

<b>JRPP No.</b>	2011HCC024
<b>DA No.</b>	DA 11/0590
<b>Proposal</b>	Erection of a supermarket, liquor outlet and associated landscaping and carparking
<b>Property</b>	Lot 901, DP 1022872, No.221 Minmi Road Fletcher
<b>Applicant</b>	Coles Group Property Pty Ltd
<b>Report By</b>	Development and Building Services

### **Assessment Report and Recommendation**

#### **Executive Summary**

##### **Proposed Development**

The development application seeks consent for the erection of a supermarket (3,504m<sup>2</sup> GLA), a liquor store and speciality shops at 221 Minmi Road Fletcher. The proposed Gross Floor Area (GLA) of all retail and non-retail uses is 4,831m<sup>2</sup>. The proposal also includes 217 car parking spaces, loading facilities, new vehicular access points to Minmi Road and Beech Close and landscaping and public domain works. Fit out and signage for all tenancies are proposed to be subject to future applications.

##### **Referral to Joint Regional Planning Panel**

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, the application is referred to the Joint Regional Planning Panel (JRPP) as the development has a capital investment value of more than \$10,000,000. The application was lodged and not determined by the Panel prior to the amendments to the Environmental Planning and Assessment Act, 1979 taking effect on 1 October 2011. The application submitted to Council nominates the value of the project as \$11,999,293.

##### **Permissibility**

The site is zoned 3(a) Local Centre Zone pursuant to the Newcastle Local Environmental Plan 2003. The proposal is categorised as a 'local shop' and is permissible within the 3(a) Local Centre Zone subject to development consent. All required owner(s) consent has been provided. The proposal is 'advertised' development, because 'integrated development' approval is being sought from the NSW Office of Water, under the provisions of the Water Management Act, 2000. The development is also 'integrated development' as approval is being sought under the National Parks and Wildlife Act, 1974 and the Mine Subsidence Compensation Act, 1961.

##### **Consultation**

The application is 'advertised development' and was advertised and notified between 14 June 2011 and 13 July 2011. The application received two letters of support, and no letters of objection.

The following statutory referrals were made in relation to the development application:

Authority	Relevant legislation
NSW Office of Water	Integrated Development - Water Management Act 2000
NSW Office of Environment and Heritage	Integrated Development - Section 90 of the National Parks and Wildlife Act 1974
NSW Roads and Maritime Service (Roads and Traffic Authority)	State Environmental Planning Policy (Infrastructure) 2007 (Clause 104 - Traffic Generating Development)
NSW Mine Subsidence Board	Integrated Development - Mine Subsidence Compensation Act 1961

The comments received from these Departments are discussed in this report.

### Key Issues

The main issues identified in the assessment were as follows:

- Permissibility under the Newcastle Local Environmental Plan 2003
- Parking and Traffic
- Environmental considerations

### Recommendation

**Grant approval to DA-11/0590 - Proposed erection of a supermarket, liquor outlet and associated landscaping and carparking at No. 221 Minmi Road Fletcher subject to conditions contained in Appendix A.**

## 1. Background

The site has been the subject of a past development application (DA), for a similar proposal, which was granted conditional consent on 23 November 2006 (DA 05/1787). The applicant has advised that a review of the approved layout, site context and market feasibility has given rise to the need to reconsider the layout of the development. After discussions with Council officers, it was considered that the extent of changes warranted a new development application.

The current DA varies the 2006 development consent by increasing the supermarket floor area by 504m<sup>2</sup> and reducing the floor area of small retail tenancies by 172m<sup>2</sup>. The total leasable area of the centre increases by 332m<sup>2</sup>. In the previous approval, all retail buildings were orientated toward the southern end of the site to integrate retail activity with the Churnwood Drive frontage, and to present a core entry from the Beech Close and Churnwood Drive.

## 2. Site and Locality Description

The subject property comprises Lot 901, DP 1022872, which is an irregular shaped parcel on the western side of Minmi Road. The site has frontages of 208.01, 74.5 and 114.14 metres to Minmi Road, Churnwood Drive and Beech Close, respectively, and an overall area of 1.931 hectares. The site is currently vacant containing native vegetation, the majority of which is located in the north-eastern corner. It is noted that since this DA was lodged, clearing has occurred on the site under the previous approval. There are existing residential properties to the south-west and there is undeveloped land surrounding the proposed development to the east and to the north, on the opposite side of Minmi Road. To the north of the site there is a natural drainage corridor, known as Wentworth Creek.



Figure 1 - Aerial Photo of site

### 3. Project Description

The proposed development comprises:

- Erection of a supermarket with a gross floor area (GLA) of 3,504 m<sup>2</sup>, a liquor store in Tenancy 1, 8 speciality shops and a kiosk. The GLA of all retail and non-retail is 4,831 m<sup>2</sup>
- 217 car parking spaces
- Loading facilities
- New vehicular access points to Minmi Road and Beech Close
- Landscaping and public domain works.

Fit out and signage for all tenancies are proposed to be subject to future development applications.

The supermarket trading hours are proposed to be 6:00am to 12:00 midnight, seven days a week. The proposed liquor store trading hours are 6am to 10pm Monday to Saturday and 10am to 10pm on Sundays. The operating hours of individual tenancies are proposed to be determined by future use applications. The Statement of Environmental Effects (SoEE) advises that there will be approximately 47-55 staff for the supermarket plus additional staff for each of the retail tenancies.

Following concerns raised by Council officers, amendments and additional information was provided by the applicant, which are summarised below.

- The revised landscape plan introduces taller elements along the Minmi Road boundary in the form of spotted gums. Potential visual impact of the car park will be minimised in additional planting along the verge.
- Panels on the northern elevation will be treated in two colours (birch/off white) to provide visual interest.
- In relation to the loading ramp, additional planting in the form of planted vertical posts, connected horizontally with steel cable. The intention is to grow climbers up and around this structure to soften the ramp appearance.

A copy of the current amended plans is appended at **APPENDIX B - Plans and Elevations**.

### 4. Consultation

The application is 'advertised development' and was advertised and notified between 14 June 2011 and 13 July 2011. The application received two letters of support, and no letters of objection.

### 5 Referrals

The following statutory referrals were made in relation to the development application:

Authority	Relevant legislation
NSW Office of Water	Integrated Development - Water Management Act 2000
NSW Office of Environment and Heritage	Integrated Development - Section 90 of the National Parks and Wildlife Act 1974
NSW Roads and Maritime Service (Roads and Traffic Authority)	State Environmental Planning Policy (Infrastructure) 2007 (Clause 104 - Traffic Generating Development)

The following non-statutory external referrals were also made in relation to the development application:

- NSW Rural Fire Service
- NSW Police Force - Crime Prevention Officer (Note: No response received).

Internal referrals were sent to the following Council officers:

- Environmental Services (Compliance Services Unit)
- Senior Development Officers (Engineering)

The comments received from the referrals are appended at **APPENDIX C – Referral Comments**.

## 6. Section 79C Considerations

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 79C(1) of the *Environmental Planning & Assessment Act, 1979*, as detailed hereunder.

### (a)(i) the provisions of any environmental planning instrument

#### Newcastle Local Environmental Plan 2003 (LEP2003)

- Clause 16 - Zonings

The subject property is included within the 3(a) Local Centre Zone under the provisions of the Newcastle Local Environmental Plan, 2003 (LEP2003).

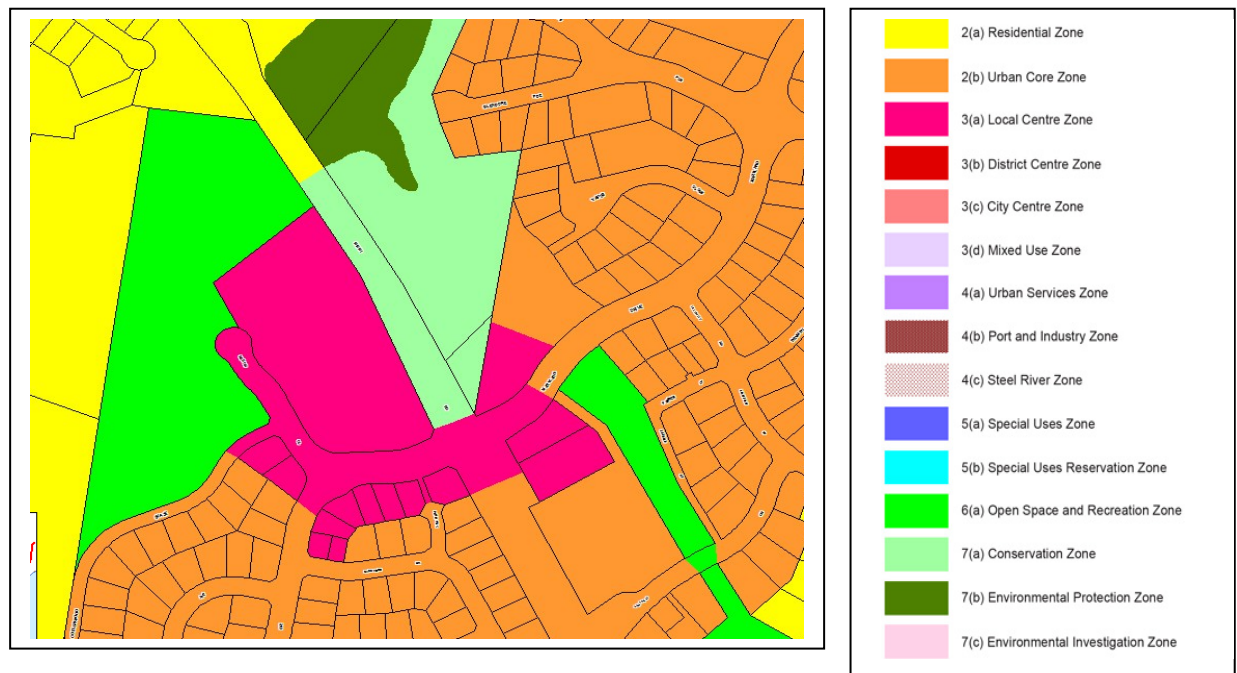


Figure 2 - Zoning Map

A consideration of this application, is whether the proposal is categorised as a 'local shop' or a 'shop' as defined under the LEP2003. This is significant as it has implications for permissibility. The previous development application was considered under a different definition for a 'local shop', which required that a 'local shop' have a maximum floorspace of 3000m<sup>2</sup>.

On 24 April 2009, the definition for 'local shop' was amended by Amendment No 4 of the LEP2003. The amended definition of 'local shop' is as follows:

*'local shop means a shop that:*

- (a) is of a nature and size that is suitable to serve a surrounding population of approximately 5,000 people, and*
- (b) is not a bulky goods retail outlet, convenience shop or sex aid establishment.'*

In contrast, the definition of a shop is as follows:

*'shop means a building or place that is used for the purpose of the selling by retail, or hiring or displaying for the purpose of selling or hiring, of items (whether goods or materials) but does not include a convenience shop, bulky goods retail outlet, local shop or a sex aid establishment.'*

In response to the above considerations, the applicant prepared an Economic Impact Assessment for the proposed development, which provides the following comments:

*'The defined primary trade area for the Fletcher Centre extends between 1-1.5 km of the site and is therefore regarded as being in the immediate locality and is inclusive of the 'surrounding population'.*

*The primary trade area is the spatial area around the site where we believe the centre will be the first or primary choice for residents in purchasing their food and grocery needs. The centre will serve an estimated primary catchment of 5,462 people in its first full year of operation. The finding of Senior Commissioner Moore in the L&C Court (Aldi Stores v Newcastle CC) is relevant where, in that case, a population of 6,000 people was not so unreasonably high as to be inconsistent with 'approximately 5,000 people'.*

*The site's main road frontage and intersecting collector roads to Maryland and Fletcher will create secondary catchments for the centre. The findings of the recent Court cases do not preclude a local centre from having secondary catchments or sales emanating beyond the primary sector or immediate locality.*

*Our analysis demonstrates the size of the catchment and expected market shares will generate sufficient sales for the supermarket and shops to be viable.*

*In 2014, the majority (58%) of the shopping centre's turnover will generated be residents of the primary trade area. With continuing population growth, the primary catchment's contribution to total centre sales rises to 65% in 2021. On this analysis the centre is predominantly serving the surrounding area.*

*The demographic profile suggests there are large families with higher than average incomes and high mortgage commitments living on the outer edge of the metropolitan area. These families demand competitive, full line supermarkets and need range and depth of food and grocery products with local supporting services such as a newsagent and pharmacy.*

*A supermarket's core product ranges – fresh and packaged food, non-food groceries, dairy and frozen foods – are daily and weekly consumed items that should be accessible for populations of 5,000 people or more. The fact that a supermarket on the site could potentially trade across a population of more than 5,000 people – as many supermarkets in Local Centres in Newcastle currently do - does not in itself render the needs and demands of the initial population of 5,000 people irrelevant or make the use unsuitable.*

