

JRPP No:	2011NTH025
DA No:	DA0046/2012
PROPOSED DEVELOPMENT:	Demolition of Existing Shopping Centre and Construction of New Shopping Centre and Signage
APPLICANT:	Coles Group Property Developments Limited
REPORT BY:	Tamworth Regional Council

Development Assessment Report

Application Details:

Application Number:	DA0046/2012
Application is for:	Demolition of Existing Shopping Centre and Construction of New Shopping Centre and Signage
Owner's Name:	Coles Group Property Developments Limited
Applicant's Name:	Coles Group Property Developments Limited
Lodgement Date:	2/08/2011
Statutory Days:	40Days
Land/Address:	Lots 1 and 2, DP 563441, Lot 3, DP 222686 and part of Alice Street, 4-10 Kathleen Street, SOUTH TAMWORTH
Land Zoning:	B1 Neighbourhood Centre Tamworth Regional Local Environmental Plan 2010
Value of Development:	\$9,000,000
Capital Investment Value:	\$12,500,000
Current use & Development	Southgate Shopping Centre
Report Author/s	Alison McGaffin, Director, Tamworth Regional Council Planning and Community Services Catherine Pyne, Tamworth Regional Council Team Leader Development Assessment

EXECUTIVE SUMMARY:

Reason for Consideration by Joint Regional Planning Panel:

The application is referred to the Joint Regional Planning Panel for determination pursuant to clause 13B(2) of the State Environmental Planning Policy (Major Development) 2005 as:-

- Part of the land on which the development is proposed to be carried out is owned by Tamworth Regional Council; and
- The project has a capital investment value of greater than \$5 million.

Brief Description of Proposal:

The development application seeks approval to the demolition of the existing "Southgate Shopping Centre" and the construction of a new Shopping Centre and erection of ancillary Advertising Signage. The submitted plans are attached to this report as Attachment 1.

Compliance with Planning Controls:

The development site is zoned B1 Neighbourhood Centre pursuant to the Tamworth Regional Local Environmental Plan 2010. The proposed development fits the definition of a "shop" and "advertisements", both of which are permissible within this zone, with development consent. The proposal is consistent with the zone objective which is to provide a range of small-scale retail, business and community uses that serve the needs of the people who live or work in the surrounding neighbourhood.

Consultation:

The application was advertised and notified in accordance with the Tamworth Regional Development Control Plan 2010. Four (4) submissions were received.

Copies of the submissions are attached to this report as Attachment 2. Consideration of the issues raised in the submissions is contained within the body of this report, under the heading "Any submissions".

Recommendation:

It is recommended that DA0046/2012 be approved subject to the conditions contained in Attachment 3.

Attachments:

Attachment 1 Plans

Attachment 2 Submissions

Attachment 3 Draft Conditions

1. Proposal

The proposal seeks consent to the demolition of the existing Southgate Shopping Centre and construction of a new Shopping Centre and ancillary advertising signage on the subject land.

The existing Southgate Shopping Centre contains a BiLo Supermarket and Liquor Land of 1216m² and individual shops with a total area of approximately 1156m². Most of the individual shops have been vacant for some time. At the time of writing this report the occupied shops comprise a pharmacy, take-away food shop and post office.

To achieve the levels shown on the plans, it will be necessary for the placement of fill to the western car park area. The applicant has confirmed that the works to the northern car park are limited to the placement of a 25mm asphalt topping.

The development application plans identify a new commercial development having a gross floor area of some 5077m², comprising the individual components described below:-

- Coles Supermarket (4010m²)
- Specialty Shops (674m²)
- Arcade (237m²)
- Services (117m²)

As details of the shade sails to the car parks and the advertising pylon sign have not been submitted, these will be the subject of a separate development application. In relation to the occupation of the individual tenancies, Tenancy 2 is nominated as the "Liquor Land" outlet, Tenancy 3 as a Coffee/Bakery Shop and Tenancy 6 as the Post Office. The proposed occupants of Tenancy Nos 4 and 5 are not identified.

The application nominates trading hours of 6.00am to 12 midnight, seven days per week for the supermarket.

2. Site Description

The subject land comprises Lots 1 and 2, DP 563441, Lot 3, DP 222686 and an unformed section of Alice Street between Lot 1 and the Southgate Inn and Caltex Service Station.

The development site has a total area of just over 1.2 hectares, made up of:-

Lot 1 DP 563441	2468.75m ²
Lot 2 DP 563441	1237.50m ²
Lot 3 DP 222686	7487.00m ²
Alice Street	808.62m ²

Development within the locality and adjoining/adjacent to the development site comprises:-

South	Anne Street, fronted by Church, Ten Pin Bowling and Community Facility
East	Chillingworth Oval, home to the Pirates Rugby Union Club
West	Kathleen Street, fronted by Tamworth High School and private dwellings
North	Southgate Inn Hotel and Caltex Service Station



DIAGRAM 1 – LOCALITY PLAN



DIAGRAM 2 – AERIAL IMAGE OF LOCALITY

3. Referrals

The proposal was referred to the Roads and Traffic Authority pursuant to the operation of *State Environmental Planning Policy (Infrastructure) 2007*. The 21 day period for their reply expired on 24 August 2011.

