plan submitted.
- Provision of bicycle facilities
- Bus stops in Tall Timbers Road (Busways submission)
- Changes to Pacific Highway bus stop location
- Car parking layout and AS/NZS2890.1:2004
- Pedestrian access
- Earthworks
- Drainage
- Sewer servicing and ecological assessment.
- Medical centre restriction
- External appearance
- Acoustic impacts
- Permissibility of the drainage structure and Clause 30 of WLEP

Amended plans and information have been submitted for the proposal which, when included with the recommended conditions of consent will address the concerns that were initially raised.

VARIATIONS TO POLICIES

Clause	2.13d
Standard	Height
LEP/DCP	DCP Chapter 114 – Lake Munmorah Village Centre
Departure basis	14.75m at northern (rear) of building which is 3.75m in excess of the 11m maximum across the whole site. The variation results from the cross fall of site and the need to provide an accessible path of travel to/within the development.

Clause	9.3 and 2.13
Standard	Gross retail floor space maximum of 5000m ² .
LEP/DCP	DCP Chapter 81(9.3) and DCP Chapter 114 (2.13g)
Departure basis	50m ² in excess of maximum

Clause	2.2 and Appendix B
Standard	Indicative development layout
LEP/DCP	DCP Chapter 114 – Lake Munmorah Village Centre
Departure basis	Reconfigured layout.

Clause	2.14a
Standard	Transport
LEP/DCP	DCP Chapter 114 - Lake Munmorah Village Centre
Departure basis	Requirement to provide shuttle bus not satisfied.

Clause	5.4
Standard	Free standing – sign face max. dimensions
LEP/DCP	DCP Chapter 50 - Advertising Signs
Departure basis	1.3m ² in excess of maximum of 8m ² .

HISTORY

- DA/714/1992 was approved on 16 April 1993 for a change of use to rural landscape supplies centre (Nursery)
- RZ/7/2004 Rezone part of site from 10(a) Investigation to 3(a) Business Centre Zone and 7(a) Conservation Zone to enable future development of a shopping centre.

PERMISSIBILITY

The subject site is zoned part 3(a) Business Centre and part 7(a) Conservation under the Wyong Local Environmental Plan (WLEP) 1991. The definition of ‘shop’ and ‘medical centre’ under WLEP reads:

*“**shop** means a building or place used for the purpose of the selling (whether by retail or auction), hiring or displaying for the purpose of selling or hiring of items (whether goods or materials), but does not include a building or place elsewhere specifically defined in this clause, or a building or place used for a purpose elsewhere specifically defined in this clause.”*

*“**medical centre** means a building or place used for the purpose of providing professional health services (including preventative care, diagnosis, medical or surgical treatment or counselling) to outpatients only, but does not include a building or place elsewhere specifically defined in this clause.”*

The proposal includes construction of a shopping centre within the 3(a) zoned portion of the site. The proposal being defined as ‘shop’ and a ‘medical centre’ together with ancillary parking, access, loading and other aspects. The only development located within the 7(a) zone part of the site includes a drainage structure serving the development. Clause 30 of WLEP allows for this drainage structure to be located within 20 metres of the adjacent 3(a) zone boundary.

Clause 10 of the WLEP states that “Council must not grant consent to the carrying out of a development...unless, in the opinion of the Council, the proposed development is compatible with the objectives of the zone within which the development is proposed to be carried out.”

The proposed use as “shop” and a “medical centre” are not identified as prohibited uses under the zoning table and are thereby permissible with consent within the 3(a) zone. Additionally, within the 7(a) zone if the development is within 20 metres of the 3(a) boundary and is needed for servicing purposes, the flexible zoning provisions of Clause 30 can apply to permit the development within the zone.

The objectives for the 3(a) zone are:

- “(a) to provide the primary opportunity for the development of retail and commercial activities that are appropriate to the character and needs of individual business centres within the retail hierarchy proposed by a development control plan prepared by the Council for the purpose, and*
- (b) to provide for higher intensity retail and commercial uses, while allowing for low intensity retail and commercial uses in other business zones, and*
- (c) to enable the Council to provide more detailed guidelines about preferred retail distribution and development issues in a development control plan.”*

The objectives for the 7(a) zone are:

- “(a) to restrict the type and scale of development which will be carried out on land possessing special aesthetic, ecological or conservation values to that compatible with such environments, and*
- (b) to allow such development where:*
 - (i) it can be demonstrated that it can be carried out in a manner that minimises risks from natural hazards, functions efficiently, does not prejudice other economic development and does not detract from the scenic quality of the land referred to in the objective specified in paragraph (a), and*
 - (ii) it is unlikely to have a significant detrimental effect on the growth of native plant communities, the survival of native wildlife populations or the provision and quality of habitats for both indigenous and migratory species, and*
 - (iii) it is unlikely to have an adverse impact on the region’s water resources.”*

In regard to the objectives of the 3(a) zone, objective (a) provides an opportunity for development of retail and commercial purposes appropriate to the character and needs of individual business centres within the retail hierarchy. Council in rezoning the land for the purpose of a shopping centre, considered this aspect and imposed floorspace restrictions to ensure development was in keeping with the adopted retail hierarchy for Wyong Shire. The proposal is generally consistent with the adopted hierarchy.

Objective (b) is likewise considered through the rezoning process and the proposal is considered to be consistent with the intensity of retail and commercial use envisaged for future development of the site.

In regard to objective (c), the proposal is considered to be generally consistent with the adopted guidelines for future development of the site under DCP 2005 chapter 114.

The development proposal includes a shopping and medical centre being higher intensity retail and commercial activities that are appropriate to the character and needs of the Lake Munmorah locality, and of a scale that is consistent with the retail hierarchy proposed by Wyong DCP Chapter 81 and 114. As such these activities are compatible with the objectives for the 3(a) zone. The proposed rehabilitation and stormwater works within the 7(a) zoned land are compatible with the aesthetic, ecological and conservation values of the site and are therefore considered compatible with the objectives for the 7(a) zone.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

The Council has assessed the proposal against the relevant provisions of the following environmental planning instruments, plans and policies:

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy No. 64 – Advertising and Signage
- Wyong Local Environmental Plan 1991
- Wyong Shire Development Control Plan 2005
 - Chapter 14 - Tree Management
 - Chapter 50 - Advertising signs
 - Chapter 61 - Carparking
 - Chapter 67 - Engineering Requirements for Developments
 - Chapter 69 - Controls for Site Waste Management
 - Chapter 70 - Notification of Development Proposals
 - Chapter 81 - Retail Centres
 - Chapter 112 – Public Art
 - Chapter 114 – Lake Munmorah Village Centre
- Landscape Policy and Guidelines
- Waste Management Guidelines
- Planning for Bushfire Protection 2006
- North Wyong Structure Plan
- Wyong Retail Centres Strategy and Retail Centres Strategy Review 2006

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to Ecologically Sustainable Development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments. The proposal includes the removal of some existing vegetation on the site and proposes compensation for this vegetation removal in the form of a Vegetation Management Plan (VMP). The VMP is to be adopted for the 7(a) zoned part of the site that includes revegetation, weed removal and rehabilitation of the site and the existing Endangered Ecological Community on the site.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application. This assessment has included consideration of such matters as potential rise in sea level, potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion, as well as how the proposed development may cope / combat / withstand these potential impacts. The development has been designed to include energy efficiency and water conservation measures (this is discussed elsewhere in the report). Although the site is not low lying or susceptible to rising sea level or to coastal erosion, the site is identified as bushfire prone land and it is acknowledged that the extent of this risk may worsen under climate change scenarios. Appropriate measures are to be included as part of the proposal to minimise the risk of the development to bushfires over time. An additional consideration is that of motor vehicle dependence in relation to climate change. Shopping centres typically tend to encourage car dependence rather than not. The proposal includes some improvements to existing pedestrian, cycling and bus service facilities, although given the isolated location of the site, and the strong likelihood of visitors arriving to the site by car there is a need to support and encourage alternative modes of transport, through conditions of consent. These conditions require the applicant to upgrade the existing bus service facilities in the vicinity of the site, improve pedestrian access to the site, and to provide cycling 'end of trip' facilities as part of the development.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information.

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv):

State Environmental Planning Policy (Infrastructure) 2007

The development has a frontage to the Pacific Highway which is identified as a 'Classified Road'. Clause 101 of State Environmental Planning Policy (Infrastructure) 2007 requires that prior to granting consent to development with a frontage to a 'Classified Road', that Council be satisfied as to a number of aspects of the proposal. Under subclause (2) these aspects are identified as:

- “(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.”*

The proposal includes access for motor vehicles via the Pacific Highway and Tall Timbers Road. The arrangements proposed will not compromise the safe or efficient operation of the Pacific Highway and the proposed use is not sensitive to traffic noise or vehicle emissions.

Clause 104 (Traffic-generating development) and Schedule 3 also applies to the development as the proposal is for shops exceeding 2,000m² in area and includes area for ancillary parking accommodation for 200 or more motor vehicles with access to a classified road. In accordance with the requirements of this Clause, the application was referred to the RTA for comment. The requirements of the RTA have been addressed in the recommended conditions of consent. Additionally, in accordance with subclause (3)(ii) consideration has been given to the accessibility of the site concerned, including:

- “(a) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
- (b) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
- (iii) any potential traffic safety, road congestion or parking implications of the development.”*

The proposed development has been assessed and conditions recommended to ensure that the safe, effective and ongoing operation and function of the Pacific Highway will not be compromised.