*There is a high level of escape expenditure of basic commodities such as food and groceries from the trade area. The location, quality and size of the Maryland Centre, (inclusive of the Bi-Lo supermarket) is not meeting the needs of the area suggesting people are driving to more distant locations to access daily and weekly needs.*

*The nature of the supermarket use, a small range of ancillary shops and a medical centre are not an over development of the site but suitable and appropriate to serve the daily and weekly needs of the immediate area.*

*There are a number of Local Centres in Greater Newcastle that are comparable in size to Fletcher and draw on a similar local catchment to that estimated for Fletcher in 2014. The size of the Fletcher centre is almost identical to the average of the sample while the population of Fletcher's surrounding area or primary trade area in 2014 (see Section 6.3 ) is lower than the sample but with local population growth, will exceed the sample average 2-3 years after opening.*

Centre	Centre RetailGLA (sqm)	Surrounding area population (2006)
Maryland	4,979	7,600
Edgeworth	4,650	6,800
Elernmore Vale	3,698	5,430
Jewellstown Plaza	4,312	6,500
Thornton	4,849	7,300
Bonnells Bay	5,530	6,730
Warabrook	3,620	4,200
<b>Average</b>	<b>4,519</b>	<b>6,365</b>
<b>Fletcher (proposed)</b>	<b>4,832</b>	<b>5,462 (2014)</b>

Source: PCA, Deep End Services. (retail GLA excludes non-retail uses)

*Coles at 3,504 sqm is a mid-range store in the context of contemporary new supermarkets and others in Greater Newcastle. There are 31 existing and approved Coles and Woolworths supermarkets in Newcastle and Lake Macquarie with an average size of 3,596 sqm. Excluding the smaller Bi-Lo supermarkets which are no longer developed in this format the average for Coles and Woolworths in the region is 3,792 sqm. The proposed Coles is therefore 288 sqm or 8% smaller than the average for stores of its type in the region. The size is significantly smaller than large format supermarkets*

*approved or recently developed at Charlestown, Mayfield, Cardiff Marketplace and Pambulong which range between 3,800 and 4,200 sqm. The number and gross leasable area of the ancillary shops at Fletcher (11 tenancies or 1,328 sqm) is relatively small in comparison to other supermarket based centres with local catchments in Newcastle such as:*

- Maryland 1,489 sqm*
- Edgeworth 1,650 sqm*
- Elmore Vale 1,653 sqm*
- Jewellstown 2,295 sqm*
- Thornton 2,589 sqm*
- Bonnell's Bay 2,730 sqm*

*The proposed supermarket will adequately cater for to the needs of the area. It will reduce travel time, fuel use and travel costs (with associated environmental benefits) for residents electing to travel to 'full line' supermarkets at Wallsend or Jesmond.'*

The proposal is considered to be permissible within the 3(a) Local Centre zone as a 'local shop'. This is supported by a recent judgment of the Land and Environment Court in *ALDI Stores v Newcastle City Council (2010) NSW NSWLEC 227 (3 November 2010)*.

In relation to the objectives of the 3(a) Local Centre zone, the applicant has provided the following comments:

- (a) To provide for a compatible mix of business and housing in accessible locations, that could reasonably be expected to serve a local community with a population in the order of 5,000 people, which will maintain the hierarchy of urban centres throughout the City of Newcastle and will not prejudice the viability of the District Centre or the City Centre zone.

*'The centre will primarily serve an estimated primary catchment of 5,462 on opening in 2013/14 (refer to further discussion in the EIA). The development will maintain and reinforce the hierarchy of urban centres in Newcastle. The development has little or no impact on the Newcastle Central City and only minor effects on the District Centres of Wallsend and Jesmond. These centres are long established and despite major developments in their catchments over the years at Glendale and Kotara, are still trading well above industry averages. The small trading effect of Fletcher on these centres may well be positive where it serves to alleviate congestion and parking shortages in peak periods. Other Local Centres including Maryland will continue to operate at viable levels.'*

- (b) To conserve and enhance the built character and cultural heritage of local centres and to reinforce their vitality and viability.

*'The character of the proposed built form and landscaped common areas promote economic and social activity within the local area. In addition, the viability of the established local retail centres in neighbouring suburbs, including Maryland and Wallsend, will not be compromised by the proposed development, confirmed by the accompanying EIA.'*



- (c) To accommodate activities that serve the social, cultural and recreational needs of the local community.

*'The proposed centre primarily provides a retail function, however landscaped areas provide common courtyards and outdoor eating areas, which will benefit social interactions and promote the improved vitality of the community. The site remains adjacent to the recreational opportunities to the adjacent open space land uses and Wentworth Creek. The proposed development will introduce a central identity for the Fletcher Community which will assist in promoting the vitality and integrity of this local neighbourhood, identified as a positive contribution to this location.'*

- (d) To encourage residential development to be designed and located above or adjacent to core retail frontages in order to contribute to a safe, attractive, friendly, accessible and efficient pedestrian environment.

*'Surrounded by residential land uses, the proposed supermarket will be an important focus for the area. The community space at the front of the retail development will encourage social interaction and provide an informal and attractive meeting place for local residents. Furthermore, the site layout has been designed to integrated with the existing pedestrian environment. The centre could stimulate the development of other adjoining sites zoned 'local centre' for a range of mixed use purposes that further the objectives of the zone.'*

- (e) To ensure that new development has regard to the character and amenity of adjacent residential areas.

*'The design and layout of the proposed local neighbourhood retail centre is sensitive to adjoining residential dwellings. The proposed retail tenancies are located in the northern half of the site, maximising both acoustic and visual privacy to adjoining residential properties. Back of house areas are located on Beech Close, furthest from residential properties to ensure amenity within the neighbourhood is retained.*

*Proposed landscaping around the perimeter of the site will create a visual buffer between the proposed development, the street and surrounding residential development and will contribute positively to the character of the streetscape.*

*Landscaping and shading introduced throughout the car parking area will screen this activity and assists in integrating the site with the surrounding natural open space and bushland.*

*The materials and colours adopted in the overall scheme have been selected to reinforce the established character of newly developed neighbourhoods of the Blue Gum Hills District. Glazing, wall texture and wood features along with the light weight shade and weather protection awning will bring a more casual 'bush' experience to the site. This is further enhanced through substantial site landscaping. The overall appearance and character of the proposed neighbourhood retail facility is appropriate in the context of this domestically positioned site.'*

It is considered that the proposal is acceptable having regard to the objectives.

- Clause 23 - Access to arterial roads

It is noted that Minmi Road is not an arterial road, and accordingly this clause does not apply to the proposal.

- Clause 25 - Acid sulfate soils

The site is identified as Class 5 on the Acid Sulfate Soils mapping. Accordingly, the proposal is considered to be satisfactory having regard to this clause.

- Clause 26 - Bush fire prone land

It is considered that the proposal is acceptable in relation to bushfire risk. In this regard, reference is made to the comments received from the Rural Fire Service.

#### State Environmental Planning Policy (Major Development) 2005 (SEPPMD)

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, the application is referred to the JRPP as the development has a capital investment value of more than \$10,000,000, and it was lodged prior to the changes applying from 1 October 2011. The application submitted to Council nominates the value of the project as \$11,999,293.

#### State Environmental Planning Policy (State and Regional Development) 2011

The new State Environmental Planning Policy (State and Regional Development) 2011 sets out the functions of regional panels in determining applications for regional development. These functions have been transferred from Part 3 of the SEPPMD, which has been repealed.

The most significant change to the regional development classes is the Capital Investment Value (CIV) threshold for general development has been raised from \$10 million to \$20 million. This means that from 1 October new development applications lodged for development with a CIV under \$20 million will generally be determined by Council.

Development applications for development with a CIV between \$10 million to \$20 million lodged with Council before 1 October 2011 and not determined will continue to be determined by the relevant Regional Panel.

Accordingly, the Joint Regional Planning Panel remains the consent authority for this application.

#### State Environmental Planning Policy (Infrastructure) 2007

In accordance with this policy, the proposal was referred to the NSW Roads and Traffic Authority (RTA) pursuant to State Environmental Planning Policy (Infrastructure) 2007 Clause 104 - Traffic Generating Development. The proposal was considered to be satisfactory subject to conditions of consent.

#### State Environmental Planning Policy 55 - Remediation of Land

The submitted Preliminary Contamination Assessment prepared by Douglas Partners Pty Ltd has been reviewed by Council's Environment Officer, and the following comments have been provided:

*'The Preliminary Contamination Assessment prepared by Douglas Partners Pty Ltd dated April 2011 provides a continuation of sampling previously conducted at the proposed development site in 2005. The Preliminary Contamination Assessment prepared by Douglas Partners Pty Ltd dated April 2011 noted an additional potential source of contamination, since previous inspections in 2005, including opportunistic dumping of waste including potential asbestos containing material. The Preliminary Contamination Assessment Addendum prepared by Douglas Partners Pty Ltd dated 25 May 2011 confirmed the material contained asbestos fibres and recommended remediation. The Remediation Action Plan prepared by Douglas Partners Pty Ltd dated 30 May 2011 recommended the removal of any asbestos containing material and surrounding soils. The recommended remediation work was carried out under Category 2 works under State Environmental Planning Policy 55 – Remediation of Land and a validation report was prepared by Douglas Partners Pty Ltd dated 6 October 2011 confirming appropriate remediation was undertaken. Previous sampling of the site revealed all contaminant levels are within the health levels outlined in the Office of Environment and Heritage's (OEH) 'Guidelines for the NSW Site Auditor Scheme' and is suitable for the proposed commercial use. Therefore, with the recent remediation conducted and no elevated levels of contaminants on-site the development site is considered suitable for the proposed development.'*

Accordingly, it is considered that the proposal is satisfactory having regard to this policy.

#### State Environmental Planning Policy 64 - Advertising and Signage

The applicant has advised that signage does not form part of this application, and separate development applications will be lodged at a later date. Accordingly, the provisions of this Policy do not apply to the current application.

#### **(a)(ii) the provisions of any draft environmental planning instrument**

##### Draft Newcastle Local Environmental Plan 2011 (draft LEP2011)

Council resolved on 21 June 2011 that:

1. *The revised draft Newcastle Local Environmental Plan 2011 and accompanying maps be adopted as Newcastle Local Environmental Plan 2011.*
2. *The draft Newcastle Local Environmental Plan 2011 be referred to the Department of Planning and Infrastructure to obtain Parliamentary Counsel's opinion on whether it may be legally made.*
3. *The adopted draft Newcastle Local Environmental Plan 2011 be referred to the Minister for Planning and Infrastructure for gazettal upon completion of the legal drafting, with a request that it not be made until draft Newcastle Development Control Plan 2011 becomes effective and if required Newcastle-specific provisions in relation to tree pruning and removal are included in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*

The site is proposed to be zoned B1 Neighbourhood Centre Zone under the draft LEP2011.

The proposal, is considered to be a 'commercial premises' under this Plan, which is defined as:

*'commercial premises means any of the following:*

- (a) business premises*
- (b) office premises*
- (c) retail premises'*

Note: A retail premises is defined as:

*'retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or material (or whether also sold by wholesale), and includes any of the following:*

- (a) bulky goods premises,*
- (b) cellar door premises,*
- (c) food and drink premises,*
- (d) garden centres,*
- (e) hardware and building supplies,*
- (f) kiosks,*
- (g) landscaping material supplies,*
- (h) markets,*
- (i) plant nurseries,*
- (j) roadside stalls,*
- (k) rural supplies,*
- (l) shops,*
- (m) timber yards,*
- (n) vehicle sales or hire premises,*

*but does include highway service centres, service stations, industrial retail outlets or restricted premises.*

The objectives of the B1 Neighbourhood Centre are:

- *'To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To provide for residential development that maintains active retail frontages in order to contribute to a safe, attractive, friendly, accessible and efficient pedestrian environment.*
- *To maintain the hierarchy of urban centres throughout the City of Newcastle and not prejudice the viability of centres within the Local Centre zone or Commercial Core Zone.'*

It is considered that the proposal is consistent with these objectives of the draft Plan.