A response from the RTA was received on 31 August 2011. Further comments concerning access, parking and traffic implications are made in Section 4 of this Report.

Internal referrals were also made to Council specialists: Infrastructure Planning Engineer; Environment & Health; and, Water Enterprises.

Consideration of their responses is made within the relevant sections of this report.

4. Environmental Planning and Assessment Act 1979

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

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

State Environmental Planning Policies

State Environmental Planning Policy No.55 – Remediation of Land (SEPP55)

Clause 7 of SEPP55 specifies that the consent authority must give consideration as to whether land is contaminated before giving consent to any development application.

The adjoining Lot 4 DP 211713 (Chillingworth Oval) was used as a waste disposal depot between 1953 and June 1960 pursuant to an approval granted by the Department of Public Health on 25 February 1948. That land was included in a proclamation under Section 55 of the Public Health Act in Government Gazette 47 published on 30 April 1971.

Based on the potential for placement of waste outside of the adjoining lot, or for transfer of contamination from the adjoining site, a Preliminary Site Contamination Report was prepared by Mitchel Hanlon Consulting and has been lodged as part of the documentation supporting the development application.

The Report identified Lots 1 and 2 (car park) as containing landfill material, but indicates that Lot 3 is free from any obvious signs of contamination.

Further consideration as to the possible need for further investigation is given under the heading "Section 79C(1)(b) – the likely impacts of the development : Soils".

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

Clause 104 of the ISEPP identifies requirements for development listed in Schedule 3 to be referred to the Roads and Traffic Authority (RTA) and for the consent authority to take into account any submission made in response to the 21 day notification period.

In addition to the consultation requirements, the Policy also specifies that consideration must be given to:-

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

Further consideration of the traffic implications of the development is given under the heading "Section 79C(1)(b) the likely impacts of the development : Access, traffic and parking".

State Environmental Planning Policy (Major Development) 2005

The purpose of this Policy is to identify development for which regional panels are to exercise specified consent authority functions.

In this case, the proposal comprises development nominated in clause 13B(2) of the Policy, and therefore, the Joint Regional Planning Panel has the function of making the determination of the development application.

Regional Environmental Plans

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

Local Environmental Plans

The subject land is zoned B1 Neighbourhood Centre pursuant to the provisions of the Tamworth Regional Local Environmental Plan 2010 (TRLEP). The proposal comes within several definitions by virtue of the operation of the parent-child term structure that is contained within the *Standard Instrument (Principal Local Environmental Plans)* and the *Standard Instrument (Local Environmental Plans) Order 2006*.

The primary definition of the development is that of a "shop" and "advertisements". It is noted that a "shop" is a type of "retail premises", and "retail premises" are a type of "commercial premises".

The land use table to Zone B1 indicates that the land uses of "advertisement", "shop", "retail premises" and "commercial premises" are all kinds of development that are permitted with consent.

Clause 4.4 of the TRLEP gives effect to the Floor Space Ratio Map. For the subject land, a maximum floor space ratio of 0.6:1 applies. Clause 4.5 contains clarification as to the Calculation of floor space ratio and floor area.

The applicant has identified a gross floor area of 5077m², which excludes the loading/unloading area and the plant room, in accordance with the definition contained in the TRLEP. The site area comprises the areas of Lots 1 and 2, DP 563441 and Lot 3, DP 222686, being 11,193.25m². This equates to a floor space ratio of 0.45:1, which meets the provisions of clause 4.4.

Clause 7.1 of the TRLEP relates to Development in Zone B1 and Zone B4. Sub-clause (3) identifies that clause 7.1 does not apply to the subject land.

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

There are no draft environmental planning instruments that are relevant to the evaluation of this development application.

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

The Tamworth Regional Development Control Plan 2010 applies to this development application.

Commercial and Retail Development Controls

Comments are made relevant to the controls that apply to this development proposal.

Outdoor Lighting

No details of outdoor lighting have been provided. Any lighting is required to comply with *AS/NZS 11583.1 Pedestrian Area (Category P) Lighting* and *AS4282 Control of the obtrusive effects of outdoor lighting*.

Signage

The advertising proposed as part of this development application involves the application of the “Coles” and “Liquor Land” corporate identities to each elevation. The proportion of the signage relevant to the building elevation is acceptable and no objections are made to the signage as depicted on the elevation plans.

It is noted that the site plan identifies a pylon sign. However, as no detail has been provided in relation to its configuration or appearance, this does not form part of the subject application.