State Environmental Planning Policy No.55 – Remediation of Land

Clause 7(1) of State Environmental Planning Policy 55 requires that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and if contaminated, that the land is suitable in its contaminated state (or will be suitable, after remediation) for the development proposed to be carried out. Clause 7(2) requires where there has been a change of use on any of the land (as specified under subclause 4), that Council consider a report specifying the findings of a preliminary investigation of the land in accordance with the contaminated land planning guidelines.

In this regard, the applicant prepared a Phase 1 Environmental Site Assessment report for the site which concluded that although the site is unlikely to be significantly contaminated, there is likely to be localised areas of contamination requiring some form of remediation. The most likely areas being that part of the site previously accommodating the underground petroleum tank and vehicle maintenance yard. The report identifies that a phase 2 site investigation would be required to investigate those areas of potential concern. The report recommends the detailed site investigation be conducted once structures on the site have been demolished and the site has been cleared. A condition has been recommended to address this requirement.

State Environmental Planning Policy No. 64 – Advertising and Signage

The provisions of State Environmental Planning Policy No.64 - Advertising and Signage apply to the proposal. The proposed development seeks approval for new signage associated with the new shopping centre and 'Woolworths' supermarket. Under Clause 6 of the SEPP, the signage would be considered as 'building identification signs' and 'business identification signs' and as such, Part 3 of the SEPP does not apply to the development. In accordance with Clause 8 of the SEPP, the signage is considered consistent with the objectives of the policy and satisfies the assessment criteria outlined under Schedule 1 of the instrument.

The signage is considered reasonable and compatible with the existing and future visual character of the area. The signage is not located within an environmentally sensitive area and does not dominate or visually clutter the streetscape. The signage is oriented away from the 7(a) zone and adjoining residential development to the north. The illumination of the signage is considered reasonable and consistent with the accepted signage for a retail development of this nature.

State Environmental Planning Policy (Major Projects) 2005

State Environmental Planning Policy (Major Projects) 2005 requires that development applications with an estimated capital investment value exceeding \$10 million are to be determined by a HCCJRPP. The proposed project has a capital investment value of over \$14 million. Pursuant to Clause 13C of the SEPP, the application has been forwarded to the HCCJRPP for determination.

Wyong Local Environmental Plan 1991

Clause 10 - Zoning

The subject site is zoned 3(a) Business Centre zone and 7(a) Conservation under the WLEP. The majority of the development is proposed within the 3(a) zone on the site. Only the construction of a stormwater detention basin (rain garden) and vegetation rehabilitation works are proposed within the 7(a) zoned part of the site. The drainage works are proposed within 20 metres of the 3(a) zone boundary and are therefore permissible under Clause 30 of WLEP. The rehabilitation works are permissible as 'exempt vegetation management works' and both are consistent with the 7(a) zone objectives.

Development for any purpose is permissible other than those identified as prohibited within the 3(a) Business Centre zoning table. "Shop" and a "Medical Centre" are both uses that are not identified as prohibited under the zoning table and are both therefore permissible with development consent. As discussed earlier in the report, both of these proposed uses are considered consistent with the 3(a) zone objectives.

Clause 15 - Acid Sulphate Soils

Clause 15 requires special assessment to be given to certain development on land being subject to actual or potential acid sulphate soils. The site is identified as Class 5 - outside 500m on the Acid Sulphate Soils Planning Map. Under Clause 15(2) a person must not, without the consent of Council carry out works within Class 5 which are likely to lower the water table in any adjacent 1, 2, 3 or 4 land to any point below 1 metre AHD unless an assessment is undertaken in accordance with the Acid Sulphate Soils Assessment Guidelines to establish the likelihood of acid sulphate soils and identify their management. There are no works proposed as part of the development that are likely to lower the water table in any adjacent 1, 2, 3 or 4 land to any point below 1 metre AHD.

Clause 29 - Services

The proposal will generate a load of 12.55 ET's (Equivalent Tenement) on the water supply and sewerage systems. The development can be serviced for water from an existing 200 mm water main that is located on the eastern alignment of Tall Timbers Road. The existing system is adequate to provide water supply to the proposed development.

The site is currently not serviced for sewer. In order to provide sewer for this development, the developer will be fully responsible for the extension of the sewer main from the existing Dead End (east of the houses in Kamira Road) to inside the development site and the construction of a sewer manhole. The developer is required to prepare the design plans and submit these to Council for approval prior to issue of a Construction Certificate. The existing sewerage system can accommodate the above loading however, some components of the downstream infrastructure will require upgrading to accommodate the ultimate loading in this area. The cost of the upgrading works will be funded from the sewerage contribution charges by the developers. The proposal falls within the Development Servicing Plan (DSP) for the Lake Munmorah District and the contribution charges for water supply and sewerage will be applicable.

Clause 30 – Development near boundary of adjacent zones

Clause 30(1) allows for development permitted within a zone to be carried out on land in an adjacent zone (other than zones 6(b), 7(d) 7(e)) within 20 metres of the boundary between the zones. Clause 30(2) states that Council may grant consent but only where the carrying out of the development is necessary, in the opinion of Council, due to planning, design, servicing or similar requirements relating to the optimum development of the land. The proposal includes a stormwater facility (to comply with Water Sensitive Urban Design WSUD requirements) to be located in the 7(a) Conservation zone on the site within 20 metres of the zone boundary. The proposed WSUD stormwater device is a necessary servicing requirement for the development and was identified as part of the development under the relevant site specific DCP Chapter 114. The stormwater facility would be 'characterised' as part of the shopping centre development as it serves no purpose other than as a facility solely for the development. It is therefore permissible as part of the development within the 3(a) zoned portion of the site and under this Clause the facility is permitted to extend within the 7(a) zone for a distance of 20 metres from the 3(a) zone boundary. The development is consistent with this clause.

Clause 42 – Floor Space Ratio

Land within a 3(a) zone that is identified as a local or neighbourhood centre in any DCP is restricted to a maximum floor space ratio (FSR) of 0.5:1. The site is zoned 3(a) and is identified under DCP Chapter 81 as a village centre, therefore the clause does not apply to the development.

Wyong Shire Development Control Plan 2005

Chapter 14 - Tree Management

The proposal involves the removal of existing native trees on the 3(a) zoned part of the site. The applicant prepared and submitted a VMP that includes compensatory planting, and rehabilitation works on the 7(a) Conservation zoned part of the site.

Chapter 50 - Advertising signs

DCP Chapter 50 applies to the signage proposed for the development. No details are provided at this stage for the individual signage for each of the separate tenancies. The signage proposed mainly relates to Woolworths. The proposed signage content is to comprise the name Woolworths with a green corporate symbol and directional advisory signage. The types of signs initially proposed included:

- 2 x Illuminated freestanding pylon signs one for each street frontage (double sided face 3.215m x 3.645m and 8m high)
- 2 x Car park entry reversible sign (2.4mx 1.2m)
- Above awning building entry sign (11.7m x 2.5m) south-west corner of building
- Flush wall, building façade sign west facing (4.68m x 1m)
- Flush wall, building façade sign south facing (11.7m x 2.5m)
- Flush wall building façade sign east facing (11.7m x 2.5m)

However, an amended plan was submitted in relation to signage proposing the following signage details:

- 2 x Illuminated freestanding pylon signs (double sided face 3.215m x 4.395m and 8m high, one for each street frontage)
- Above awning building entry sign (11.7m x 2.5m)
- Flush wall, building façade sign west facing (6.430m x 5.787m)
- Flush wall, building façade sign south-west corner of building (8.775m x 1.875m)
- Flush wall, building façade sign south-west corner of building (4m x 1.875m)
- Flush wall building façade sign east facing (8.775m x 1.875m)

This amended plan shows substantially different signage detail to that originally advertised for the proposal and includes reference in three signs to a liquor shop for which no reference had been provided on the plans or in supporting information. A condition is to be included requiring deletion of the references to the liquor shop signage as this is appropriate for consideration at a later stage in the context of an application for (or approval of) such a future use and its fitout within the shopping centre. Additionally, the amended signage plan deleted reference to the proposed two car parking entry signs (1.2m x 2.4m) and the general dimensions of a number of the proposed sign increased in size.

Clause 5.4 of DCP Chapter 50 defines pylon signs as free standing signs and limits the face of the sign to 8m², the height of the sign to 7 metres and generally only one free standing sign for each street frontage. The dimensions and height proposed for the pylon sign do not comply with the DCP requirements. A condition is recommended to reduce the height of the pylons signs by 1 metre to comply with the maximum height under the DCP of 7 metres. The proposed pylon sign under the amended plans (14.13m²) exceeds the maximum face area for such signs being 8m². As discussed above, deletion of the liquor shop signage will reduce the face area of the pylon signs to 11.7m². Further, a component of each pylon sign face (3.215m x 750mm) is directional signage for the purposes of parking associated with the development. This 'parking' component of the signs does not contain advertising material as it is for information purposes and it is considered reasonable to deduct this component from the total sign face area. Therefore, the proposed pylon sign face would be reduced to 9.3m² and the extent of variation sought to the DCP requirement in relation to the signage face is 1.3m².

The objectives for the DCP controls include ensuring that signage is properly designed located and maintained and to preserve the amenity of a locality and ensure that signage is in keeping with the scale and character of surrounding buildings and structures. Given the significant scale and commercial character of the development and the large size of the site and its context in a newly developing area on the Pacific Highway, the extent of variation is considered minor and will not be readily perceived. The extent of variation is acceptable.