#### Clause 4.3 - Height of Buildings

The draft LEP2011 maps identifies this site as having an 11 metre height limit. The proposal does not comply with this control in the northern corner, due to the fall of the land. The proposed maximum height is 13.2 metres. In relation to the draft height control, the applicant has provided the following justification:

*'The scaled plans submitted with the DA confirm that generally the proposal has a maximum height of 11m which is the maximum permissible height under the DLEP. However it is noted that there is a minor non compliance*

*along the parapet and roof element, with these elements just exceeding the height limit.*

*Clause 4.6 of the DLEP sets out the provisions for 'exceptions to development standards' in order to provide 'an appropriate degree of flexibility in applying development standards to particular development' and 'to achieve better outcomes for and from development by allowing flexibility in particular circumstances'.*

*The non-compliance relates to the northern corner and a portion of the northwestern façade, these elements face towards Wentworth Creek and Minmi Road.*

*As required by Clause 4.6(3) this request for an exception to a development standard must consider the following matters:*

*(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*

*The non-compliance is the result of a single slab extending across a sloped site, resulting in taller building elements along the north-western boundary of the site. For these reasons it is considered unreasonable to fully comply with a height control based on a ground plane for a site zoned and designed for a large format retail development.*

*(b) That sufficient environmental planning grounds to justify contravening the development standard*

*The non-compliance of the draft height standard is justifiable on the following environmental planning grounds:*

- The majority of the development complies with the development standard and the area which contravenes represents a small architectural element*
- Response to the topography of the site which falls significantly across the site*
- By virtue of the surrounding residential development the non-compliance will not establish a precedent for future surrounding development*
- The additional height is located away from sensitive uses and areas and therefore will not impact surrounding residential uses in terms of solar access, privacy or view lines.*
- The extent of the non-compliance is limited to a single corner/aspect of the building, reducing its visual impact from Minmi Road*
- Taller landscaping elements proposed along this frontage will further reduce the visual impact of the non-compliance. It is concluded that non-compliance with the draft height standard is in the public interest it is a minor inconsistency with the DNLEP and has minimal impact on the surrounding environment.'*

Based on the justification provided, and that the fact that this is a control in a draft LEP, it is considered that the exceedance of the (draft) maximum height limit is acceptable.

It is noted that a height limit is not identified in the current LEP2003 or DCP2005.

#### Clause 4.4 - Floor Space Ratio (FSR)

The draft LEP2011 map identifies this site as having an FSR of 1.5:1. The proposal complies with this requirement, having an FSR of 0.25:1.

#### **(a)(iii) any development control plans**

##### Newcastle Development Control Plan 2005 (DCP2005)

- Element 3.1 Public Participation

The proposal was notified in accordance with this element. The submissions received are discussed in this assessment.

- Element 4.1 Parking and Access

The following table summarises the parking requirements of the DCP for 'shopping centres' with 0-10,000m<sup>2</sup> GFA:

Type of Parking	DCP Control	Requirement	Proposed
Car	6.1 spaces per 100m <sup>2</sup>	293	217
Bicycle	1 space per 200m <sup>2</sup> GLFA	24	28
Motorbike	1 space per 20 car spaces	11 (based on 217 spaces provided)	12

The Council's Senior Traffic Officer's assessment is discussed later in this report. The proposal is considered to be acceptable.

- Element 4.2 Contaminated Land Management

Contamination issues relating to this proposal have been previously discussed in this report. The proposal is considered to be satisfactory having regard to the DCP.

- Element 4.3 Flood Management and Element 4.5 Water Management

Council's Senior Development Engineer has considered the stormwater management plan submitted by the applicant, and makes the following comments:

##### 'Stormwater

*The applicant has prepared a Stormwater Management Plan and a detailed set of drainage plans indicating stormwater discharge control. Stormwater from roof areas will be piped via a sealed system to a set of rain water storage tanks located in the under croft area of the site. This water will be drawn down and be used for reuse purposes in the shopping complex. Stormwater from other hard stand areas will be collected and directed to an*

onsite retention chamber located under the ramp area. The stormwater management plan has addressed stormwater collection volumes, tank and detention basin sizing, draw down rates and discharge control.

From the plans and report supplied the roof area is 5,600m<sup>2</sup>, the hardstand area is 7,900m<sup>2</sup> (Total 13,500m<sup>2</sup>) and the total site area is 19,700m<sup>2</sup>. The development in accordance with Council's standards is required to supply 249.7m<sup>3</sup> of on site retention in peak conditions based on retention for impervious areas. The development proposes to supply 105m<sup>3</sup> in the roof water tank system (3 tanks) and 228m<sup>3</sup> in an on site retention tank system, totalling 333m<sup>3</sup>. The amount of onsite retention proposed is in accordance with Council's standards.

#### Flooding

The site is adjacent to a creek system and grades from the creek system in a southerly direction to Churnwood Drive. The creek system exerts a partial flooding influence on the northern part of the property. The applicant applied to council for a Flood Information Certificate which was issued on 22 August 2005. The Flood Information Certificate recommended a Flood Planning Level of 5.7m AHD minimum floor level for occupiable rooms in the development. The plans state the finished floor level of the supermarket and adjoining tenancies to be RL 13.12m AHD and the lower level plant room to be RL 7.500m AHD. Therefore all occupiable tenancies, plant rooms and adjoining ramps are located above the flood planning level. Notwithstanding the consideration of the floor levels by the applicant as reflected in the plans, construction above the flood planning level should be conditioned in any approval issued.

#### Erosion and Sediment Control

The applicant has submitted Sedimentation and Erosion Control plans in accordance with Council's requirements and has made extensive reference to the guidelines detailed in the Department of Housing publication "Managing Urban Stormwater –Soils and Construction", 4<sup>th</sup> Edition.'

Accordingly, it is considered that the proposal is acceptable in terms of water management and flooding.

- Element 4.4 Landscaping

The DCP identifies this proposal as a 'Category 3 development', and accordingly the landscaping plan is required to be prepared by a Landscape Architect or similar qualified professional. The submitted plan complies with this requirement, and is considered to be satisfactory.

- Element 4.6 Waste Management

The submitted waste management plan satisfies the requirements of the DCP.

- Element 4.7 Outdoor Advertising

The applicant has advised that signage does not form part of this application, and separate development applications will be lodged at a later date. Accordingly, the provisions of this element do not apply to the current application.

- Element 4.10 Tree Management

The applicant has submitted an Arbocultural Assessment, as required by this DCP element, in addition to the flora and fauna reports prepared. It is noted that this report is the document previously provided with the 2006 proposal. However, the applicant has detailed the differences between the previously approved development application, and this current application in the Statement of Environmental Effects, and with comparison plans.

The applicant advises:

*'The application seeks to remove a number of trees on site. The majority of these trees were previously approved for removal under DA/05/1787 Conditions 3.8 and 3.9. which approved 306 of the 365 trees on the site for removal and 59 for retention.*

*The new layout of the development preserves some trees previously identified removal and also required the removal of additional trees (refer Appendix Q). The Tree Removal Plan clearly shows the difference between tree removal in the approved and proposed development schemes. Under the current scheme a total of 30 trees will be retained.*

*The increase in tree removal along the northern boundary of the site is part of the bushfire management strategy to locate an Asset Protection Zone 20-24m from this boundary. This defendable space will need to be maintained as an Inner Protection Area (IPA) in accordance with the standards described in Planning for Bushfire Protection (Rural Fire Service, 2006).'*

As identified, the proposal involves the removal of 335 trees. It is noted that the previous application permitted the removal of 306 trees, and accordingly an additional 34 trees are proposed to be removed under this application. It is further noted that clearing of the site has already commenced in accordance with the past approval.

It is considered impractical to consider this application in isolation of the past approval, despite the fact that the submitted plans and documentation still demonstrate this site as heavily vegetated. In this regard, strict application of the DCP element requiring full compensation for all canopy loss, which did not exist in the current form when the past approval was issued, is unworkable in the context of this site.

Accordingly, it is considered that maximising opportunities for replacement plantings, both within the site and in the adjacent road reserve is the most pragmatic approach. The submitted landscaping plan currently shows approximately 79 trees are proposed to be planted on the site; however it is considered that additional replacement planting is achievable, as detailed below:

- Based on a rate of one tree for every 8 metres of street frontage, approximately 17-19 street trees can be achieved on the Minmi Road and Beech Close frontages.



- There is additional landscaping potential for larger trees within the site in the setback to Wentworth Creek.
- There is additional landscaping potential for larger trees within the site in the setback to Minmi Road in the north-east corner.
- Based on a rate of one tree for every six carspaces, there is additional potential for tree planting in the car park, along the boundary of Minmi Road and within the carpark.

Considering these opportunities, it is considered reasonable to require the planting of an additional 60 trees (i.e. a total of 139) and this is recommended as a condition of the consent. It is noted that should the applicant prefer to compensate the loss on other sites in the vicinity, this can be facilitated through the recommended conditions.

Based on the above considerations, the proposal is acceptable in relation to this DCP element.

- Element 6.1 Commercial Development

The proposal is considered to be satisfactory having regard to this DCP element. The studies, including the Traffic Impact Assessment, required by this Element of the DCP has been provided and is considered to be satisfactory by Council officers. Refer to the following section of the report for further details.

**(a)(iia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into**

Not applicable.

**(a)(iv) any matters prescribed by the regulations**

The proposal is considered to be satisfactory.

**(b) the likely impacts of the development**

- Access, Traffic and Parking

Council's Senior Development Officer (Traffic) has undertaken an assessment of the impacts of the proposed development in relation to access, traffic and parking. The application has also been referred to the Hunter Regional Development Committee for assessment. The following comments have been provided by Council's Senior Development Officer (Traffic):

*Traffic Generation*

*Traffic surveys conducted on Thursday 3 February 2011 between 2.30pm and 6.00pm and Saturday 5 February 2011 between 11.00 am and 1.00 pm have confirmed that both the existing traffic signals and the roundabout are operating at acceptable levels of service with delays within acceptable limits (less than 40 seconds).*

*The proposal approved under DA 05/1787 comprised a total of 4581m<sup>2</sup> GLFA (3000m<sup>2</sup> supermarket / 1581m<sup>2</sup> speciality shops) generating a total of 538 and*

611 vehicle trips during the peak hours of Thursday and Saturday respectively. This application comprises a total of 4831m<sup>2</sup> GLFA (3504m<sup>2</sup> supermarket / 1327m<sup>2</sup> speciality shops) generating a total of 605 and 658 vehicle trips during the peak hours of Thursday and Saturday. This represents an increase in the order of 67 and 47 vehicles respectively. The traffic report has modelled the operation of the traffic signals and the roundabout post development and the 10 year projection to confirm that both intersections continue to operate at acceptable levels of service. The existing right turn lane in Churnwood Drive on the western approach to the signals is to be lengthened, without impacting on the existing pedestrian crossing, in order to increase storage capacity.

#### Local Road Network

Council records suggest that Beech Close between Cottonwood Chase and the end of the cul-de-sac will require upgrading to cater for the expected traffic loadings associated with this development. An appropriate condition has been recommended for this application in relation to this matter.

An appropriate condition will also be required to ensure appropriate regulatory signage is installed along the frontages of the site to control on-street parking activity.

#### Access

Minmi Road is a local road and Council is the responsible Road Authority. Notwithstanding this fact the consent of the RTA is required for the Minmi Road access pursuant to Sec 87 Roads Act 1993, due to its proximity to the existing traffic control signals. In this regard the consultant's submission is inclusive of a letter from the Authority dated 23 February 2011 confirming their support for a light vehicle entry and exit on Minmi Road. This access is supported on traffic grounds subject to the following:

1. The provision of appropriate deceleration lane
2. The merge for vehicles exiting the site being clear of the existing merge of the two westbound travel lanes.
3. Adequate provision being made for cyclists for the full length of the subject road works
4. The existing concrete central median being extended west to prevent right in / out movements
5. A 'Giveway' sign and TB line marking being provided across the light vehicle exit onto Minmi Road

An appropriate condition has been recommended for this application in relation to this matter.

#### Parking Supply

While the original application DA 05/1787 for the site satisfied the parking requirements for a shopping centre as outlined under Element 4.1 of Council's DCP 2005 at a parking rate of 6.1 spaces per 100M<sup>2</sup> of GFA, this application has a parking shortfall of some 78 spaces. Initially the traffic consultant presented an argument for a reduction in parking based on parking surveys conducted in Sydney and Melbourne. The consultant was requested by Council to review similar centres within the lower Hunter to support any parking variation. Accordingly parking surveys were conducted for both the Belmont

and North Lakes Shopping Centres. These surveys justify a variation in parking and the provision of 217 spaces at a rate of 4.47 spaces per 100M<sup>2</sup> of GFA.

Adequate parking has been provided for motorcycle parking in accordance with Element 4.1 of Council's DCP 2005 with the provision of 12 spaces.

#### Parking Layout

The applicant has amended the car park layout to address previous Council concerns and the revised footprint is now considered acceptable.

#### Pedestrian Network

##### *Internal*

Defined pedestrian paths are proposed along the southern side of the building and through the centre of the car park linking the building entry/exit to Beech Close and Churnwood Drive. While additional pathways within the car park would be beneficial the proposal is acceptable.

##### *External*

Pre DA discussions with the applicant identified the need to link any proposed internal pathways with the external pedestrian network. In this regard the central pedestrian pathway within the car park connects to Churnwood Drive centrally between the existing pedestrian crossing facilities at the traffic signals and the roundabout. Concern is raised in relation to the resulting impact on pedestrian activity and the increased potential for pedestrians to not use these facilities but rather seek refuge on the central median in Churnwood Drive. In this regard it has been recommended that a pedestrian fence be installed in the central median between the signals and the roundabout to direct pedestrians to the existing crossing facilities.

#### Servicing

The layout presented under this application is a significant improvement on that approved under DA 05/1787 with clear separation between heavy and light vehicles.