Design

The elevations to Anne Street and Kathleen Street incorporate a pattern by painting to the concrete panels. Its colours extend the corporate identity of Coles/Liquor Land by the combination of red and shades of grey to the pattern. It is a very modern pattern which has the effect of breaking up the large mass of wall area.

Utilities and Services

Council’s Water Enterprises have considered the information submitted and have provided their comments and conditions on the development proposal. Further comments on the provision of water and sewer facilities to the development is provided in this Report under the heading “Section 79C(1)(b) – Any likely impacts – Utilities”.

Parking

The DCP specifies a parking rate of 1 space per 16m² of gross leasable floor area for shops having an area of greater than 1000m².

The applicant has identified that 208 spaces are required for the development based on the rates required in Council's DCP. The plans identify provision of 202 spaces.

The Traffic Impact Study lodged in support of the application claims that the 202 spaces will be adequate based on the premise of multi-purpose trips, where patrons will be attending the shopping centre to shop at more than one of the tenancies. On this basis, they have assumed 5% of shoppers will conduct multi-purpose trips, reducing the overall car parking requirement to 198 spaces.

When the JRPP recently made the determination of the development application for the East Point Shopping Centre, Marius Street, Tamworth, parking was assessed in accordance with the Roads and Traffic Authority *Guide to Traffic Generating Developments*. It is appropriate that the parking liability for the development also be assessed using this method, for consistency in process.

The *Guide* suggests that gross leasable floor area, as a guide, comprises about 75% of gross floor area. From the floor plans this would appear to be accurate in relation to the supermarket. However, for the individual tenancies, either no detail is provided, or in the case of Liquor Land, there are no areas which would meet specified exclusions. Consequently, it is proposed that the 75% rule be applied to the supermarket only. On this basis, 156.6 car parking spaces are required, as follows:-

Speciality Retail	-	674m ²	
		@45 spaces per 1000m ² =	30.33 spaces
Supermarket	-	3007.5m ²	
		@42 spaces per 1000m ² =	126.315 spaces

The Traffic Impact Study also included a traffic use survey, conducted in 2007. Given the steady decline in occupancy since then, it would be reasonable to use the data despite its age.

The car park usage was demonstrated to peak on a Thursday evening; thought to represent a combination of the Thursday night shopping and dinner time for Southgate Inn. Conducted during August, there may have been other contributing activities as this car park is used by attendees of both the West Leagues and Pirates venues when large crowds are involved, as well as Tamworth High School during evening activities.

The development application demonstrates an adequate supply of parking based on calculations made under: Council's DCP; a Traffic Impact Study; and, the RTA Guidelines. As it is usual practice for a condition of development consent to specify a minimum number of spaces, it is proposed that the RTA-based result of 157 spaces be applied.

Landscaping

The TRDCP specifies that landscaping or shade structures should be provided in outdoor car parking areas where there are more than 10 spaces. In this case, the issue of potential contamination must be considered in relation to potential disturbance or excavation of the car park land.

At this time, although the shade structures are indicated on the site plan, details have not been supplied and therefore this component will require a separate development application. As the existing surface to the car parking area provides a physical barrier to the exposure of any contaminated material, no landscaping of the car parking area should be undertaken without this also being assessed for implications of contamination management.

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

None apply.

Section 79C(1)(a)(iv) any matters prescribed by the regulation

Clause 92 of the Environmental Planning & Assessment Regulation 2000 specifies that a consent authority must consider the provisions of AS2601 when a proposal involves the demolition of a building. As no specific details of demolition have been provided, it is appropriate that a condition be imposed which specifies that demolition be carried out in accordance with the provisions of AS2601.

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

Context and Setting

The subject land, excluding the Alice Street road reserve, comprises an area of 1.2 hectares, with frontage of 130.5 metres to Kathleen Street and 90 metres to Anne Street. It presently exists as three allotments.

Should development consent be granted to the development, it is appropriate that consolidation of the lots be required, to ensure that no part of the total development can be disposed of without prior consent being obtained.

The land slopes gently back from its Kathleen Street frontage to its common boundary with Chillingworth Oval to the east. The drawings indicate a retaining wall along this boundary, to a maximum height of 1100mm.

Other adjoining landuses comprise:-

- To the north, Alice Street road reserve, then Southgate Inn and the Caltex Service Station;
- To the west, opposite in Kathleen Street, residential development north of Willis Street and Tamworth High School, south of Willis Street; and
- To the south, opposite in Anne Street, a Christian Outreach Centre, Ten Pin Bowling Recreation Facility and a Community Facility providing support and training for people with intellectual disabilities.

Because the site has operated as a Shopping Centre since the early 1960s, the majority of these uses have been established subsequent to the commencement of retail and commercial operations on the subject site. There is no land use conflict anticipated with the replacement and expansion of the Shopping Centre.