The remainder of the signage proposed for the development would be considered as flush wall signage. Clause 5.6 of the DCP advises that flush wall signs are not to extend laterally from the wall or beyond the edge of the wall and must be 2.6 metres above ground level if internally illuminated, and the total coverage is not to exceed 25% of the wall space for each frontage. The flush wall signs proposed all comply with the DCP requirements. However, under the amended plans the increased dimensions for the west facing flush wall sign results in it marginally extending above the roof line of the development. The DCP will allow for signs to protrude above the roofline where the sign does not visually dominate or detract from the skyline, the streetscape or the building. In this instance, the protrusion is acceptable as it is only a marginal protrusion and other parts of the building roofline are of a similar height. As the sign is designed to visually integrate with the architectural form of the building it will not readily visually dominate or detract from the skyline, the streetscape or the building. The sign will present as a high quality professional finish.

The illumination of the signage is not considered to readily impact upon any surrounding properties given the context of the site and the orientation and location of the illuminated signage away from residential properties. There is residential development located to the north and along the opposite side of the Pacific Highway to the site however, it is considered that there is sufficient distance between the development and the residential activities that will minimise any impacts.

Chapter 61 - Carparking

The development generates on-site parking on the following basis under Chapter 61 of the DCP:

- Supermarkets, shopping centres 500-10,000m² GLFA requires 6.1 spaces per 100m²
- Medical Centre requires 1 space per employee plus 3 spaces per surgery
- Provision of at least four (4) accessible spaces

On the basis of 5050m² gross leaseable floor space (GLFA) for the supermarket and shopping centre (at a rate of 6.1 spaces/100m²) parking generation is 308 spaces.

Although no layout plans were provided for the medical centre, the applicants traffic report based the parking provision for the future centre on 6 staff and 5 surgeries. This equates to 21 spaces required for the medical centre under the parking rates included under DCP Chapter 61 (1 space/employee plus 3 spaces/surgery). The total parking demand for the development under the DCP is 329 spaces. The development provides an at-grade parking area to service the development containing 342 spaces including 6 accessible spaces. This is 13 spaces in excess of the DCP requirement and this will create some flexibility in the event that any future use has a parking demand greater than currently provided. The parking for the development is considered satisfactory.

Chapter 67 - Engineering Requirements for Developments

All civil works associated with the proposal will be designed and constructed to achieve compliance with DCP Chapter 67 – Engineering Requirements for Developments. Stormwater plans have been submitted and reviewed for the development and no objection is raised subject to the inclusion of conditions relating to the drainage design, infrastructure upgrades and associated works. Conditions will also be included to address sediment and erosion control measures required for the development.

Chapter 69 - Controls for Site Waste Management

In accordance with the requirements of DCP Chapter 69, a Waste Management Plan was submitted with the application outlining the waste disposal, re-use and recycling (on and off site) for the development at each stage (ie. demolition, construction and ongoing use). This plan includes the types of waste generated and waste minimisation and mitigation strategies. A condition is recommended requiring the preparation of a detailed waste management plan for the development that addresses the matters identified in the submitted plan and to ensure the development is carried out in accordance with the submitted Waste Management Plan.

Chapter 81 - Retail Centres

Under Chapter 81 of the DCP, the shopping centre development on the site is identified as a village centre. Village Centres provide for a range of weekly food and convenience shopping. The DCP (Clause 3.2.3) identifies the need for a new village centre in the Lake Munmorah area to service the Northern Lakes/Budgewoi area. Although the DCP does not identify a specific site, the development of this site as proposed will provide that required village shopping centre. The DCP identifies the potential for this centre to expand in floor area up to 10,000m² and that it is expected to be anchored by a supermarket and have some potential for the inclusion of bulky goods developments within that floor space limit.

The current proposal includes a supermarket (3800m²) with specialty retail space (1250m²) containing 15 retail tenancies, totalling 5050m² in area. Additionally the proposal includes a medical centre with a floor area of 500m². All maximum floor space calculations referred to this DCP relate to the gross retail floor space (refer to 1.5 Definitions) and do not include non-retail services (refer Clause 6.3). The DCP states that this is because non-retail floorspace generally does not have any significant economic effect. In this regard, the floor space containing the medical centre (500m²) is identified as non-retail services under the DCP and therefore not included in the calculation for the purpose of this retail floor space.

Non retail services are encouraged in new village centres under Clause 6.2 of the DCP and under Clause 6.3, the DCP states that a *minimum of 10% of the total additional floorspace of all new and redeveloped District Shopping Centres and Village Centres must be allocated to non-retail services*. In this regard, the non retail floor space being the medical centre represents generally 10% of the total additional floor space of the new village centre.

Although the extent of floor area (ie. total gross retail floor space) is consistent with the overall maximum of 10,000m² identified for the total site under Clause 3.2.3, it exceeds the 5000m² maximum floor area identified for the village centre under Clause 9.3 of the DCP. The extent of variation sought is considered minor and limited to 50m² retail floor space in excess of the control. This clause goes on to further state that a:

specific site is yet to be identified and will be subject to further detailed planning of the San Remo and Northern Lakes Social Planning Districts. This Village Centre might have the potential to expand by an additional 5,000m² of retail floorspace after 2021 (i.e. maximum gross retail floorspace of 10,000m²). Bulky goods floorspace would need to be accommodated within this floorspace limit.

It is intended that the eastern half of the site may be developed in the future for bulky goods uses although this is not included under the current proposal.

The variation to the DCP for an additional 50m² sought under the proposal is considered minor and comprises two 25m² kiosks within the centre. Removing these kiosks and reducing the retail floor space to comply will not alter the FSR or the building form or appearance. The additional 50m² is not considered to be significant or sufficient to adversely impact on the spending patterns at other retail centres in the trading area. The development remains consistent with the DCP objectives despite the non compliance and the extent of variation is minor and is considered reasonable.

The proposal is considered consistent with the design guidelines in relation to streetscape, architectural character, public amenity, parking and servicing outlined under Clause 11 of DCP Chapter 81.

Chapter 112 – Public Art

DCP Chapter 112 requires major development with an estimated construction value of over \$5 million or greater to implement public art as part of the development. Under the DCP a minimum of 1% of the total cost of the development is to be dedicated to this end. The applicant proposes a wall mural and has nominated a wall on the western building elevation for this to be carried out although no specific details have been provided at this stage. A condition has been recommended requiring the provision of public art to be carried out as part of the development in accordance with the DCP requirements.

Chapter 114 – Lake Munmorah Village Centre

DCP Chapter 114 is a site specific DCP prepared in respect of the rezoning of the site for a shopping centre development. This DCP outlines development of the shopping centre in two stages on the site, with Stage 1 providing up to 5000m² gross retail floor space by 2011/2012 and Stage 2 providing up to an additional 5000m² gross retail floor space after 2021. This floor space beyond 5000m would be determined by a retail capacity and impact assessment report demonstrating that the expansion would not adversely impact other existing centres within the Northern Lakes Trade Centre. The maximum gross retail floor space for the site is 10,000m². Additional non-retail floor space maybe permitted where it provides a supporting role to strengthening the overall viability and vitality of the centre. Under the proposal, the medical centre is included as non-retail floor space that satisfies this intention.

Design Principles

In accordance with Clause 2.2 of the DCP, the development is of a scale and character appropriate to the characteristics of the local area. The siting and design presents as a unified, coherent appearance. The site layout is to be generally in accordance with that envisaged for the site under the DCP indicative site layout plan. Under the DCP layout plan, the whole of the site zoned 3(a) is developed in some form under stage 1 with the main retail centre generally in the middle of the site. The proposal separates the western half of the site to be developed under stage 1 and the eastern half of the site to be developed under stage 2. This includes the practical considerations for the construction of stage 2 with minimal disruption to stage 1. Under the DCP layout plan, stage 2 is contained in separate buildings scattered along the site frontage behind the landscaping. The applicant has argued that development in this form (as shown under the DCP layout plan) is not desirable for the following reasons:

- The number of buildings would make for a disjointed use for future customers and may not attract users evenly which then places market pressure on securing tenants.

- The design does not provide for all weather protection in the same manner as a single building does.
- The design with one building provides for an active street frontage, integration with at-grade parking areas with accessible paths of travel.
- The design with one building will ensure the landscape setting in relation to the streetscape along the Pacific Highway will be preserved as no built forms are proposed within a 45m building setback.
- The development remains consistent with Clause 2.2.

The variation proposed to the indicative building layout plan is reasonable and remains consistent with the aims, objectives and principles of the DCP. This variation has been considered under Clause 1.7 of the DCP and is supported.

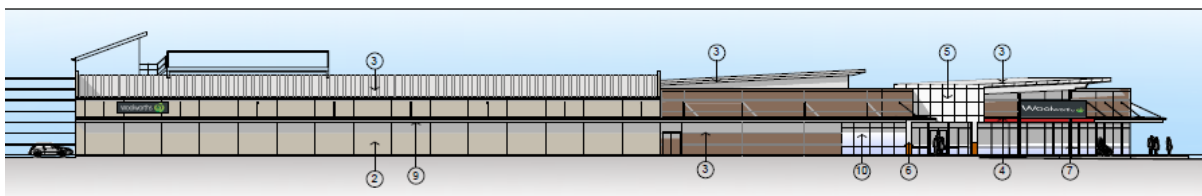
2.3 Site Access and Parking

The access and parking arrangements for the development are considered consistent with the DCP requirements subject to recommended conditions.