Initial concerns were raised in relation to the orientation of the driveway providing access to the loading dock and the issue of service vehicles crossing to the wrong side of Beech Close to enter the loading dock ramp. It is however acknowledged that it is a slow speed environment and on-street parking in this area of Beech Close is proposed to be removed through the installation of appropriate regulatory signage.

Swept paths have been provided for vehicles up to and including a 19.0m articulated vehicle. To ensure B-doubles do not access the site an appropriate condition has been recommended for this application restricting the maximum vehicle servicing the site to a 19.0m articulated vehicle as defined under AS 2890.2 – Parking Facilities.

While the loading facilities do not comply with Council's DCP requiring 8 service bays the applicant has sourced similar developments and consulted Coles in

*relation to the nature and frequency of deliveries. On this basis the proposed loading facilities are considered acceptable.*

#### *Traffic Management*

*A construction traffic management plan will be required to control vehicle and pedestrian activity in the public road reserves during the construction period. An appropriate condition has been recommended for this application in relation to this matter.*

#### *Green Travel Plan*

*A 'Green Travel Plan' has been submitted in support of this application in accordance with Element 4.1.3 b) of Council's DCP 2005 to encourage the use of alternate modes of transport. The site is well serviced by public transport with bus stops located within 400m of the site in both Minmi Road and Churnwood Drive. Provision has been made for 28 bicycles with the inclusion of a secure bicycle enclosure and end of trip facilities (showers and lockers) for staff, while bicycle racks have been provided for customers at the entrance to the centre.'*

The proposal is considered to be satisfactory in relation to parking, traffic and access matters.

#### *Environmental issues*

Council's Environmental Section (Compliance Services Unit) has reviewed the documentation submitted with the Development Application and has undertaken an assessment of the environmental impact of the proposed development. This assessment has determined that a number of potential environmental issues may arise in both the construction of the proposed development and the use and occupation of the neighbourhood shopping centre. These matters are discussed below.

##### *'Flora and Fauna*

*While an updated Flora and Fauna Impact Assessment prepared by SMEC Australia dated October 2011 has been submitted by the applicant a majority of vegetation at the site has been removed. The removal of the vegetation was conducted by enacting Development Application No 05/1787 approved by Council on 23 November 2006. Due to the removal of the majority of the vegetation the habitat value is significantly diminished and does not require further assessment.*

##### *Noise*

*The Revised Noise Impact Assessment prepared by Reverb Acoustics dated June 2011 has undertaken an analysis of the potential noise impacts from the proposed development on surrounding residential receivers. Potential noise impacts from the proposed development may be generated from various sources, as discussed below.*

##### *Mechanical plant*

*The mechanical plant associated with the proposed development will be located within the north-eastern plant room and on three rooftop plant*

decks. The Revised Noise Impact Assessment prepared by Reverb Acoustics dated June 2011 has undertaken an analysis of the potential impact of these plant items on the surrounding residential receivers. Noise modelling has demonstrated the mechanical plant will be compliant with the day, evening and night periods in accordance with the criteria outlined in the OEH's 'Industrial Noise Policy'. Compliance is dependant on the construction of an acoustic barrier along the southern edge of the speciality shop plant deck as recommended in the Revised Noise Impact Assessment prepared by Reverb Acoustics dated June 2011. The recommendations outlined in the Revised Noise Impact Assessment prepared by Reverb Acoustics dated June 2011 are to be implemented and certification from an acoustic consultant is required. These recommendations will form part of the consent conditions.

*It should be noted that any additional mechanical plant items proposed for installation as part of the occupation of tenancies, which are not the subject of this application, will be required to demonstrate the items are compliant with the project specific noise criteria outlined in the Revised Noise Impact Assessment prepared by Reverb Acoustic dated June 2011.*

#### *Loading dock and deliveries*

*The Revised Noise Impact Assessment prepared by Reverb Acoustics dated June 2010 undertaken an analysis of the potential noise impacts from loading dock activities on residential receivers in Beech Close. Noise from delivery activities were demonstrated to comply with the day and evening site specific noise criteria at the residential receivers located along Beech Close. However, Council remains concerned the noise from deliveries had the potential to impact upon residential amenity during the early morning (6:00am to 7:00am) and late evening (8:00am to 10:00pm) and recommends that deliveries be restricted to between 7:00am to 8:00pm daily. The restriction of delivery times will be addressed by an appropriate consent condition.*

#### *Carpark*

*Vehicles manoeuvring within the carparking area of the proposed development have the potential to generate adverse noise impacts for the surrounding residential dwellings. Noise analysis undertaken by Reverb Acoustics has demonstrated noise from the carpark area will be compliant with the site specific noise criteria for both the day, evening periods and night 'shoulder period'.*

#### *Traffic*

*The Revised Noise Impact Assessment prepared by Reverb Acoustics dated June 2011 has undertaken an analysis of potential increases in traffic noise associated with the proposed development experienced at residential receivers in Beech Close, Churnwood Drive and and Minmi Road. Traffic noise is assessed against the criteria outlined for a local road in accordance with the OEH's 'NSW Road Noise Policy'.*

Council's Environmental Services Unit has concluded that the proposed development warrants support, subject to compliance with the recommended conditions of consent.

d) Waste

The proposed development will generate waste materials, and these waste materials must be adequately contained in an appropriate location. The SoEE states that adequate facilities are to be provided for the Coles Supermarket for waste and recycling to reduce the amount of waste going to landfill. The requirement for adequate waste facilities should be addressed in the consent conditions.

The timing of waste collection has the potential to generate adverse noise impacts. The SoEE notes that waste collection will be conducted between the hours of 6.00am and 10.00pm. However, it is considered appropriate to restrict this to between 7.00am and 6.00pm, to ensure no unreasonable impacts.

e) Tree Removal

Tree removal and compensatory planting has been discussed previously in the assessment. The proposed development is considered to be satisfactory subject to recommended conditions, including appropriate tree protection measures being implemented on-site and the provision of compensatory planting.

f) Crime Prevention through Environment Design (CPTED)

The submitted SoEE provides the following comments in relation to the CPTED principles:

*'The proposal complies with the key principles of CPTED (Crime Prevention Through Environmental Design) as follows:*

- Natural Surveillance- Good sightlines will be maintained in the pedestrian areas on the southern portion of the site. Key pedestrian areas will be activated and visible from the surrounding road network. Appropriate lighting of pedestrian areas will assist surveillance.*
- Access Control- The layout of the buildings will clearly define public and private areas. The back of house areas will only be accessible via the ramp at the rear of the site. All public car park areas are highly visible and will be marked with appropriate signage. Within the main building, private areas (i.e. amenities and loading areas) will have restricted access. Pedestrian pathways will be clearly defined through paving and landscaping.*
- Territorial Reinforcement- The open design and orientation of buildings to the surrounding street will clearly define the entrances and front/back of house parts of the site. Separation of uses, signage and landscape will ensure clear boundary definition and distinction between the private and public domain.*
- Space Management- Proposed landscaping and building design will not result in the creation of spaces that would compromise the safety of users or surrounding residents.'*

The proposal was referred to the NSW Police Force - Crime Prevention Officer, however no response was received. However, the recommendations made by the Police in relation to the previous application have also been included in the recommended conditions of consent.

It is considered that the proposal is satisfactory in relation to CPTED principles, subject to conditions of consent.

g) Archaeology

Aboriginal Archaeological and Cultural Heritage Assessment Report was referred to the NSW Office of Environment and Heritage (OEH). Comments from OEH include:

*'OEH has accordingly reviewed the documentation provided by Council in support of the DA, including the '221 Minmi Road, Fletcher, NSW - Aboriginal Archaeological and Cultural Heritage Assessment - Final Report' (dated May 2011), to assess the potential impacts of the proposed development on Aboriginal cultural heritage in accordance with OEH'S Aboriginal cultural heritage assessment guidelines and the requirements of the NPW Act. The following advice is provided to Council and the applicant following this review.'*

*'OEH acknowledges the results of the Aboriginal cultural heritage assessment of the project area which locate one (1) Aboriginal site within the project area, identified as 'Fletcher PAD', registered as site #38-4-0855, an artefact scatter and associated Potential Archaeological Deposit (PAD).'*

*'OEH notes that the development is likely to impact or cause harm to 'Fletcher PAD'. Accordingly, the applicant will be required to manage the site in accordance with the requirements of the NPW Act. This will involve the submission of an application to OEH for an Aboriginal Heritage Impact Permit (AHIP), prior to any development activities occurring. In order to obtain an AHIP, the applicant will also be required to consult with the local Aboriginal communities in accordance with OEH's 'Aboriginal cultural heritage consultation requirements for proponents 2010'....OEH has included in Attachment A, a General Terms of Approval (GTA) to target these matters.'*

*'OEH acknowledges that there is a likelihood of finding further evidence of Aboriginal occupation of the project area if the development proceeds. The applicant's proposal, to provide an opportunity for the registered Aboriginal stakeholders to monitor the initial ground disturbance works associated with the development and to recover any additional cultural material present, is noted.' OEH supports this proposal and has included a GTA to target this matter.*

*If additional Aboriginal objects are uncovered due to the development activities, Council's approval must require that all works halt in the immediate area to prevent any further impacts to the objects. The applicant will be required to manage the site(s) in accordance with the requirements of the NPW Act (e.g. avoid impact, further investigation, AHIP, etc.). A suitably qualified archaeologist and local Aboriginal community representatives must be contacted to determine the significance of the object(s).'*

*'OEH acknowledges that the applicant has committed to developing an Aboriginal Heritage Management Plan (AHMP) for the project area. OEH supports this process. However, OEH also recommends that the AHMP be developed and implemented in consultation with the registered local Aboriginal stakeholders.'*

*'Subject to the resolution of the above issues, it is recommended that the GTA for Aboriginal cultural heritage values provided in Appendix A are reflected in any approval conditions for the project.'*

The general terms of approval made by the OEH are included in the conditions of consent at **Attachment A**. Accordingly, it is considered that the application has satisfactorily addressed archaeological considerations.

**(c) the suitability of the site for development**

The site is within a Mine Subsidence District and conditional approval for the proposed development has been granted by the Mine Subsidence Board.

The site is identified as being Bushfire Prone Land. The application was referred to the NSW Rural Fire Service for comment and advice has been received that the proposal is satisfactory subject to construction of the building in accordance with Australian Standard 3959 – 1999-*'Construction of Buildings in Bushfire Prone Areas'*. The conditions recommended by the RFS have been included in Appendix B.

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

It is considered that the proposal is satisfactory having regard to climate change.

It is not considered that the proposal is likely to have any significant negative social impacts. It is likely that the proposal will create a positive social impact, in terms of accessibility to goods and services in the local community.

**(d) any submissions made in accordance with this Act or the Regulations**

The application was 'advertised development' and was advertised and notified between 14 June 2011 and 13 July 2011. The application received two letters of support, and no letters of objection.

The letters of support are summarised below:

- the site has always been designated for this purpose
- new design is an improvement on the previous approval
- major service needed for the area

**(e) the public interest**

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development.

The proposed development does not raise any significant general public interest issues beyond matters already addressed in this report.

**7. Conclusion**

Subject to various conditions, the proposal is acceptable against the relevant considerations under section 79C.



## **8. Recommendation**

That the Joint Regional Planning Panel grant consent to DA 11/0590 subject to the conditions contained in Appendix A.

## APPENDIX A - Conditions of Consent

### REASONS FOR CONDITIONS

The conditions of this consent have been imposed in accordance with Section 80A of the *Environmental Planning and Assessment Act 1979*. The conditions relate to any matter referred to in Section 79C(1) of relevance to the development the subject of the consent and are imposed to ensure that the development is undertaken in an orderly manner, with acceptable impacts on the natural and built environment.