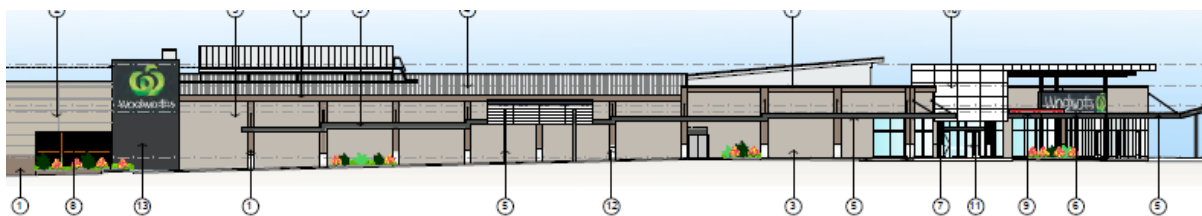
2.4 External Presentation and visual appearance

The proposal generally addresses the DCP requirements under this section satisfactorily. Adequate consideration has been given to the design to ensure it addresses the 'dual street frontages, their turning of the corners and views into and from the site'. Awnings have been provided along the building frontages to create covered walkways to the shops. The main building entry is clearly expressed and a variety of roof shapes including skillion form have been used to create visual interest. Outdoor storage areas are not within ready view.

However, concerns were initially raised regarding the external design and appearance of the development and further visual treatment was requested. The DCP requires *building designs include surface relief or surface patterns which achieve a balance in horizontal and vertical articulation of the facades so as to avoid large buildings with unmodulated blank walls and no variation in architectural treatment*. The applicant submitted an amended finishes schedule and elevation plans that provides greater architectural expression and visual interest to the building.



Western elevation before amendment



Western elevation after amendment

2.5 Energy Efficiency

The development is consistent with the energy efficiency provisions under this clause of the DCP. Energy efficient fixtures and water saving devices are included as part of the development. This is discussed in greater detail later in the report.

2.6 Water Sensitive Urban Design

The proposal incorporates Water Sensitive Urban Design principles in accordance with the DCP including rainwater tanks, a rain garden, and landscaping interspersed throughout the at-grade car parking area. Conditions are recommended to address the DCP requirements.

2.7 Acoustic and Lighting Controls

In accordance with this clause of the DCP, an acoustic report was submitted with the application to address any potential noise impacts associated with the proposal. Conditions are recommended to further address this issue.

2.8 Design Safety and Security

The development has been design in accordance with the principles for Crime Prevention Through Environmental Design (CPTED) and a report accompanied the proposal and was forwarded to NSW Police for comment. The proposal is consistent with the DCP requirements.

2.9 Landscaping

The DCP requires the preparation of a landscape plan and VMP under Category 3 of Council's Landscape Policy. The VMP is to guide the retention of significant vegetation on the site in particular along the northern and eastern property boundaries. A Category 3 landscape plan and VMP were submitted with the application and assessed as satisfactory subject to recommended conditions.

2.10 Infrastructure and Waste Management

In accordance with the DCP, loading and servicing areas are not prominent from either site frontage. Separate loading facilities are provided for the supermarket and specialty shops. Solid waste is to be sorted for recycling and re use and collected on site. Conditions are recommended to address the servicing of the development.

2.11 Construction Management

Conditions are recommended to address the construction management requirements under this section.

2.12 Signage

This aspect of the proposal has been discussed in detail earlier in the report under the comments on DCP Chapter 50 and SEPP 64. There are no additional requirements.

2.13 Building Height, Setback and Floor Space Ratio

Setbacks

The development complies with the required minimum building setbacks and the required minimum landscaped setbacks under this part of the DCP. Under the proposal, the car parking encroaches into the building setback area. The DCP states that no structures are allowed within the building setback areas however, allowable encroachments within the building setbacks are parking, outdoor staff seating areas, signage and access lanes.

Height variation

A maximum building height of 11 metres applies across the site (Clause 2.13d) measured vertically from existing ground level at any point to the highest point of the building and includes plant. The proposal exceeds this requirement at the northern (rear) end of building, measuring 14.75m above existing ground level. This is 3.75m in excess of the 11m maximum that applies. The applicant has argued that the non compliance results from the steep cross fall of the site (from south-west to north-east) and the need to provide an accessible path of travel to/within the development. The component of the building which will exceed the height limit is the roof area and mezzanine. The DCP states that roof treatments may be considered to project beyond this height where it can be demonstrated that there is merit in doing so. The applicant has provided the following arguments:

- The breach occurs at the rear of the building and is not visible from either Tall Timbers Road or the Pacific Highway.
- The breach occurs along the northern edge of the building and therefore any shadows cast from the breach will fall across the roof of the development and will not affect any adjoining properties.
- The design of the development would comply if the land did not require re-grading to accommodate the at-grade parking.
- A variation in this circumstance will not set a precedent as very few other forms of development in the immediate locality would involve a similar development 'floor plate' and similar design intent.

The variation to the building height is appropriate to the use and is not visually intrusive when viewed from surrounding areas. The variation proposed to the building height is reasonable and remains consistent with the aims, objectives and principles of the DCP. This variation has been considered under Clause 1.7 of the DCP and is supported.

Floor Space Ratio

A maximum floor space ratio of 0.25:1 applies to the site. The development proposes a floor space ratio of 0.08:1 which is well below the maximum permitted for the site.

Retail floor space

The proposal includes a retail floor space of 5050m² this exceeds the retail floor space maximum for stage 1 by 50m². As discussed earlier (under the section relating to DCP Chapter 81), the variation to the DCP for an additional 50m² sought under the proposal is considered minor and comprises two 25m² kiosks within the centre. Removing these kiosks and reducing the retail floor space to comply will not alter the FSR or the building form or appearance. The additional 50m² is not considered to be significant or sufficient to adversely impact on the spending patterns at other retail centres in the trading area. The development remains consistent with the DCP objectives despite the non compliance and the extent of variation is minor and is considered reasonable.

2.14 Transport

The DCP requires the preparation of a Transport Plan that identifies and addresses a reduction in the demand for travel by private car by:

- providing a shuttle/mini bus service to Summerland Point, Gwandalan, Chain Valley Bay and Lake Munmorah, with a minimum of two services to and from the development in the morning and afternoon, each day.
- Providing a shared off-road cycleway, which is safe and direct.
- Provide appropriate pedestrian facilities for pedestrians to cross the Pacific Highway

The applicant submitted a Transport Plan that did not include provision of a shuttle/mini bus service as required by the DCP. The applicant argued that the existing bus services are adequate to connect the site to these areas with at least one service in the morning and afternoon. The applicant states:

“the proposed supermarket is accessible during the day by bus from the surrounding areas. While the service is limited in some locations, with appropriate planning, people could access the site by bus. It is important to note that these people already travel to access the retail facilities and that the proposed shopping centre provides additional retail facilities that will be more accessible. As the site is currently accessible by buses, the provision of a mini bus service is not warranted. It is noted that should demand for bus services increase, the local bus operator (Busways) could increase services. Provision of a mini bus service could reduce the demand for existing services (by competing with existing services) and delay provision of additional services in the future “

The applicant's transport plan does not provide any supporting details including precise details on the bus routes and identification of what facilities are required to properly service the development from the current bus routes. The applicant does not outline how the development will encourage the use of the buses, only that the subject site is currently accessible by bus. If the proper bus stops are not provided, including pedestrian paths to the bus stops, on both sides of the Pacific Highway and on both sides of Tall Timbers Road, it is considered that the development is not encouraging people to use the current bus service. Whilst the applicant's transport plan identifies that there are buses currently operating along the Pacific Highway and Tall Timbers Road, no bus stop facilities, with the exception of the northbound Pacific Highway are identified in the transport plan to cater for these bus services.

In consideration of the recent adoption and effect of the DCP (November/December 2010), variation of the DCP controls needs serious consideration. It is understood that the requirement for a mini bus service was imposed due to the isolated and relatively under developed character of the site and its context. The objective for the control states:

- *“To encourage and facilitate the use of modes of transport other than the private car.”*

Taking into consideration the arguments that the applicant has provided regarding the existing bus service, there appears to be an argument for varying the requirement for the mini bus service if the existing bus service facilities (bus stops and pedestrian access to these stops) could be upgraded to increase their appeal and attractiveness to existing and potential patrons. The applicant proposes to upgrade only one of the existing bus stops in the vicinity of the site which is located along the Pacific Highway frontage to the site. This bus stop only accommodates buses travelling in one direction past the site (eg. eastwards) which is restricted by the bus route. The single bus stop upgrade is not adequate to service the proposal in respect of the other routes servicing the site or buses travelling in an alternate direction (eg. travelling north down Tall Timbers Road or west along the Pacific Highway).

It is recommended that basic upgrading works be carried out to the existing bus stop directly opposite the site along the Pacific Highway, and two new bus stops be provided in Tall Timbers Road to service the development. The existing bus stop on the southern side of the Pacific Highway requires improvement to provide passenger set down areas capable of being serviced by boarding devices such as ramps or lifts, bus shelter and 1.2 metre wide footpath connecting to the signalised pedestrian crossing at the Tall Timbers Road intersection. Both bus stops in Tall Timbers Road will be required to provide a set down area and signage, however, the eastern bus stop will be required to provide a seat and shelter in accordance with the requirements of DCP Chapter 114. Identical infrastructure is not recommended on both sides of Tall Timbers Road as the development is not expected to create a significant demand for bus patrons boarding on the western side. The extent of upgrading works are to be included under recommended conditions and will include associated pedestrian facilities. It is considered that upgrading of the four bus stops in the vicinity of the site will contribute greatly to the attractiveness of the existing bus service for users visiting the site. It is on this basis that the variation to the requirement for provision of a shuttle bus is supported.

In relation to the provision of a cycleway, the applicant entered into a Voluntary Planning Agreement in relation to construction of a cycleway along the Pacific Highway in two stages.

Clause 2.14b of the DCP requires the provision of designated bus bays incorporating bus shelter, seating and lighting for new or existing bus routes in the vicinity of the development. The applicant has proposed to upgrade one of the bus stops near the site that is located along the Pacific Highway frontage to the site to accommodate two buses. An internal pedestrian path to the bus stop will be provided within the car park linking the bus stop to the centre. The new bus stop will be provided with a shelter and appropriate seating. It is noted that this DCP Clause refers to bus bays (not singular) for new or existing bus routes (not singular). In this regard, the provision of additional upgrades to bus stops in the vicinity of the site will achieve satisfactory compliance with this DCP requirement. Conditions are recommended to satisfactorily address this aspect.

This Clause of the DCP also requires provision of bicycle parking in appropriate and well lit and sheltered locations and provision of showers, change rooms and lockers for staff. The proposal will comply with these requirements subject to recommended conditions of consent

2.15 Urban Interface Area (UIA) Requirements

In accordance with the DCP, an urban interface area is required in order to retain significant vegetation and manage buffer areas along the perimeter of the shopping centre including the northern and eastern boundary interface of the 7(a) Conservation zone and the 3(a) Business zone perimeter of the shopping centre development. Conditions are recommended to address this control including the requirement for landscaped earthen batters to the northern, eastern and western edges of the development adjoining the 7(a) zone.

North Wyong Structure Plan

The Draft Wyong Structure Plan has identified a new retail centre in this location within the area contained under the plan. The proposal is therefore consistent with the provisions of the plan.

Wyong Retail Centres Strategy and Retail Centres Strategy Review 2007

Wyong Retail Centres Strategy identifies the need for a new centre at Lake Munmorah to provide accessible supermarket based shopping for present and future population in the northern areas of the Shire currently reliant on the Lake Haven district centre. This is due to accelerated trends in retailing, the delay in establishment of a supermarket at Warnervale (district centre) and the need to provide competition to Lake Haven that will preserve the potential for the Warnervale supermarket. Additionally, the Lake Munmorah centre location already has a significant catchment population. The Strategy identifies this new centre to be a village centre of 5000m² by 2011 and expansion of the Lake Munmorah centre to some 10,000m². The proposal is therefore generally consistent with the Strategy.

Landscape Policy and Guidelines

Council's Landscape Policy and Guidelines and DCP Chapter 114 (Clause 2.9a) requires the landscape design for the development to be done as a Category 3 development that requires the expertise of an approved Landscape consultant. A landscape plan accompanied the application which complies with the requirements of the Landscape Policy. Following review of the plan, a number of changes were made to the proposal including the addition of retaining walls within the landscaped frontage. No updated landscape plan was submitted with these changes therefore conditions are recommended to address a number of landscaping changes to the proposal.

THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b)):

The relationship to the regional and local context and setting.

Locality and Streetscape

The proposal will not adversely impact on the character and amenity of the locality and streetscape. The scale, form, character and density of the development is acceptable within the locality. The proposal involves the redevelopment of the site to allow for new retailing activities within the locality.

Privacy, overlooking and boundary treatments

There are a number of residential dwellings surrounding the site to the north with their rear yards oriented towards the development site. The building has generally been designed to minimise the potential for any overlooking to the adjoining residential properties. Additionally, the 7(a) zoned land will serve to visually separate the development from general view of the dwellings once the vegetation has been regenerated as proposed.

The access, transport and traffic management measures.

Traffic generation

The applicant prepared a traffic report for the development that identifies the likely traffic to be generated by the development during peak times. Based on RTA Guidelines, the development is calculated as generating traffic on the basis of 690 vehicles per hour (two way) on a Thursday afternoon and 735 vehicles per hour (two way) on a Saturday midday peak period. It was estimated that 25% of retail trips would be passing trade (ie. Vehicles that are already in the existing traffic stream passing the centre) and multi purpose trips. On this basis, the additional traffic generation would be around 550 vehicles per hour (two way) during the Saturday midday peak period. For the medical centre, 45 vehicles per hour (two way) trips would be generated. Under the report, it was anticipated that traffic flows on the Pacific Highway would increase by 215-365 vehicles per hour (two way) in the peak periods. Traffic flows on Tall Timbers Road would increase by some 420 vehicles per hour (two way) in the peak periods. Traffic flows on Colongra Bay Road, Elizabeth Bay Drive and Carters Road would increase by some 20-50 vehicles per hour (two way). The applicant carried out a SIDRA analysis on the adequacy of the intersections. The RTA examined this assessment and raised no objections subject to inclusion of conditions relating to access and traffic.

External Road Infrastructure and Access

The existing Tall Timbers Road formation in the vicinity of the development presents as a rural collector road, currently in fair condition. Significant upgrading works are required to bring the road formation and road environment to a condition and arrangement suitable for use by the development. These works include:

- Reconstruction of Tall Timbers Road to four carriageway for the full frontage of the development with transitions to the existing road formation required at both ends of the works.
- Flexible pavement to cater for a suitable traffic loading.
- Kerb and gutter on both sides of Tall Timbers Road for the length of the 4 lane road formation and extend the marked pedestrian crossing on the western side of Tall Timbers Road.
- Vehicle access to the site provided as an intersection in Tall Timbers Road
- Provision of bus stops and associated infrastructure on both sides of Tall Timbers Road. Both bus stops will be required to provide a set down area and signage, however, the eastern bus stop will be required to provide a seat and shelter in accordance with the requirements of DCP Chapter 114. Identical infrastructure is not recommended on both side of Tall Timbers Road as the development is not expected to create a significant demand for bus patrons boarding on the western side.
- Provision of longitudinal stormwater drainage and associated infrastructure, with new stormwater pipeline connected directly to the existing inlet of the downstream pipeline, and interconnection with the existing piped road culverts.
- Extension of road culverts to cater for new carriageway width.
- Regrading of the eastern verge

- Shared path 2.5 metres wide on the eastern side of Tall Timbers Road from the Pacific Highway to Chisholm Avenue. This pathway allows pedestrian connectivity of the development to the residential catchment to the north. Tall Timbers Road is outside of the scope of the shared path network commitments contained within the Voluntary Planning Agreement.
- Footpath 1.2 metre wide on the western side of Tall Timbers Road, from the bus stop to the marked pedestrian crossing at the intersection of Pacific Highway and Tall Timbers Road.

The existing Pacific Highway road formation in the vicinity of the development is a 4 lane dual carriageway arterial road, currently in good condition. Significant upgrade works are required to bring the road environment up to standard that ensures that arrangement is suitable for use by the development:

- Kerb and gutter along the frontage of the development extending from the existing kerb at the Tall Timbers Road intersection to the required road gully /junction pit, with sufficient additional extension as required for drainage purposes. The kerb and gutter improves the road environment to a satisfactory and sustainable condition by providing a formalised road edge and delineation.
- Vehicle access to the development shall be provided as an intersection with the RTA imposing suitable design parameters for leaving and joining the traffic on the Pacific Highway.
- Provision of bus stops and associated infrastructure on both sides of the Pacific Highway. The existing bus stop on the southern side of the Pacific Highway requires improvement to provide passenger set down areas capable of being serviced by a Kneeling bus, bus shelter and 1.2 metre wide footpath connecting to the signalised pedestrian crossing at the Tall Timbers Road intersection. The bus stop on the northern side of the Pacific Highway shall be relocated generally to the location shown on the plans. Road environment improvements including signage, pavement marking and bus shelter will be required.
- Provision of longitudinal stormwater drainage and associated infrastructure with existing road culverts to be extended into the site and provision of suitable scour protection.
- Extension of road culverts to cater for new carriageway width.
- Regrading of the eastern verge.

Conditions are recommended to address the required works.

The impact on the public domain (recreation, public open space, pedestrian links).

The development will improve the pedestrian and cycling links surrounding the site. Under the Voluntary Planning Agreement (VPA) for the development, financial contributions towards a proposed new cycleway along the Pacific Highway will increase the public recreational opportunities available within the locality. The development will increase the pedestrian activity in and around the site and will provide additional semi-public space through an increase in the retail activities and opportunities available within the locality. There is no adverse impact upon the use of surrounding public open space as a consequence of the proposal.

The impact on utilities supply.

A condition is recommended requiring the applicant to consult with various public authorities and utility providers in respect of their requirements for servicing the development (for energy, phones, post and gas) prior to commencement of work. The impact on water and sewer supply for the development is discussed earlier in the report under the servicing requirements for the development in relation to Clause 29 of Wyong LEP 1991. The demands of the development have been assessed against the availability and capacity of the water supply and the requirements for servicing by the sewerage system. A condition has been recommended requiring the applicant to obtain a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer servicing requirements for the development. The applicant has advised that the energy demands of the development will be accommodated by upgrading or augmentation to the energy supply infrastructure as required.

The effect on heritage significance.

The site is not heritage listed and there are no heritage listed properties within the vicinity of the site.

Any effect on other land resources.

There are no unreasonable or significant adverse impacts on other land resources associated with the proposal. The development will not have any adverse impact upon conserving and using valuable land resources such as mineral and extractive resources, agricultural land or any water supply catchment. In this regard, the NSW Department of Industry and Investment had provided comment on the earlier proposal to rezone the site for a shopping centre.

Any impact on the conservation of water.

Water Sensitive Urban Design (WSUD) measures are proposed as part of the development including rainwater tanks, landscape treatments throughout the car park and a rain garden. Additionally water saving fixtures are included as part of the development. Conditions have been recommended in relation to the WSUD measures.

Any effect on the conservation of soils or acid sulphate soils.

Acid Sulphate Soils

The issue of acid sulphate soils is discussed earlier in the report under the section on Clause 15 of WLEP 1991.

Earthworks

The earthworks for the development are expected to be significant in order to achieve the proposed design levels with the fill proposed exceeding the cut. The proposed cut located in the south-western section of the site includes stepped retaining walls within the landscaped area. The proposed fill located in the north-eastern part of the development footprint includes large batters. Conditions are recommended requiring the compaction and placement of fill to be certified and monitored by a Geotechnical Engineer. Additionally, a Geotechnical Engineering report is required to inform the retaining wall, footing, foundation and pavement design.