### APPROVED DOCUMENTATION

- 1 The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No./Supporting Document	Version	Prepared by	Dated
Site Plan - Ground Level - A02.01	G	BN Pty Ltd	10.10.11
Proposed Floor Plan GL - A06.02	F	BN Pty Ltd	10.10.11
Proposed Floor Plan - CP - A06.01	E	BN Pty Ltd	10.10.11
Proposed Elevations - Northeast & Southeast - A10.01	D	BN Pty Ltd	10.10.11
Proposed Elevations - Northwest & Southwest - A10.02	E	BN Pty Ltd	10.10.11
Landscape Plan - LPDA11-367/1	C	Conzept Landscape Architects	Oct 2011
Proposed Site Section - 11.01	D	BN Pty Ltd	10.10.11
Proposed Site Plan - Roof Plan - A02.02	E	BN Pty Ltd	10.10.11
Proposed Roof Plan - A06.03	E	BN Pty Ltd	10.10.11
Erosion and Sediment Control Plan - 11-216 C01.00-C02.00	3	mpc Consulting Engineers	10.10.11
Stormwater Plan - 11-216 C03.00	3	mpc Consulting Engineers	10.10.11
Stormwater Details - 11-216 C04.00	3	mpc Consulting Engineers	10.10.11
Stormwater Management Plan - 11-216	B	mpc Consulting Engineers	August 2011
Statement of Environmental Effects	Rev1	HASSELL	May 2011
Colour Scheme		BN Pty Ltd	
Loading Ramp - Edge Treatment		BN Pty Ltd	27.9.11
Acoustic Report		Reverb Acoustics	June 2011
Preliminary Contamination Assessment including Addendum		Douglas Partners	April 2011

dated 25 May 2011			
Supplementary Geotechnical Investigation		Douglas Partners	April 2011
Remediation Action Plan		Douglas Partners	30 May 2011
Bushfire Assessment Report		Conarcher Environmental Group	May 2011
Arborist Report		Urban Tree Management	5/9/2005
Flora and Fauna Impact Assessment		SMEC	October 2011
Squirrel Glider Management Plan		SMEC	May 2011
Noxious Weed Management Plan		SMEC	May 2011
Green Travel Plan	A	GTA Consultants	10.10.11
Archaeology Report		Austral Archaeology	May 2011
Existing Site Survey and Proposed Tree Removal - A00.04	A	BN Pty Ltd	21.7.11

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- 2 A total monetary contribution of \$119,992 is to be paid to Council, pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979*, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

- Note:**
- i) This condition is imposed in accordance with the provisions of the *Newcastle City Council S94A Development Contributions Plan 2009* (updated version operational from 15 March 2011). A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.
  - ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

Any party intending to act on this consent should contact Council's Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

- 3 Adequate facilities are to be provided in a screened location within the premises for the storage of garbage, discarded or returnable packaging or other forms of trade wastes and arrangements being made for regular removal and disposal of same. The required garbage facility is to be suitable for the accommodation of Council approved wheel type bins or bulk waste containers. Full details are to be included in documentation for a Construction Certificate application.
- 4 The proposed floodlighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard AS 4282: 1997- 'Control of the obtrusive effects of outdoor lighting'. Full details are to be included in the documentation for a Construction Certificate application.
- 5 Building must address the provisions of Access to Premises Standards 2010 and BCA 2011 in regards to provision of access and facilities for persons with disabilities. This must be supported by an Access Report by suitably qualified person to the PCA detailing how compliance will be addressed.
- 6 Prior to the issue of the Construction Certificate for the main building, a comprehensive Landscape Plan shall be prepared by an accredited landscape designer in accordance with the requirements for a Category 3 project, as outlined in Element 4.4 Landscaping of the Newcastle Development Control Plan, 2005. Preparation of this Plan is to be carried out in consultation with Council's Landscape Architectural Services Section and is also to comply with the following requirements:
  - a) Trees are to be installed in gap-graded (structural) soil vaults. Gap-graded soil to be provided to allow adequate rooting volume for the required trees. The plans are to include recharge lines in pit design to allow flood irrigating to tree vaults.
  - b) Trees are to be installed in gap-graded (structural) soil vaults. Volumes are to be based on the formula:  $CP \times 0.6m^3$ , CP = the crown projection ( $m^2$ ) of a mature tree ( $3.14 \times r^2$ ).
  - c) All carpark trees are to be a minimum pot size of 100litres.
  - d) All carpark trees are to be selected and certified by the supplier to comply with the current NATSPEC guide with respect to root development, height, trunk diameter and branch structure and balance (refer to Specifying Trees, Construction Information Systems Australia PL, Clark, R 2003)
  - e) Specifications to be included for:
    - Soil embellishment if required;
    - establishment methods for all new plantings;
    - maintenance scheduling for all new plantings;
    - weed eradication program;
  - f) Provide details of Gravel access and maintenance path.

- 7 The landscaping plan shall be amended to include an additional eight screening trees along the northeast elevation of the proposed building. Selected trees shall have a minimum mature height of 10 metres. These trees shall have a minimum pot size of 45 litres at the time planting. Details are to be approved prior to the issue of the Construction Certificate for the main building.
- 8 Compensatory planting, to ameliorate the tree removal on the development site, shall be undertaken by the applicant, at no cost to Council. Compensatory planting shall achieve a minimum of 129 trees. Carpark landscaping and additional street tree planting undertaken by the applicant is considered to contribute to this compensatory planting.

If all the required compensatory planting cannot be achieved on the development site, a suitable alternative to the satisfaction of Council's Landscape Architectural Services Section shall be achieved. Suitable alternatives would include compensatory landscaping on public land in the Fletcher area, for example, Lot 1415 DP 1018235 'Lillypilly drive reserve', or the adjoining reserve Lot 903 DP1022872.

Details are to be approved prior to the issue of the Construction Certificate for the main building.

- 9 Prior to the issue of the Construction Certificate for the main building, a street tree planting plan is to be approved by Council's Landscape Architectural Services Section and is also to comply with the following requirements
- a) New street trees, at a minimum rate of one tree per 8 metres frontage, are to be planted on the Minmi Road frontage of the site and on the northern end of Beech Close.
  - b) Groundcover and understorey landscaping is required for the length of the new footpath on Minmi Road, to reinforce the bushland character.
  - c) Existing street trees on the frontage of the site on Churnwood Drive and Beech Close of failing health/condition, as determined by Council's Arborist, are to be replaced.
  - d) New street trees are to be provided with a minimum 100 litre pot size, or as otherwise approved by Council, such to be installed prior to the certification of the Occupation Certificate;
  - e) Trees are to be installed in gap-graded (structural) soil vaults. Gap-graded soil to be provided to allow adequate rooting volume for the required trees. The plans are to include recharge lines in pit design to allow flood irrigating to tree vaults. Vault volumes are to be based on the formula:  $CP \times 0.6m^3$ ,  $CP$  = the crown projection ( $m^2$ ) of a mature tree ( $3.14 \times r^2$ ).
  - f) All street trees are to be selected and certified by the supplier to comply with the current NATSPEC guide with respect to root development, height, trunk diameter and branch structure and balance (refer to Specifying Trees, Construction Information Systems Australia PL, Clark, R 2003); and
  - g) Street trees are to be protected with tree guards to Council's requirements.
- 10 Compensatory planting trees are to be a vigorous specimen with a straight trunk, gradually tapering and continuous, crown excurrent, symmetrical, with roots established but not pot bound in a 100 litre volume container and having been propagated to the standards of 'Natspec Guide to Specifying Trees' by Ross Clarke 2003. Tree planting is to be carried out by an appropriately qualified and experienced horticulturist or Arborist and maintained by a similarly qualified person for at least one year after planting. Full details are to be submitted to the Principal Certifying Authority for approval with the documentation for the required Construction Certificate application for the main building.

- 11 The site plan and landscaping plan are to be amended to demonstrate a minimum of one canopy tree for every 6 carparking spaces (in addition to any required street tree planting). The area identified on the plans as '*tensile roof shade structure*' is not affected by this condition. Full details are to be included in documentation for a Construction Certificate application for the main building.
- 12 The below-mentioned trees are required to be retained and protected in accordance with the approved plans and in accordance with the UTM Arborist Report, dated 5 September 2005:

Tree number	Scientific name	Common name
2	<i>Eucalyptus saligna</i>	Sydney Blue Gum
3	<i>Eucalyptus saligna</i>	Sydney Blue Gum
8	<i>Eucalyptus saligna</i>	Sydney Blue Gum
9	<i>Eucalyptus saligna</i>	Sydney Blue Gum
10	<i>Eucalyptus saligna</i>	Sydney Blue Gum
11	<i>Eucalyptus saligna</i>	Sydney Blue Gum
12	<i>Syncarpia glomulifera</i>	Turpentine
13	<i>Syncarpia glomulifera</i>	Turpentine
20	<i>Eucalyptus saligna</i>	Sydney Blue Gum
32	<i>Syncarpia glomulifera</i>	Turpentine
33	<i>Syncarpia glomulifera</i>	Turpentine
34	<i>Syncarpia glomulifera</i>	Turpentine
38	<i>Syncarpia glomulifera</i>	Turpentine
57	<i>Eucalyptus saligna</i>	Sydney Blue Gum
58	<i>Eucalyptus saligna</i>	Sydney Blue Gum
77	<i>Eucalyptus saligna</i>	Sydney Blue Gum
79	<i>Corymbia maculata</i>	Spotted Gum
301	<i>Corymbia maculata</i>	Spotted Gum
302	<i>Corymbia maculata</i>	Spotted Gum
305	<i>Eucalyptus paniculata</i>	Grey Ironbark
337	<i>Corymbia maculata</i>	Spotted Gum
341	<i>Eucalyptus paniculata</i>	Grey Ironbark
342	<i>Eucalyptus paniculata</i>	Grey Ironbark
343	<i>Eucalyptus paniculata</i>	Grey Ironbark
344	<i>Eucalyptus paniculata</i>	Grey Ironbark
354	<i>Eucalyptus paniculata</i>	Grey Ironbark
355	<i>Eucalyptus paniculata</i>	Grey Ironbark
356	<i>Eucalyptus paniculata</i>	Grey Ironbark
361	<i>Eucalyptus paniculata</i>	Grey Ironbark

A plan clearly identifying the location of the above mentioned trees and clearly identifying the trees by reference number is to be submitted to the Principal Certifying Authority for approval with the documentation for the required Construction Certificate application.

Tree protection fences are to be positioned in accordance with Appendix A - Site Plan B "*Trees to be retained and tree protection zones*" of the Urban Tree Management Report and are to be installed in accordance with the UTM report specifications and under the supervision of the UTM Arborist prior to the commencement of any works on

site. This is to include the protection of the existing street trees along Churnwood Drive and Beech Close, as considered necessary by the Arborist. Where tree protection zone fences are to be moved or relocated, this must be undertaken in consultation with the UTM Consultant Arborist. Any work undertaken within the tree protection zones is to be undertaken in accordance with Appendix E of the Urban Tree Management Report and under the supervision of the Consulting Arborist.

Existing trees on the site, which are to be retained, are to have no cut or fill under their canopy areas and the location of these trees is to be clearly identified on the Landscape Plan and Engineering Plans. No building supplies, machinery or equipment is to be stored within tree protection zones for the duration of the development. Stormwater drainage is to be directed away from the critical root zone of the trees.

- 13 The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation's certificate of compliance is to be included in documentation for a Construction Certificate application.
- 14 The design and construction of the proposed development is to be in accordance with the relevant requirements of the *Australian Standard 4674-2004 Design, Construction and Fit-Out of Food Premises*. Full details are to be included in the documentation for the Construction Certificate application.
- 15 Working drawings and specifications of the proposed building are to be submitted to the NSW Mine Subsidence Board for approval prior to an application for a Construction Certificate and any requirements of the Board are to be included in the documentation for a Construction Certificate application.
- 16 Use of the driveway crossings on Beech Close and Minmi Road, by any vehicle, being restricted by the installation of suitable traffic management devices which are required to be locked between the hours of 12.00am to 6:30am. Full details are to be included in documentation for a Construction Certificate application

**Note:** The traffic management device may consist of gates, bollards, chains or combination thereof.

- 17 The developer obtaining the separate approval of Council for all works within the public road reserve pursuant to Section 138 of the *Roads Act 1993* and such being obtained prior to the issue of a construction certificate for the 'main building'.

**Note:** A fee will be payable in relation to the Section 138 Approval in accordance with Council's Fees & Charges.

- 18 Comprehensive engineering road design plans and specifications for the works being undertaken in the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to Council for approval with the Section 138 application, such to be accompanied by the following documentation and additional details:

#### **a) Road Design Plans**

Engineering Plans are to comply with the following requirements –

- i) Plans to be accompanied by a pavement design report prepared and certified by a practising geotechnical engineer.
- ii) Kerb and gutter shapes within the public road to be constructed in accordance with Council's 'Standard Drawing No. NCC A17' as amended on 23 January 1995.
- iii) Drainage inlet structures within the public road to be constructed in accordance with Council's 'Standard Drawing Nos. A199' dated March 1995 and A313 as amended 6 September 1994.
- iv) Footways to be generally high level and at 2% grade toward the kerb.
- v) Kerb ramps to be constructed in accordance with Council's Draft 'Standard Drawing No. A90' dated November 1998.
- vi) A separate linemarking and signposting plan (approved by the Newcastle City Traffic Committee) to be included in the design plans.

#### **b) Land Management Plan**

The required Plan is to nominate existing and proposed surface levels and provide full details of proposed erosion and sediment control measures to be implemented prior to, during and after construction. The Plan is to be prepared in accordance with the Department of Housing's Guidelines – 'Managing Urban Stormwater: Soils and Construction'.

#### **c) Stormwater Drainage Plan**

The stormwater drainage design is to incorporate a 1:10 year recurrence interval piped stormwater drainage system, with overland flow up to a 1:100 year recurrence interval event contained within road reserves and/or drainage reserves, and is to comply with the following requirements:

- i) Sub-soil drainage to be located under kerb and gutter and extend at least 500mm below bottom of pavement.
- ii) Pits to be located upstream of kerb ramps and kerb returns.
- iii) All stormwater pipes in the public road to be rubber ring jointed reinforced concrete.
- iv) The proposed development not to increase upstream or downstream flooding for floods over a range of storms from 1:1 to 1:100 year events.