Any effect on quality of air and microclimate conditions.

There are no unreasonable or significant adverse impacts upon the air quality and microclimate conditions associated with the application. A condition is recommended in relation to dust control during demolition, earthworks and construction requiring adoption of appropriate measures to minimise emissions into the surrounding environment. There is minimal potential for any air pollution, odour, fumes or other air quality impacts associated with the development on the site.

Any effect on the flora and fauna.

The site has remnant forest along the north and south-eastern areas of the site, a partially cleared wildlife corridor along the eastern boundary connects the site to bushland located to the north. A Flora and Fauna Threatened Species Assessment dated March 2011 was prepared for the proposal on the site. Eighty one species of flora (16 of which were exotic) were identified on the site. Twenty eight species of fauna were identified. No threatened flora species were detected. One vulnerable mammal (Grey-headed Flying-fox) was identified and 5 vulnerable bat species (Eastern Bent-wing Bat, Little Bentwing-bat, Eastern Bent-wing Bat and Yellow-bellied Sheath-tail-bat). The assessment of significance pursuant to the Threatened Species Conservation Act 1995 revealed that for all threatened species there would be minimal impact from the proposal. However, in order to preserve habitat integrity at the site several ameliorative measures and management actions have been recommended under the report and these have been referenced in the recommended conditions.

The site contains two vegetation communities Coastal Plains Scribbly Gum Woodland and Swamp Mahogany – Paperbark Forest. The Coastal Plains Scribbly Gum Woodland is situated at the eastern and western portions of the conservation area with the western side having significant weed infestation while the vegetation on the eastern side only had a moderate to low level of weed infestation. The Swamp Mahogany – Paperbark Forest is located in the middle and eastern portion of the conservation area and has significant weed infestation. This community was confirmed to be classified under the definition of *Swamp Schlerophyll Forest on Coastal Floodplains of the North Coast, Sydney Basin and South Coast Bioregions* endangered ecological community.

Most of the remnant forest areas on the site are currently considered to be in moderate condition due to the high level of weed infestation. Although the majority of the proposed development is on cleared land, there is a portion (approx. 1.2ha) of remnant forest to be removed on the south-eastern part of the site. The off set area (to offset conservation values impacted by the proposal) zoned 7(a) Conservation will comprise the northern portion of the site, and the corridor along the eastern boundary.

A Vegetation Management Plan (VMP) has been prepared for the proposal that identifies suitable landscape management actions and strategies that will be implemented throughout the proposed conservation area. The VMP is aimed at rehabilitating the existing vegetation communities and enhancing wildlife values on the site through weed removal and regeneration, replanting of native species and protection of the conservation area.

The provision of waste facilities.

The development includes provision of room for the storage of waste located that is located adjacent to the proposed common loading dock. This will enable adequate servicing of the development by waste removal vehicles of various sizes. The design of the waste storage area is setback within the development and is not within ready view of the street or any public place. The waste storage area is also well setback from any adjoining properties so as to minimise any potential odour impacts.

Whether the development will be energy efficient.

The applicant has identified the following energy saving devices that are to be incorporated into the development:

- Performance glass
- Applied sun shading devices, such as overhead louvers, awnings, screening and blinds to protect solar exposed glazing on elevation
- Insulation ratings to roof and wall sheeting
- Operable windows to purge building at night
- Zoned air conditioning to optimize systems flexibility
- Energy efficient lighting
- Water efficient fittings and fixtures to amenities areas
- Solar / gas fired heating if applicable

In addition, the following operational components of the supermarket will include:

- Refrigerated Cases:
 - EC fans – lower energy use
 - Front fences – reducing cold air spill
 - Night blinds – reduces energy consumption after hours
- Lighting
 - Trial of compact fluorescents over metal halide lamps – lower energy use for same illumination.
 - Use of T5 fluorescent lights over T8 – more energy efficient
- Building
 - Building envelope complies with BCA energy requirements

Whether the development will cause noise and vibration.

An acoustic report was submitted with the application that identified the potential noise generating activities associated with the proposal. These potential noise sources from the development include noise generated from mechanical plant (refrigeration, air conditioning, exhaust), loading dock activities (including unloading, truck movements etc.) and customer vehicles entering and leaving the premises and manoeuvring on the site. Additionally, garbage collection, trolley return and general site noise was considered. A number of residential properties adjoin the site to the north and although there will be some distance between the centre and the rear yards of these houses (given the 7(a) Conservation zone), the position of the proposed loading docks for the development are facing these houses and significant concerns were raised in submissions. Additionally, it is noted that the proposal includes extended trading hours over 7 days (ie. 7am – midnight daily) and extended delivery hours and the completed development will be elevated significantly above the height of the existing ground levels and adjoining houses. The concern regarding the preservation of residential amenity will therefore need to be satisfactorily addressed.

The report is based on the loading docks for the supermarket operating over a 24 hour period and states that during the night (10pm – 7am) 1-2 supermarket deliveries are expected each night. However, the supporting statement of effects states that the delivery hours sought will be from 6:00am – midnight daily. The store trading hours sought are between 7am – midnight daily.

The report identified a number of measures are to be adopted as part of the development in order to mitigate the potential impact of noise and vibration.

- The underside of any roof or ceiling in the loading dock area should be treated to absorb reflected noise.
- An acoustic barrier 350mm above FFL is to be erected along the loading dock immediate north edge, extending east to a point in line with the front of the prime mover.
- Signs are to be erected in conspicuous locations in the loading dock instructing drivers to turn off their engines once in place at the dock.
- Noise emissions from the substation kiosk must not exceed a sound pressure level of 74dB(A), Leq at a distance of 3 metres.
- Acoustic barriers must be erected along the perimeter of the roof-top plant deck.
- Any exhaust plant in an exposed location that produces a sound pressure level in excess of 65dB(A) at a distance of 1 metre from the discharge point must be acoustically treated.
- Acoustic barriers equal in height to the top of the plant are to be erected along three (3) sides towards the residential areas for any air conditioning/refrigeration plant on the roof.
- A 1500mm high acoustic fence or mound is to be constructed along the northern edge of the truck access off Tall Timbers Road. The barrier should extend the full length of the access and the truck turning area.
- The contractor responsible for supplying the and installing the mechanical plant must provide evidence that installed plant meets the noise emission limit.
- Some form of education campaign for staff and customers to ensure satisfactory noise levels at nearby residences.
- Use of trolley return tractors is not recommended during the late evening or at night unless compliance with the INP criteria can be met.

Conditions have been recommended to further address the concerns raised regarding acoustic impacts and residential amenity. The conditions include a restriction in the hours for deliveries and waste collection from those proposed to between 7:00am – 10:00pm daily until it can be demonstrated that the acoustic mitigation measures employed with the application are effective and there will be no adverse impact on residential amenity. Additionally, conditions relating to loading dock operations have also been recommended.

Any risks from natural hazards (flooding, tidal inundation, bushfire, subsidence, slip etc).

Bushfire

The site is identified as bushfire prone land under Council's map and subject to the provisions of Planning for Bushfire Protection (PBP) 2006. The site is exposed to open forest from the northern and eastern sides. The applicant prepared a bushfire hazard assessment report for the proposed development on the site. In the report, the bushfire attack level (BAL) was determined using the vegetation type, distance from vegetation class and effective slope and was established to be BAL-29 to the north and east for the development.

Planning for Bushfire Protection (PBP) 2006 does not require a new shopping centre development on bushfire prone land to be referred to the NSW Rural Fire Service for comment. However, under PBP, shopping centre development on bushfire prone land is required to be consistent with the aims and objectives of PBP. The aim of PBP is *to provide for the protection of human life (including firefighters) and to minimise impacts on property from the threat of bushfire, while having due regard to development potential, on-site amenity and protection of the environment.*

The objectives of PBP are to:

- (i) *afford occupants of any building adequate protection from exposure to a bush fire;*
- (ii) *provide for a defensible space to be located around buildings;*
- (iii) *provide appropriate separation between a hazard and buildings which, in combination with other measures, prevent direct flame contact and material ignition;*
- (iv) *ensure that safe operational access and egress for emergency service personnel and residents is available;*
- (v) *provide for ongoing management and maintenance of bush fire protection measures, including fuel loads in the asset protection zone (APZ); and*
- (vi) *ensure that utility services are adequate to meet the needs of firefighters (and others assisting in bush fire fighting).*

In this regard, the applicant has outlined the following measures included with the development to reduce the risk and impact of bushfire and ensure it complies with PBP.

- A minimum 10m setback to be provided and maintained in perpetuity as a defensible space between the bushfire hazard and the development. The proposed development exceeds these separation distances as carparks and access roads will not have bushfire fuel loads.
- The BCA fire safety construction provisions for building classes 5-8 provide an acceptable construction standard for bushfire protection for the development.
- Existing public roads and internal through road system connecting the two access/egress points of the shopping centre are adequate to service the access needs for development under PBP. The internal design and manoeuvring within the centre will suitably accommodate emergency fire fighting vehicles.
- Although there is currently no water supply across the site, the required extension of the existing reticulated water system will ensure adequate water provision for fire fighting purposes. This will include installation of booster facilities at various locations around the complex with suitable fittings for RFS connection.
- All services must meet the performance requirements of PBP 2006 (Chapter 4.1).
- An emergency and evacuation plan is to be prepared identifying the location of hydrants, booster facilities, emergency evacuation points/assembly areas, and access/egress points. This plan is to comply with AS3745-2002 'Emergency control organisation and procedures for building, structures and workplaces.