#### **d) Utilities Layout Plan**

A utilities layout plan is to indicate the location of existing mains, associated installations and service conduits together with any proposed utility alterations and installations in particular street lighting. Any required electricity substations, pumping stations or similar installations are to be located in public reserves and/or private land and are not to be located within road reserves.

#### **e) Traffic Management Plan**

The required plan is to detail traffic control measures to be utilised during each construction phase ensuring the provision for safe, continuous movement of traffic and pedestrians within the road reserve. The plan is to be prepared in accordance with Australian Standard 1742.3 – 2002.



#### **f) Set-out Layout Plan**

A set-out layout plan is to indicate survey co-ordinates for set out points for kerbs, medians and lane lines.

- 19 Kerbing or dwarf walls having a minimum height of 100mm being constructed along the edge of all garden or lawn areas adjacent to driveways and parking bays sufficient to discourage the encroachment of vehicles thereon. Full details are to be included in documentation for a Construction Certificate application.
- 20 Wheel stops being provided along the front of parking spaces adjacent to pedestrian pathways and internal circulating ramps/aisles in accordance with AS/NZS 2890.1:2004 - Parking facilities. Full details to be included in documentation submitted with the Construction Certificate application.
- 21 Speed humps being constructed within the carpark in accordance with AS 2890 – 'Parking Facilities' incorporating appropriate delineation in the form of signage and/or linemarking. Full details are to be included in documentation for a Construction Certificate application.
- 22 A pavement design report for the carpark being prepared and certified by a practising geotechnical engineer. All proposed driveways, parking bays and vehicular turning areas being constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details are to be included in documentation for a Construction Certificate application.
- 23 Commercial type vehicular crossings being constructed across the public footway at the proposed driveway entrance/exits in Beech Close and Minmi Road at no cost to Council and in accordance with Council's Newcastle DCP 2005, Council's A017 Series (Concrete Vehicular Crossings) design specifications and the Roads and Traffic Authority's "Guide to Traffic Generating Developments". The crossings are to be properly maintained for the life of the development.
- 24 On-site parking accommodation being provided for a minimum of 217 vehicles, 28 bicycles and 12 motorbikes and such being set out generally in accordance with the minimum parking layout standards indicated in Element 4.1 - Parking and Access of Council's adopted Newcastle DCP 2005. Full details to be included in documentation for a Construction Certificate application.
- 25 The car park is to be designed to comply with AS/NZS 2890.1:2004 - 'Parking facilities' and AS/NZS 2890.6:2009: Parking facilities – Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.
- 26 Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 0.6m in the 2.5 metre by 2 metre splay within the property boundary each side of all driveways, full details to be included in documentation for a Construction Certificate application.
- 27 The floor level of all proposed buildings being not below RL 5.7m, Australian height datum. Details to be indicated on plans for a Construction Certificate application. The levels to the Principal Certifying Authority are to be certified by a registered surveyor.

- 28 Any alteration to natural surface levels on the site being undertaken in such a manner as to ensure that no surface water is drained onto or impounded on adjoining properties. Full details to be included in documentation for a Construction Certificate application.
- 29 All stormwater runoff from impervious hardstand areas being drained through a suitable pollutant control device prior to entering the storm water drainage network or adjacent creek. This device is to be designed in accordance with Council's Stormwater Management Plan design criteria, by a suitable qualified competent practising consulting engineer. Full details to be included in documentation for a Construction Certificate application

**Note:** Pump out systems are not acceptable means of stormwater disposal.

- 30 Roof water from the proposed new work being directed to the proposed water tank and being reticulated there from to any new toilet cisterns and cold water washing machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be installed in accordance with Australian Standard AS 3500 , the relevant plumbing regulations and the requirements of the Hunter Water Corporation, full details to be provided with the Construction Certificate application.
- 31 Overflows from the roof water tank and any additional discharge controls (if required) being directed to onsite drainage systems by means of a drainage line or underground pipe. Discharge from the site is to be via a sealed pipe system, discharging directly to the street gutter or underground pipe system, full details to be provided with the Construction Certificate application.
- 32 The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or modified under the terms of this consent being implemented and the nominated fixtures and appliances being installed, full details to be provided with the Construction Certificate application.
- 33 All new impervious surfaces, including driveways and paved areas being drained to the nominated discharge controls, full details to be provided with the Construction Certificate application.
- 34 All stormwater runoff from the proposed development being managed in accordance with the requirements of the Element 4.5 - Water Management of the Newcastle Development Control Plan 2005, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, as indicated on the Stormwater Plan prepared by mpc Consulting Engineers (Job No. 11-216, Drawing No's C01.00 to C04.00 inclusive, Issue 3, dated 10.10.11). Full details to be included in documentation for a Construction Certificate application.
- 35 All external ramps and pathways within the site required to be accessible for persons with disabilities being designed and constructed in accordance with AS.1428 – 'Design for Access and Mobility'. Kerb ramps are to be provided adjacent to disabled parking bays allowing access to these pathways. Full details are to be included in documentation for a Construction Certificate application.

- 36 The development is to be provided with appropriate secured bicycle parking facilities in the car park area. Full details are to be included in documentation for a Construction Certificate application.
- 37 Prior to the issue of a Construction Certificate, the proponent preparing and submitting to the Principal Certifying Authority and Council a Noxious Weeds Management Plan detailing procedures and measures to manage flora listed under the *Noxious Weeds Act 1993*.

The Noxious Weeds Management Plan should include but not be limited to

- a) Identification and measures of disposal of invasive species listed under the *Noxious Weeds Act 1993*.
  - b) Management of the site during and after construction to prevent growth of noxious weeds
- 38 Prior to the issue of a Construction Certificate, the proponent preparing and submitting to the Principal Certifying Authority and Council an Environmental Management Plan (EMP) for construction works on the site, such to be kept on site and made available to authorised Council officers upon request. The EMP is to include but not be limited to:
- a) A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
  - b) A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater. Procedures should also be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
  - c) A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions.
  - d) A noise and vibration management strategy detailing measures to minimise the impact of the construction phase on the amenity of the locality in accordance with Australian Standard AS 2436. 1981 (Guide to Noise control on Construction, Maintenance and Demolition Sites). Noise and vibration monitoring during the construction phase should be incorporated into the program.
  - e) A soil management strategy, detailing measures to be implemented to manage the identification and control and disposal of any acid sulphate soils or soil contamination identified during site works.
  - f) A waste minimisation strategy, which aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
  - g) A community relations plan, which aims to inform local residents and other local stakeholders of the proposed nature and timeframes for construction activities together with contact details for site management.
- 39 The following requirements are to be implemented to address Crime Prevention through Environmental Design Principles:

- a) Internal –extensive CCTV and back-to-base alarm systems to be installed and adequate signage to be provided to advertise these forms of electronic surveillance. Consideration is to be given to the installation of bollards for the front door of the liquor storey.
- b) External – roller door openings are to be provided with bollard installation to minimise ram raid impact. The installation of security gates (internal or external) to all roller door openings will reduce the opportunity for unlawful entry and/or stock theft. Pedestrian access doors are to be of fire grade and of solid construction. Door hardware fittings are to be of a standard to prevent manipulation by tools. Provision for bollard installation within the concrete surrounds of the shop windows and glass doors are to be provided to minimise ram raid impact on glazed areas. Placement and maintenance of shrubs is to ensure good surveillance.
- c) Traffic – ensure that sufficient directional information signage is provided. Consider speed limit signs and speed humps to slow traffic entering and leaving the area.

Full details are to be provided to the Principal Certifying Authority for approval with the required Construction Certificate application.

#### **CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE**

- 40 The Project Manager nominating a Community Liaison Officer prior to construction works commencing on the site to act as a point of contact for nearby residents throughout the construction phase of the development. The Community Liaison Officer is to be engaged until construction works are completed. The Project Manager is to provide the contact details of the Community Liaison Officer to Council and adjoining residents via a letterbox drop, community newsletter and signage at the side.
- 41 Prior to commencement of any site works, the developer submitting to Council for approval a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.  
  
(Note: The required plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve. The plan is to be prepared in accordance with Australian Standard 1742.3-2002).
- 42 Any proposed work within the public road reserve, including reinstatement of a kerb, pipe or vehicular crossings, being the subject of the separate approval of Council prior to commencement.
- 43 The proposal being undertaken in accordance with the recommendations of the UTM Arborist Report, dated 5 September 2005.
- 44 The Developer engaging the services of a Landscape Site Superintendent, additional to the General Site Superintendent, who is to be employed for the entire construction period. The Landscape Site Superintendent is to be a member of the Australian Institute of Landscape Architects and, in association with the General Site Superintendent, is to be responsible for materials sourcing, and project management. The Landscape Site Superintendent is to ensure landscape construction is delivered in accordance with the approved landscape plans and to a high standard.

- 45 All tree pruning being carried out in accordance with Sections 4.0 and 5.8 of the UTM Arborist Report dated 5 September 2005, and Australian Standard 4373 – 1996 'Pruning of Amenity Trees'. All tree pruning is to be carried out by a suitably qualified Arborist.
- 46 The applicant is to engage a UTM consulting Arborist to undertake periodic site assessments during the construction phase, as deemed necessary to ensure maintenance of tree protection measures and the health of trees to be retained.
- 47 If occupied nests or hollows are found during tree removal works, Council or the local wildlife rescue group being immediately notified. Trees with hollows that are recommended for removal include trees numbered 24, 29 and 70. Mitigation measures identified in Section 4.2 of the Flora and Fauna Impact Assessment Report, dated September 2005, that have not been detailed in the UTM Arborist Report's recommendations are to be implemented.
- 48 Prior to any earthworks on the site or in the road reserve being undertaken by the developer, any trees required to be removed to facilitate road works on Minmi Road must be removed. The tree removal in the road reserve shall comply with the following measures:
- a) The cost of removing trees and the planting and establishment of replacement trees is at the applicant's expense.
  - b) Council's Landscape Architects section will carry out the replacement planting of these trees at a suitable location designated by council.
  - c) Tree removal is by Council's City Greening Services section at the developments cost. Four weeks notice required. Contact 49746043 to arrange forms, cost and removal.
  - d) The tree should be marked to assist with identifying its location and a plan of the proposal provided to City Greening Services with the tree marked.
- 49 A site meeting is to be arranged (48 hours notice) prior to the installation of street trees with gap-graded (structural) soil vaults with Council's Landscape Architects section.
- 50 Prior to the commencement of any clearing, all noxious weeds on site being removed and disposed by a suitably qualified environmental professional in accordance with the procedures outlined in the Noxious Weeds Management Plan prepared by SMEC Australia Pty Ltd, dated 22 December 2005.
- 51 A noxious weeds monitoring and bush regeneration program being developed in consultation with Council and implemented after the completion of works for the area adjacent to Wentworth Creek. The on-going monitoring and bush regeneration program is to be carried out at the expense of the developer and at no cost to Council.
- 52 The proposed development being carried out in accordance with the clearing strategy outlined in the Squirrel Glider Plan of Management prepared by SMEC Australia Pty Ltd, dated 22 December 2005.
- 53 All vegetated areas outside the boundaries of the proposed development being kept free from disturbance of machinery, parked vehicles and waste material.
- 54 Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:

- Monday to Friday, 7:00 am to 6:00 pm;
- Saturday, 8:00 am to 1:00 pm;

No noise from construction/demolition work is to be generated on Sundays or Public Holidays.

- 55 Council's 'PREVENT POLLUTION' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of construction work.

Note: Council's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at Council's Customer Enquiry Counter at 282 King Street Newcastle.

- 56 Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's (DECC) 'Waste Classification Guidelines Part 1: Classifying Waste'.
- 57 Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Exemption that is permitted to be used as a fill material, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2005*.
- 58 Any fill material subject to a Resource Recovery Exemption received at the site must be accompanied by documentation demonstrating that material's compliance with the conditions of the exemption, and this documentation must be provided to Council officers or the Principal Certifying Authority on request.
- 59 Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet is to:
- a) be a standard flushing toilet connected to a public sewer, or
  - b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
  - c) be a temporary chemical closet approved under the *Local Government Act 1993*.
- 60 Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:
- a) A waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste.
  - b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets.
  - c) Appropriate provision is to be made to prevent wind blown rubbish leaving the site.
  - d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997*.

- 61 If construction / demolition work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
- 62 A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- 63 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 64 All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.
- 65 All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:
- a) restricting topsoil removal;
  - b) regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion;
  - c) alter or cease construction work during periods of high wind;
  - d) erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.
- 66 A temporary protective crossing being provided over the footway for vehicular traffic before building operations are commenced. This approval does not permit access to the property over any adjacent private or public land.
- 67 Compliance with the requirements of the Hunter Water Corporation in respect of any building or structure proposed to be erected over any services or stormwater drain under the Corporation's control.

- 68 All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 69 If the soil conditions require it:
- a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
  - b) adequate provision must be made for drainage.
- 70 The placing of building materials or the carrying out of building operations upon or from Council's footway or roadway is prohibited unless prior consent in writing is obtained from Council.
- 71 The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 72 All vegetated areas outside the boundaries of the proposed development being kept free from disturbance of machinery, parked vehicles and waste material.

#### **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

- 73 The proposed Minmi Road upgrade works detailed on the submitted engineering plan by GTA Traffic and Transport Consultants Drg No. JS11011-03-01 Issue P2 dated 27 September 2011 being undertaken at no cost to Council and to Council's and the Roads Traffic Authority's requirements, such works being completed prior to the occupation of the premises.
- 74 Street lighting being upgraded at no cost to Council (other than annual maintenance) to Standard V3 in Minmi Road and P3 in Churnwood Drive and Beech Close in accordance with AS '1158.1.1 – Road Lighting'. The lighting upgrade works being completed prior to the occupation of the premises.
- Note:** The developer is to liaise with Ausgrid in relation to the design and construction of the street lighting.
- 75 Appropriate lighting being provided for the carpark and pedestrian pathways in accordance with 'AS 1158 - Lighting' and 'AS 4282 - Control of the Obtrusive Effects of Outdoor Lighting', such being installed prior to the occupation of the premises.
- 76 The section of the existing road pavement in Beech Close, between Cottonwood Chase and the end of the cul-de-sac, being reconstructed to Council requirements to adequately cater for expected traffic loadings, and such pavement reconstruction being completed prior to the commencement of trading at the proposed centre.
- (Note: The Developer is advised to confer with Council's Pavement Engineer to ascertain Council's requirements in this regard.)
- 77 The developer being responsible for the provision of additional regulatory signage and all adjustments to and/or relocation of existing regulatory signage in Minmi Road, Churnwood Drive and Beech Close as part of this development in accordance with Council requirements, such works to be implemented prior to the occupation of the



premises. In this regard the proposed parking restrictions are to include but not be limited to the following:

- a) The parking spaces in the bulb of the Beech Close cul-de-sac are to be removed.
- b) 'No Parking' signs are to be provided between the two access driveways in Beech Close.
- c) 'No Stopping' signs are to be provided around the bulb in Beech Close.

(Note: Alterations to regulatory signage will need to be referred to the Newcastle City Traffic Committee for approval.)

- 78 The portion of the site required for road widening to maintain a minimum 4.5m wide footway across the Minmi Road frontage of the site being transferred to Council for dedication as road. A suitable survey plan providing for the dedication is to be submitted with an accompanying Subdivision Certificate Application for Council certification prior to the occupation of the premises.

(Note: All associated survey and legal work is to be undertaken by the Developer at the Developer's expense.)

- 79 The Developer designing and constructing the lengthening of the right turn bay in Churnwood Drive at the Minmi Road intersection, at no cost to Council and in accordance with Council's guidelines and design specification, such works to be implemented prior to occupation of the premises shall include:

- a) Removal of existing median
- b) Provision of new median kerb and infill
- c) Removal of trees
- d) Road pavement and AC seal

(Note: Full construction details regarding the required works are to be submitted to Council for approval prior to commencement.)

- 80 The proposed parking bays, including the staff only parking bays and the disabled persons parking bays, being clearly indicated by means of signs and/or pavement markings.

- 81 Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Reverb Acoustics dated June 2011. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate.

Note: The acoustic consultant may need to be involved during the construction process in order to ensure final certification is achieved.

- 82 Any redundant existing vehicular crossings being removed at no cost to Council and the public footway and kerb being restored to match the existing infrastructure and being completed prior to the issuing of a Final Occupation Certificate for the proposed development.

**Note:** A separate approval from Council must be obtained for all works within the public road reserve pursuant to Section 138 of the *Roads Act 1993*. For further information contact Council's Works Depot on 4974 6000 to request a Road Opening Approval. A fee will be payable in this regard.)

- 83 The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.
- 84 Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected being relocated at no cost to Council by a surveyor registered under the *Surveying and Spatial Information Act, 2002*.
- 85 The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or modified under the terms of this consent being implemented and the nominated fixtures and appliances being installed and operational prior to issue of an Occupation Certificate.
- 86 Construction of the required on-site stormwater detention system being supervised and certified upon completion by a Consultant Engineer or Registered Surveyor with respect to its compliance with the approved design plans. The certification is to be supported by a Works-as-Executed (WAE) plan of the property drainage and detention system which is to be submitted to Council by the Principal Certifying Authority/Applicant prior to the issue of an Occupation Certificate or occupation of the premises.
- 87 A copy of the stormwater drainage design plans approved with the Construction Certificate with "work as executed" levels indicated, shall be submitted to Newcastle City Council prior to occupation of the building. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.
- 88 Written certification from a Practising Geotechnical Engineer that the internal access driveway and carpark has been constructed in accordance with the geotechnical requirements is to be submitted to the Principal Certifying Authority prior to the occupation of the premise.
- 89 All external items of air conditioning plant are to be screened or positioned in such a manner as to not detract from the visual presentation of the building.
- 90 All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council's satisfaction prior to the issue of any occupation certificate in respect of the development.
- 91 A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.

- 92 Prior to the issue of the Occupation Certificate, certification from the Arborist and Landscape Designer shall be provided, demonstrating that all tree preservation and landscaping conditions of consent have been complied with.
- 93 Separate bins being provided within the proposed development to enable the on-site separation of recyclable and non-recyclable garbage, such arrangements being in place prior to the occupation of the premises the subject of this development application.
- 94 The premises being identified by the provision of house and street numbers on the building exterior and mailbox, respectively, such that they are clearly visible from the road frontage.

The minimum numeral heights shall be -

- a) Exterior of the building = 75 mm.
- b) Group mailbox - street number = 150 mm  
- house number = 50 mm.

#### **CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT**

- 95 In relation to street tree planting, a Landscape Establishment Report is to be submitted to Council following completion of a 24 month maintenance period, verifying that satisfactory maintenance of the landscape works has been undertaken and any necessary rectification measures have been carried out to a high professional standard.
- 96 In relation to landscaping within the site, a Landscape Establishment Report is to be submitted to Council following completion of a 3 month maintenance period, verifying that satisfactory maintenance of the landscape works has been undertaken and any necessary rectification measures have been carried out to a high professional standard.
- 97 The hours of operation or trading of the premises are to be not more than from:

<b>DAY</b>	<b>START</b>	<b>FINISH</b>
Monday	6:00am	12:00am
Tuesday	6:00am	12:00am
Wednesday	6:00am	12:00am
Thursday	6:00am	12:00am
Friday	6:00am	12:00am
Saturday	6:00am	12:00am
Sunday	6:00am	12:00am

unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council.

- 98 The following activities associated with the operation of the proposed development being restricted to the following times:

Deliveries: 7:00am and 8:00pm daily  
Waste collection: 7:00am and 6:00pm Monday to Friday  
8:00am and 6:00pm Saturday and Sunday

Bin cleaning and garbage removal: 7:00am and 6:00pm Monday to Friday  
8:00am and 6:00pm Saturday to Sunday

Use of tractor and trailers for trolley collection: 8.00am and 8.00pm daily. Trolley collection being carried out manually outside these times.

- 99 The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997*, as amended.

Should Council consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

- 100 Use of the driveway crossings on Beech Close and Minmi Road, by any vehicle, being restricted by the installation of suitable traffic management devices which are required to be locked between the hours of 12.00am to 6:30am. Devices are to be installed prior to the release of the Occupation Certificate or occupation of the premises.
- 101 No goods or advertising signs being displayed or allowed to stand on the public footpath or street.
- 102 No flashing, chasing or scintillating lighting or promotional material of a visually intrusive nature is to be installed or displayed on the exterior of the premises.
- 103 Any liquid wastes from the premises, other than stormwater are to be either discharged to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or collected and disposed of by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change (DECC) 'Waste Classification Guidelines Part 1: Classifying Waste'.
- 104 Proposed parking areas, driveways, vehicular ramps and turning areas being maintained clear of obstruction and being used exclusively for purposes of car parking and vehicle access, respectively. Under no circumstances are such areas to be used for the storage of goods or waste materials.
- 105 All vehicular movement to and from the site being in a forward direction.
- 106 Any proposed floodlighting of the premises being so positioned, directed and shielded as to not interfere with traffic safety or detract from the amenity of the adjacent premises.
- 107 The maximum size vehicle that shall access the development being a 19m articulated vehicle, as defined in AS 2890.2 – 'Parking Facilities'. Under no circumstances is a 25 metre or greater B-Double vehicle to enter the site.
- 108 No goods or advertising signs being displayed or allowed to stand on the public footpath or street.

## OTHER AGENCY CONDITIONS

- 109 The proposed development complying with the General Terms of Approval of the NSW Mine Subsidence Board dated 23 June 2011 as outlined in Schedule 2. Full details are to be provided to the Principal Certifying Authority for approval with the required Construction Certificate application.
- 110 The proposed development complying with the General Terms of Approval of the Office of Water dated 7 July 2011 as outlined in Schedule 2. Full details are to be provided to the Principal Certifying Authority for approval with the required Construction Certificate application.
- 111 The proposed development complying with the General Terms of Approval of the NSW Office of Environment and Heritage dated 26 July 2011, as outlined in Schedule 2. Full details are to be provided to the Principal Certifying Authority for approval with the required Construction Certificate application.
- 112 The proposed development complying with the General Terms of Approval of the NSW Rural Fire Service dated 14 July 2011 as outlined in Schedule 2. Full details are to be provided to the Principal Certifying Authority for approval with the required Construction Certificate application.
- 113 Full compliance with the requirements of the Hunter Regional Development Committee, as outlined in the Committee's minutes of the meeting, dated 16 August 2011 and Roads & Traffic Authority letter dated 16 August 2011, the required measures to be implemented and/or satisfied prior to the occupation of the premises. In this regard, the following issues are to be addressed:
- a) The proposed left in / left out access arrangement at Minmi Road shall be via a give-way arrangement and for light vehicles only, with appropriate intersection sight distance. The access shall be designed and constructed to ensure free flow entry and exit. The proposed left turn entry shall also include a separate left deceleration lane and be an Austroads Type AUL treatment. Two through lanes shall be maintained on the departure side of the Minmi Road / Churnwood Drive intersection.
  - b) The merge for the left through lane on Minmi Road (westbound) shall commence further to the west beyond the proposed left in / left out access to the development to avoid vehicles exiting the site at a point where through traffic on Minmi road is in a merge decision making zone, for road safety reasons.
  - c) A raised central median shall be provided on Minmi road to prevent right in / right out movements at the left in / left out access to the development. The median shall be extended far enough west of the left in / left out access to ensure the right turn movements cannot be made and signposted to indicate u-turn movements are not permitted.
  - d) Provision shall be made for on road cyclists west through the Minmi Road / Churnwood Drive intersection and extend past the proposed left in / left out access to the development – over the full extent of the works.

- e) A pedestrian fence being installed in the central median between the signals and the roundabout to direct pedestrians to the existing crossing facilities.

## ADVISORY MATTERS

- 1 Prior to commencing any construction works, the following provisions of the *Environmental Planning and Assessment Act 1979* (the 'Act') are to be complied with:
  - a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
  - b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and form 7 of schedule 1 to the Regulations.
  - c) Council is to be given at least two days notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act and Form 7 of Schedule 1 to the Regulations.
- 2 Prior to the occupation of a new building, or, occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 155 of the *Environmental Planning and Assessment Regulation 2000*.
- 3 A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- 4 Any proposed business identification sign or advertising sign should be designed in accordance with the provisions of Newcastle Development Control Plan, 2011 and be the subject of a separate Development Application approved prior to erection or placement in position.
- 5 It is recommended that, prior to commencement of work, the free national community service "Dial before you Dig" be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- 6 Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.

## **APPENDIX B – Plans and Elevations**

## APPENDIX C – Referral Comments

### Comments from External Agencies

Agency	Comments
NSW Rural Fire Service	See attached.
NSW Office of Water	See attached.
NSW Office of Environment and Heritage	See attached.
Roads & Traffic Authority	See attached.
Mine Subsidence Board	See attached.