The development is considered to satisfy the aims and objectives of PBP.

Any risks from technological hazards.

There is no likely risk to people, property or the environment from any industrial and technological hazards related to the development. Although the issue of potential site contamination has been investigated, conditions have been recommended in relation to this. There is no flammable or hazardous goods storage proposed on the site and the development has been design to comply with the BCA fire safety requirements. Conditions are recommended in relation to asbestos removal during the demolition of the existing buildings.

Whether the development provides safety, security and crime prevention.

The principles of CPTED have been considered under the design of the proposed new development. The applicant prepared and submitted a detailed CPTED Assessment Report which has identified a number of design considerations to discourage anti social behaviour and minimise the opportunities for criminal activities. Consideration has been given to the four CPTED principles as follows:

Surveillance measures include:

- from the at-grade car park designed to ensure no obstructions of sight lines from the proposed entry.
- design of the ground floor area provides for glazing at the entry point from the at grade parking area, thereby enabling increased surveillance from within the development to the surrounding parking.
- measures to enhance internal surveillance:
 - Clear glazing where possible rather than solid walls to provide surveillance from the car parking area and to create sight lines/surveillance; and
 - Install mirrors to increase visibility of possible hiding areas and to minimise hiding opportunities.

Access Control

Access control measures are to include:

- Physical barriers at the entry points to restrict vehicle access or blocking of the entry area.
- Design of the parking and the entry point of the proposed building to ensure no entrapment places.
- Barriers to back of house operations, signage at the entry point and cashiers points at the exit point to the supermarket.
- Design, height and location of the supermarket aisles allowing for staff surveillance.
- Displays of clear signage identifying loading dock areas and associated restrictions.
- Installation of CCTV at entrance of loading dock, facing inward to loading dock.
- Any pedestrian access points through the loading dock into the shopping mall are to be locked at all times with staff having full access; and
- Loading dock areas to be differentiated with treatment through the incorporation of a different pavement/concrete finish, contrasting to the surrounding road asphalt.

Territorial Reinforcement

Territorial Reinforcement measures are to include:

- Clear definition between the boundaries of the property and the road/public areas.
- Clearly indicated pathways for circulation to increase legibility of the space.
- Surveillance through the use of CCTV within the supermarket.

Space Management

Space Management measures are to include:

- Appropriate finishes and surveillance measures to minimise graffiti and other forms of vandalism.
- The applicant can prepare a policy for rapid removal of graffiti and repair of other forms of vandalism for those areas controlled and managed by the owners of the centre.

Any social impact in the locality.

The proposal will provide additional retail services and opportunities to this northern section of the local government area. The proposal will result in direct and indirect employment opportunities for the Central Coast and its businesses, suppliers and support services.

Any economic impact in the locality.

A significant growth in new housing is expected for the North Wyong Area which currently suffers from an under-provision of retailing. Under the earlier rezoning of the site a comprehensive economic impact assessment was carried out in relation to the proposal. The assessment concluded that the development may result in some minor trading impacts for other retailers within the trade area, however, the proposed development will not threaten the viability or continued operations of existing centres. The development will offer additional employment and business opportunities into the area and will contribute towards ensuring that residents have the widest possible range of shopping opportunities by balancing quantity, quality and accessibility of floor space.

Any impact of site design and internal design.

Development and Site Design

The development design is sensitive to the site context, environmental conditions and site attributes. The building is positioned on the site to suitably respond to the residential context at the northern boundary.

Accessible and parking

The shopping centre has been designed to accommodate an accessible path of travel to/from and throughout the development with accessible facilities to be provided for both visitors and staff. The proposal includes a total of 6 accessible spaces near the building entry. In accordance with the requirements of Clause D3.5 of the Building Code of Australia Volume 1, accessible carparking spaces are required at a ratio of 1 space for every 50 carparking spaces or part thereof. Therefore 1 additional parking space is required to be provided for the development to total 7 accessible spaces. A condition is recommended to address this matter on the plans prior to issue of Construction Certificate.

External finishes

An external finishes plan has been submitted with the proposal and is considered satisfactory.

Any impacts of construction activities (construction site management, protection measures).

Conditions have been recommended to ensure that environmental impacts during construction are appropriately managed and mitigated. These conditions include the adoption of sediment and erosion control measures and preparation of a plan of management that includes measures for traffic and pedestrian management.

Any cumulative impacts.

There are no significant or unreasonable cumulative impacts associated with the proposal.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):

The site has been the subject of a rezoning and is considered a suitable context for the scale and type of development proposed. There will be some removal of existing vegetation as part of the proposal however, a vegetation management plan has been prepared for the 7(a) zoned part of the site that includes replanting and rehabilitation works. Although the site is bushfire prone, this has been considered in the siting, design and materials selected for the development. The design of the proposed development is in an appropriate form, layout and scale that suitably balances the opportunities and constraints of the site. There are no significant site constraints or hazards that would render the location of the development as unsuitable.

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):

Any submission from the public.

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with eleven (11) submissions being received. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979. A summary of the submissions is detailed in the table below.

Doc. No	Summary of Issues	Response
D02667038	<ul style="list-style-type: none"> • Inadequate length Tall Timbers Rd left turning lane into Pacific Hwy result in queuing. • Provision for rebuilding Tall Timbers Road to at least Deakin Ave and widen to 4 lanes. • Shared path be provided Tall Timbers Rd to Scaysbrook to encourage people to walk, cycle or scooter to shops. • Shared path provided on western side hwy to Carters Road to link school and eastern side of Pacific Hwy to club. • Direct exit onto Pacific Hwy for emergencies. • Loading area will affect the amenity of residents in Chisholm Avenue. 	<p>Council's Engineers have assessed this aspect of the proposal and recommended conditions relating to road infrastructure upgrade works, including pedestrian pathways.</p> <p>The applicant entered into a VPA with Council for the funding of a shared pathway that extends from the site to Carters Road.</p> <p>The proposal provides an exit on the Pacific Highway for which the RTA have provided design comments.</p> <p>An acoustic report was prepared for the proposal which includes measures to mitigate potential noise impacts. Conditions have been recommended to further address this matter.</p>
D02668844	<ul style="list-style-type: none"> • Small business owner. Economic impacts as local shops financially unviable and become vacant leaving some residents isolated if unable to travel to new centre. 	<p>A comprehensive economic assessment was carried out as part of the rezoning process. The impact of the additional retail floor area was assessed at this stage. The additional retail floor area is consistent with Council's Retail Planning Strategy and Retail Centre's DCP.</p>
D02668846	<ul style="list-style-type: none"> • Object to lack of transport to/from centre. Development wholly car dependant. • No footpaths exist to the centre. • Only footpath proposed from Saliena Avenue to Colongra Bay Road means centre inaccessible to most residents other than by car. • Application not proceed until rectify flawed transport issues as not in the best interest of the community. 	<p>The VPA includes funding of a cycleway in two stages. Conditions have been recommended requiring additional pedestrian and bus service facilities be provided.</p>
D02668891	<ul style="list-style-type: none"> • Objects to proposal and its likely impact on existing service station business. New service station subject of a future DA on the site but there is already 3 service stations in a 3 km radius of site. 	<p>A comprehensive economic assessment was carried out as part of the rezoning process. Assessment of the DA cannot limit or interfere with free market competition.</p>
D02668917	<ul style="list-style-type: none"> • Objection to lack of community consultation, overdevelopment, traffic and congestion. • Local community already has 3 service stations, newsagent, post office, butcher, chemist, bakery, 2 liquor shops, 2 hairdressers, 2 minimarts and a medical centre. Proposal not needed. 	<p>The application has been notified in accordance with the requirements of the Act and DCP. Assessment of the DA cannot limit or interfere with free market competition. A comprehensive economic assessment was carried out as part of the rezoning process.</p>

Doc. No	Summary of Issues	Response
D02668967	<ul style="list-style-type: none"> • Lack of consultation • Already 3 service stations within 2-3 km radius and retail businesses providing to the community. 	The application has been notified in accordance with the requirements of the Act and DCP. Assessment of the DA cannot limit or interfere with free market competition.
D02660487	<ul style="list-style-type: none"> • Noise from loading docks, trucks forklifts creates great concerns. • Loading dock and truck turning area will be at the back of my property causing great noise disturbance to all homes on the back fence line, disturbing sleep and upsetting the dogs. Request to redesign to relocate docks away from the existing residential area. • Concerned that only entry/exit point is from Tall Timbers Road being a very busy road and sole access to 3 suburbs. Road upgrade need careful consideration to ensure safety etc.. 	<p>The applicant prepared an acoustic report which has been reviewed by Council officers and additional requirements have been recommended as conditions to further address the potential noise impacts from the development.</p> <p>Council's Engineers have assessed this aspect of the proposal and recommended conditions relating to road infrastructure upgrade works.</p>
D02641799	<ul style="list-style-type: none"> • Directly next door and support the proposal • Shopping centre good as families now have to drive out of area to shop at Swansea, Budgewoi, Toukley, or Lake Haven • Create employment and make it better place to live. Addition of medical centre of real importance to the community. 	Noted.
D02651318	<ul style="list-style-type: none"> • Fully support the proposal. 	Noted