### Comments from Internal Departments

Department	Comments
Environmental Services (Compliance Services Unit)	<p><u>Contamination</u></p> <p>The Preliminary Contamination Assessment prepared by Douglas Partners Pty Ltd dated April 2011 provides a continuation of sampling previously conducted at the proposed development site in 2005. The Preliminary Contamination Assessment prepared by Douglas Partners Pty Ltd dated April 2011 noted an additional potential source of contamination, since previous inspections in 2005, include opportunistic dumping of waste including potential asbestos containing material. The Preliminary Contamination Assessment Addendum prepared by Douglas Partners Pty Ltd dated 25 May 2011 confirmed the material contained asbestos fibres and recommended remediation. The Remediation Action Plan prepared by Douglas Partners Pty Ltd dated 30 May 2011 recommended the removal of any asbestos containing material and surrounding soils. The recommended remediation work was carried out under Category 2 works under <i>State Environmental Planning Policy 55 – Remediation of Land</i> and a validation report was prepared by Douglas Partners Pty Ltd dated 6 October 2011 confirming appropriate remediation was undertaken. Previous sampling of the site revealed all contaminant levels are within the health levels outlined in the Office of Environment and Heritage's (OEH) '<i>Guidelines for the NSW Site Auditor Scheme</i>' and is suitable for the proposed commercial use. Therefore, with the recent remediation conducted and no elevated levels of contaminants on-site the development site is considered suitable for the proposed development.</p> <p><u>Flora and Fauna</u></p> <p>While an updated Flora and Fauna Impact Assessment prepared by SMEC Australia dated October 2011 has been submitted by the applicant a majority of vegetation at the site has been removed. The removal of the vegetation was conducted by enacting Development Application No 05/1787 approved by Council on 23 November 2006. Due to the removal of the majority of the vegetation the habitat value is significantly diminished and does not require further assessment.</p> <p><u>Noise</u></p> <p>The Revised Noise Impact Assessment prepared by Reverb Acoustics dated June 2011 has undertaken an analysis of the potential noise impacts from the proposed development on surrounding residential receivers. Potential noise impacts from the proposed development may be generated from various sources.</p> <p><i>Mechanical plant</i></p> <p>The mechanical plant associated with the proposed development will be located within the north-eastern plant room and on three rooftop plant decks. The Revised Noise Impact Assessment prepared by Reverb Acoustics dated June 2011 has undertaken an analysis of the potential impact of these plant items on the surrounding residential receivers. Noise modelling has demonstrated the mechanical plant will be compliant with the day, evening and night periods in accordance with the criteria outlined in the OEH's '<i>Industrial Noise Policy</i>'. Compliance is dependant on the construction of an acoustic barrier along the</p>



	<p>southern edge of the speciality shop plant deck as recommended in the Revised Noise Impact Assessment prepared by Reverb Acoustics dated June 2011. The recommendations outlined in the Revised Noise Impact Assessment prepared by Reverb Acoustics dated June 2011 are to be implemented and certification from an acoustic consultant is required. These recommendations will form part of the consent conditions.</p> <p>It should be noted that any additional mechanical plant items proposed for installation as part of the occupation of tenancies, which are not the subject of this application, will be required to demonstrate the items are compliant with the project specific noise criteria outlined in the Revised Noise Impact Assessment prepared by Reverb Acoustic dated June 2011.</p> <p><i>Loading dock and deliveries</i></p> <p>The Revised Noise Impact Assessment prepared by Reverb Acoustics dated June 2010 undertaken an analysis of the potential noise impacts from loading dock activities on residential receivers in Beech Close. Noise from delivery activities were demonstrated to comply with the day and evening site specific noise criteria at the residential receivers located along Beech Close. However, Council remains concerned the noise from deliveries had the potential to impact upon residential amenity during the early morning (6:00am to 7:00am) and late evening (8:00am to 10:00pm) and recommends that deliveries be restricted to between 7:00am to 8:00pm daily. The restriction of delivery times will be addressed by an appropriate consent condition.</p> <p><i>Carpark</i></p> <p>Vehicles manoeuvring within the carparking area of the proposed development have the potential to generate adverse noise impacts for the surrounding residential dwellings. Noise analysis undertaken by Reverb Acoustics has demonstrated noise from the carpark area will be compliant with the site specific noise criteria for both the day, evening periods and night 'shoulder period'.</p> <p><i>Traffic</i></p> <p>The Revised Noise Impact Assessment prepared by Reverb Acoustics dated June 2011 has undertaken an analysis of potential increases in traffic noise associated with the proposed development experienced at residential receivers in Beech Close, Churnwood Drive and and Minmi Road. Traffic noise is assessed against the criteria outlined for a local road in accordance with the OEH's 'NSW Road Noise Policy'.</p>
Council Traffic Officer	<p><u>SEPP (Infrastructure) 2007</u></p> <p>The application was considered by the Regional Traffic Committee pursuant to <i>SEPP (Infrastructure) 2007</i> and considered acceptable subject to a number of recommendations. These recommendations have been addressed through amended plans and appropriate conditions of consent.</p> <p><u>Traffic Generation</u></p> <p>Traffic surveys conducted on Thursday 3 February 2011 between 2.30pm and 6.00pm and Saturday 5 February 2011 between 11.00 am and 1.00 pm have confirmed that both the existing traffic signals and the roundabout are operating at acceptable levels of service with delays within acceptable limits (less than 40 seconds).</p> <p>The proposal approved under DA 05/1787 comprised a total of 4581m2 GLFA (3000m2 supermarket / 1581m2 speciality shops) generating a total of 538 and 611 vehicle trips during the peak hours of Thursday and Saturday respectively. This application comprises a total of 4831m2 GLFA (3504m2 supermarket / 1327m2 speciality shops) generating a total of 605 and 658 vehicle trips during the peak hours of Thursday and Saturday. This represents an increase in the order of 67 and 47vehciles respectively. The traffic report has modelled the operation of the traffic signals and the roundabout post development and the 10 year projection to confirm that both intersections continue to operate at acceptable levels of service. The existing right turn lane in Churnwood Drive on the western approach to the signals is to be lengthened, without impacting on the existing pedestrian crossing, in order to increase storage capacity.</p> <p><u>Local Road Network</u></p> <p>Council records suggest that Beech Close between Cottonwood Chase and the end of the cul-de-sac will require upgrading to cater for the expected traffic</p>

	<p>loadings associated with this development. An appropriate condition has been recommended for this application in relation to this matter.</p> <p>An appropriate condition will also be required to ensure appropriate regulatory signage is installed along the frontages of the site to control on-street parking activity.</p> <p><u>Access</u></p> <p>Minmi Road is a local road and Council is the responsible Road Authority. Notwithstanding this fact the consent of the RTA is required for the Minmi Road access pursuant to Sec 87 Roads Act 1993, due to its proximity to the existing traffic control signals. In this regard the consultant's submission is inclusive of a letter from the Authority dated 23 February 2011 confirming their support for a light vehicle entry and exit on Minmi Road. This access is supported on traffic grounds subject to the following:</p> <ol style="list-style-type: none"> <li>1. The provision of appropriate deceleration lane</li> <li>2. The merge for vehicles exiting the site being clear of the existing merge of the two westbound travel lanes.</li> <li>3. Adequate provision being made for cyclists for the full length of the subject road works</li> <li>4. The existing concrete central median being extended west to prevent right in / out movements</li> <li>5. A 'Giveaway' sign and TB line marking being provided across the light vehicle exit onto Minmi Road</li> </ol> <p>An appropriate condition has been recommended for this application in relation to this matter.</p> <p><u>Parking Supply</u></p> <p>While the original application DA 05/1787 for the site satisfied the parking requirements for a shopping centre as outlined under Element 4.1 of Council's DCP 2005 at a parking rate of 6.1 spaces per 100M2 of GFA, this application has a parking shortfall of some 78 spaces. Initially the traffic consultant presented an argument for a reduction in parking based on parking surveys conducted in Sydney and Melbourne. The consultant was requested by Council to review similar centres within the lower Hunter to support any parking variation. Accordingly parking surveys were conducted for both the Belmont and North Lakes Shopping Centres. These surveys justify a variation in parking and the provision of 217 spaces at a rate of 4.47 spaces per 100M2 of GFA.</p> <p>Adequate parking has been provided for motorcycle parking in accordance with Element 4.1 of Council's DCP 2005 with the provision of 12 spaces.</p> <p><u>Parking Layout</u></p> <p>The applicant has amended the car park layout to address previous Council concerns and the revised footprint is now considered acceptable.</p> <p><u>Pedestrian Network</u></p> <p><u>Internal</u></p> <p>Defined pedestrian paths are proposed along the southern side of the building and through the centre of the car park linking the building entry/exit to Beech Close and Churnwood Drive. While additional pathways within the car park would be beneficial the proposal is acceptable.</p> <p><u>External</u></p> <p>Pre DA discussions with the applicant identified the need to link any proposed internal pathways with the external pedestrian network. In this regard the central pedestrian pathway within the car park connects to Churnwood Drive centrally between the existing pedestrian crossing facilities at the traffic signals and the roundabout. Concern is raised in relation to the resulting impact on pedestrian activity and the increased potential for pedestrians to not use these facilities but rather seek refuge on the central median in Churnwood Drive. In this regard it has been recommended that a pedestrian fence be installed in the central median between the signals and the roundabout to direct pedestrians to the existing crossing facilities.</p> <p><u>Servicing</u></p>
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	<p>The layout presented under this application is a significant improvement on that approved under DA 05/1787 with clear separation between heavy and light vehicles.</p> <p>Initial concerns were raised in relation to the orientation of the driveway providing access to the loading dock and the issue of service vehicles crossing to the wrong side of Beech Close to enter the loading dock ramp. It is however acknowledged that it is a slow speed environment and on-street parking in this area of Beech Close is proposed to be removed through the installation of appropriate regulatory signage.</p> <p>Swept paths have been provided for vehicles up to and including a 19.0m articulated vehicle. To ensure B-doubles do not access the site an appropriate condition has been recommended for this application restricting the maximum vehicle servicing the site to a 19.0m articulated vehicle as defined under AS 2890.2 – Parking Facilities.</p> <p>While the loading facilities do not comply with Council's DCP requiring 8 service bays the applicant has sourced similar developments and consulted Coles in relation to the nature and frequency of deliveries. On this basis the proposed loading facilities are considered acceptable.</p> <p><u>Traffic Management</u></p> <p>A construction traffic management plan will be required to control vehicle and pedestrian activity in the public road reserves during the construction period. An appropriate condition has been recommended for this application in relation to this matter.</p> <p><u>Green Travel Plan</u></p> <p>A 'Green Travel Plan' has been submitted in support of this application in accordance with Element 4.1.3 b) of Council's DCP 2005 to encourage the use of alternate modes of transport. The site is well serviced by public transport with bus stops located within 400m of the site in both Minmi Road and Churnwood Drive. Provision has been made for 28 bicycles with the inclusion of a secure bicycle enclosure and end of trip facilities (showers and lockers) for staff, while bicycle racks have been provided for customers at the entrance to the centre.</p>
Stormwater Engineering	<p><u>Erosion and Sediment Control</u></p> <p>The applicant has submitted Sedimentation and Erosion Control plans in accordance with council's requirements and has made extensive reference to the guidelines detailed in the Department of Housing publication "Managing Urban Stormwater –Soils and Construction", 4<sup>th</sup> Edition.</p> <p>The following amendments are required to the plans to allow the continued processing of this application:</p> <ol style="list-style-type: none"> <li>1. Plans by mpc Consulting Engineers Ref 11-216 Sheets C01 and C02 Issue 0 Dated 20.4.11 <ol style="list-style-type: none"> <li>a. Note 5, Batter slope to be amended to 1:4,</li> <li>b. Sediment Control Pond Notes, Add description of how draining or discharge of the temporary pond is to occur and nominate the discharge point in council's drainage system,</li> <li>c. Add a sediment fence to the lower side of the sediment control pond,</li> <li>d. Add erosion and sediment control to the Minmi Road table drain adjoining the site, in the following locations; near the ramp entry/exit to the site</li> </ol> </li> </ol> <p>at the down stream end of the site,</p> <p><u>Stormwater</u></p> <p>The applicant has prepared a stormwater management plan and a detailed set of drainage plans indicating stormwater discharge control. Stormwater from roof areas will be piped via a sealed system to a set of rain water storage tanks located in the under croft area of the site. This water will be drawn down and be used for reuse purposes in the shopping complex. Stormwater from other hard stand areas will be collected and directed to an onsite retention chamber located under the ramp area. The stormwater management plan has addressed stormwater collection volumes, tank and detention basin sizing, draw down rates and discharge control.</p>

	<p>From the plans and report supplied the roof area is 5,600m<sup>2</sup>, the hardstand area is 7,900m<sup>2</sup> (Total 13,500m<sup>2</sup>) and the total site area is 19,700m<sup>2</sup>. The development in accordance with council's standards is required to supply 249.7m<sup>3</sup> of on site retention in peak conditions based on retention for impervious areas. The development proposes to supply 105m<sup>3</sup> in the roof water tank system (3 tanks) and 228m<sup>3</sup> in an on site retention tank system, totalling 333m<sup>3</sup>. The amount of onsite retention proposed is in accordance with council's standards.</p> <p><u>Flooding</u></p> <p>The site is adjacent to a creek system and grades from the creek system in a southerly direction to Churnwood Drive. The creek system exerts a partial flooding influence on the northern part of the property. The applicant applied to council for a Flood Information Certificate which was issued on 22 August 2005. The Flood Information Certificate recommended a Flood Planning Level of 5.7m AHD minimum floor level for occupiable rooms in the development. The plans state the finished floor level of the supermarket and adjoining tenancies to be RL 13.12m AHD and the lower level plant room to be RL 7.500m AHD. Therefore all occupiable tenancies, plant rooms and adjoining ramps are located above the flood planning level. Notwithstanding the consideration of the floor levels by the applicant as reflected in the plans, construction above the flood planning level should be conditioned in any approval issued.</p>
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