Doc. No	Summary of Issues	Response
D02668711	<ul style="list-style-type: none"> Residents of Chain Valley Bay South, Kingfisher Shores, Doyalson North and the area of Lake Munmorah only accessed by Tall Timbers Road to be consulted. Traffic report did not acknowledge local football game traffic and history of Tall Timbers Rd closed due to bushfires. Serious consideration needs to be given to road construction as in need of maintenance/repairs Location of loading docks will impact residents of Chisholm, Deakin and Kemira Avenues with refrigeration trucks waiting to unload then reversing into docks. Relocate dock away from residential area Acoustic report undertaken over short time and shows the noise averaged over time and does not account for the noise in peak periods Phase 1 site assessment report recommendations be adhered to given an accurate report on the conditions of the site. The VMP does not show some of this work being done specifically the Fly Ash in Conservation Area Zone B. Residents in Chisholm Avenue have major concern regarding flooding from stormwater run off. Information on how surface water is dealt with. Proposed trading hours of 7am – midnight with deliveries 6am-midnight is excessive and limits imposed to delivery hours considering proximity to residences. 	<p>Community meetings and other consultation was carried out during as part of the rezoning process carried out earlier in relation to the site and the proposal. Formal consultation in the form of notification of the proposal and consideration of submissions has been carried out in accordance with the requirements of the Environmental Planning and Assessment Act 1979.</p> <p>A review and assessment of the applicant's traffic report has been carried out by Council's Traffic and other Engineers and the RTA and conditions recommended to address traffic impacts and road infrastructure upgrades.</p> <p>The applicant's acoustic report was reviewed by Council's Environmental Health Officer (Environment Protection) and additional requirements have been recommended as conditions to further address the potential noise impacts from the development.</p> <p>Conditions have been recommended in relation to site contamination requiring a detailed site investigation to be carried out once demolition of structures on the site has been carried out.</p> <p>Stormwater disposal will be better managed on the site under the proposal than currently. Council's Engineers have reviewed the stormwater design for the proposal that is consistent with WSUD principles and have recommended conditions to ensure stormwater management on the site is suitably addressed.</p> <p>A condition has been recommended limiting the delivery and waste collection hours.</p>

Doc. No	Summary of Issues	Response
D02651302	<ul style="list-style-type: none"> • Lack of community consultation • Social and economic impacts • Unsustainable development • Request clear justification for the demand/need for the retail floor space and information to demonstrate no impacts on other retail centres. How is development sustainable? • Relationship to North Wyong Structure Plan which predicts population to double over the next decade but no public transport infrastructure planning. Developments be wholly car dependant • VPA links only the school precinct to the development and does not link existing cycleways in the region • Adverse impacts to existing smaller centres. Existing local jobs be lost. Most construction jobs will not be local. • Native vegetation existing on the site forming part of the nature corridor is to be removed. Studies for Threatened Species are to be undertaken. • Development needs to ensure accessibility for people with a disability • Timing for traffic signals should allow adequate pedestrian crossing time for the elderly but this may increase congestion • Potential for trolley dumping within the surrounding areas • Inevitable increase in motor vehicle use in the area associated with the proposal, 	<p>The application has been notified in accordance with the requirements of the Act and DCP. Community meetings and other consultation was carried out during as part of the rezoning process carried out earlier in relation to the site and the proposal. Consultation for the DA includes formal notification and consideration of submissions. Other consultation is limited by restrictive timeframes for assessment of the DA.</p> <p>Additional retail floor area for Lake Munmorah identified under Retail Centres Strategy Review. Detailed economic assessment carried out as part of the rezoning process carried out earlier in relation to the site and the proposal.</p> <p>Conditions are recommended to upgrade support infrastructure for bus services and pedestrian facilities surrounding the site. Any adverse impact to existing small centres was considered under the economic assessment carried out as part of the rezoning process. The impact of the additional retail floor area was assessed at this stage.</p> <p>A Flora and Fauna Threatened Species Assessment was carried out for the proposal on the site. A Vegetation Management Plan was prepared for rehabilitation and replanting on the 7(a) zoned portion of the site. Conditions have been recommended to ensure the development provides access for people with a disability.</p> <p>The RTA have responsibility for the phasing of the traffic signals and the RTA have reviewed the proposal and provided conditions for the development.</p> <p>A condition has been recommended to address the potential dumping of trolleys. The impact of the increase in motor vehicle use associated with the proposal has been considered under the assessment and conditions in relation to traffic related matters have been recommended.</p>

Any submission from public authorities.

Mine Subsidence Board

The site is located within the 'Swansea North Entrance Mine Subsidence District' and the development constitutes integrated development requiring referral to the Mine Subsidence Board under Section 15 of the Mine Subsidence Compensation Act 1961 and Section 91 of the Environmental Planning and Assessment Act 1979 for their General Terms of Approval. The Mine Subsidence Board have granted conditional approval to the building subject to conditions that are recommended with the consent.

NSW Roads and Traffic Authority

In accordance with the provisions of State Environmental Planning Policy (Infrastructure) 2007, the application was referred to the NSW Roads and Traffic Authority (RTA) for comment. The RTA commented initially requesting provision of an acceleration lane along the Pacific Highway. The applicant did not provide the requested change to the plans and the RTA have imposed conditions to this effect.

The developer should be made aware that should a separate DA be lodged for the redevelopment of the residue of Lot 2 DP.520220 then all access to/from the Pacific Highway must be via the proposed access arrangement for this development. The RTA will not agree to a separate access point on the Pacific Highway.

The RTA advised of no objection provided conditions are included with any consent.

Busways Group

The applicant was referred to Busways who raised concerns regarding the servicing of the site by buses. Two additional bus stops along either side of Tall Timbers Road fronting the development site were identified as necessary along with an upgrade of the bus stop opposite the site on the Pacific Highway. Busways in their submission state:

"A bus stop will be required on the western side of Tall Timbers Rd (opposite to the shopping centre) to provide access to patrons who arrive at the shopping centre on buses that turn into Tall Timbers Road from either direction. Further, a bus stop on the eastern side of Tall Timbers Rd will be utilised by those bus services that, after servicing Chain Valley Bay, return via Tall Timbers Rd and turn right onto the Pacific Hwy – therefore not passing the Pacific Hwy frontage and bus stops."

Without these works it is concluded that the development will neither be entirely "accessible by public transport" nor "supporting the efficient and viable operation of public transport services" as stated in the applicant's traffic report (p.8 and 10). It is therefore imperative that the bus stops be provided in order that the site be adequately serviced by public transport. Conditions are recommended to address the issues raised in the submission to achieve all four upgraded bus stops to service the development.

Busways also raised concern regarding the design and location of the proposed bus stop on the northern side of the Pacific Highway on safety and future capacity grounds. This bus stop has been relocated further east along the site frontage to address the issues raised.

NSW Department of Transport

The application was referred to NSW Department of Transport and they advised of no objections but noted the issues raised by Busways and the potential for the site to be a terminus given the size of the proposal to allow buses to terminate and reverse direction.

NSW Police

In accordance with Council's Protocol, the application was referred to the NSW Police who reviewed the applicant's CPTED report and who raised no objection to the development on these grounds.

THE PUBLIC INTEREST (s79C(1)(e)):

Any Federal, State and Local Government interests and community interests.

The development will provide additional employment opportunities and retail services which are considered beneficial to the local and community interest.

OTHER MATTERS FOR CONSIDERATION

Voluntary Planning Agreement

The applicant entered into a Voluntary Planning Agreement (VPA) with Council to fund the construction of a shared pathway along both side of the Pacific Highway adjacent to the site in two stages. Council is to carry out the works once the payment is made by the applicant. This proposal represents the first stage of that agreement and the funded works include a pathway extending from Saliena Avenue to Colongra Road on the southern side of the Pacific Highway. Under the second stage, the proposed funded works will extend along the northern side of the Pacific Highway from the site, eastwards to Carters Road (adjacent to Lake Munmorah High School).

CONCLUSION

The application seeks approval for demolition of existing structures on the site and the construction of a shopping centre development including a supermarket, medical centre and speciality shops, associated parking and landscaping. The site has been the subject of a recent rezoning and subject to recommended conditions, the site context is appropriate for the design and form of development as proposed and will represent a positive opportunity to provide additional retail services and additional employment opportunities within the local area. The application is to be determined by the Hunter and Central Coast Joint Planning Panel due to the development having an estimated value exceeding \$10 million. Variation is being sought under the proposal to five of Council's DCP requirements including retail floor space maximum, advertising signage dimensions, building height and transport requirements. However, despite these variations, the development is considered to be consistent with the objectives of the controls and generally consistent with Council's LEP and other DCP requirements. The application is recommended for approval subject to appropriate conditions.

Attachment 1
Attachment 2
Attachment 3

Compliance Table
Draft Conditions of Consent
Architectural Plans

Development Statistics - Compliance Table

Applicant	Fabcot Pty Ltd C/- The Planning Group
Owner	Fabcot Pty Ltd
Application No	DA/459/2011
Description of Land	275 Pacific Highway, Lake Munmorah Lot 2 DP.520220
Proposed Development	Demolition of existing structures and construction of a shopping centre development including a supermarket, medical centre and speciality shops, parking and landscaping.
Zoning	3(a) Business Centre and 7(a) Conservation

Table of numerical compliance

	Proposed	Required	Compliance
Site Area	81670m ² (8.167 hectares)	-	-
Gross Floor Area	6807m ²	-	-
Nett Floor Area*	5550m ²	-	-
Gross Retail Floor Area	5050m ²	Max 5000 (With a max 10,000m ² after 2021)	No
FSR	0.08:1	0.25:1	Yes
Height	14.75	11m max	No
Building setbacks			
-Highway	51m	15m minimum	Yes
-Tall Timbers Rd	87m	8m minimum	Yes
-Eastern boundary	175m	15m minimum	Yes
Landscaped setbacks			
-Highway	10m	10m	Yes
-Tall Timbers Rd	10m	5m	Yes
-Eastern boundary	N/A	10m	Yes
Parking	342	329	Yes

*Includes commercial tenancy (500m)