

DA 2011/042 - CONDITIONS OF CONSENT

NOTE: The conditions below are incomplete pending the resolution of traffic management issues, receipt of advice from the RTA and resolution of drainage matters.

PART A - PRESCRIBED CONDITIONS

Long Service Levy

- A. Payment of the Long Service Levy as required by section 109F(1) of the Environmental Planning & Assessment Act 1979 for all building work over \$25,000. (Note: The cost of the building work must be rounded to the nearest \$100.)
- B. The Long Service Levy shall be paid at Council's Customer Service Centre or evidence of direct payment to the Long Service Payments Corporation shall be provided to Council **prior to issue of Construction Certificate.**

Shoring and Adequacy of Adjoining Property

- C. Pursuant to Clause 98E and Clause 136H of the Environmental Planning and Assessment Regulation 2000, if a development (subject of a Development Consent or Complying Development Certificate) involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) protect and support the adjoining premises from possible damage from the excavation
 - ii) where necessary, underpin the adjoining premises to prevent any such damage.

If the person with the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the condition not applying, this condition does not apply.

PART B- OTHER CONDITIONS

Plans

- 1.1 The development shall be completed in accordance with the approved plans and documents listed below, prior to the building being used or occupied, and subject to any amendments "in red" and any variation as required by conditions of this consent:

Architectural plans by MCHP Architects:

Drawing No and Revision	Title	Date
10-039-DA01 Revision A	Site layout and location plan	22.03.2011
10-039-DA02 Revision A	Site setout plan and signage details	22.03.2011
10-039-DA03 Revision A	Service station floor plan	22.11.2010
10-039-DA04 Revision A	Service station elevations	24.03.2011
10-039-DA05 Revision A	Fast food floor plan	23.3.2011
10-039-DA06 Revision A	Fast food elevation	24.03.2011
10-039-DA07 Revision A	Bulky goods floor plan	23.03.2011
10-039-DA08 Revision A	Bulky goods – elevations & sections	23.03.2011

10-039-DA09 Revision A	Bulky goods – elevations & sections	23.03.2011
10-039-DA10 Revision A	Retail floor plan	23.03.2011
10-039-DA11 Revision A	Retail elevations and sections	26.03.2011
10-039-DA12 Revision A	Streetscape elevation	25.03.2011
10-039-LPG 01 Revision A	Site layout exclusion zones	11.03.2011

Landscape plan by Ray Fuggle and Associates:

2937B L-01 Issue B	Landscape Plan	19.5.2011
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- Stormwater plans – To be confirmed subject to compliance with deferred commencement condition

A Construction Certificate must be obtained either from Council or a privately accredited person before commencement of any construction/demolition associated with this consent.

The Principal Certifying Authority must be appointed prior to work commencing to supervise the work and authorise occupation/use of the building when completed.

- 1.2 A copy of the endorsed stamped plans and specifications, together with a copy of the Development Consent, Construction Certificate and any approved Traffic Management Plan are to be retained on site at all times.
- 1.3 All works must comply with the building Code of Australia.

Occupation of buildings

- 2.1 The bottle shop shown on the plans in condition 1.1 is not approved. A separate development application shall be lodged with and approved by the Council for the use of that tenancy.
- 2.2 This consent approves the occupation of the buildings as follows:
 - a) The fast food outlet is approved to be occupied by 'Red Rooster'. The approved hours of operation are 24 hours per day, 7 days per week.
 - b) The service station is approved to be occupied by Caltex/Woolworths. The approved hours of operation are 24 hours per day, 7 days per week.
 - c) The larger bulky goods tenancy is approved to be occupied by 'Officeworks'. The approved hours of operation are 7am until 9pm weekdays, and 8am until 6pm on weekends.
 - d) The smaller bulky goods tenancy is approved to be occupied by 'Reece' plumbing supplies. The approved hours of operation are 6am until 6pm, 7 days per week.
 - e) The eastern most retail tenancy is approved for use as a chemist. The approved hours of operation are 7 days a week, 8am until 12 midnight
 - f) The centre retail tenancy is approved for use as food outlet. The approved hours of operation are 7 days a week, 8am until 12 midnight.
- 2.3 Separate approvals shall be obtained for the fitout of each of the approved tenancies.

- 2.4 No building shall be occupied until the development has been completed in accordance with the conditions of this consent, construction has been completed in accordance with the Construction Certificate and an Occupation Certificate has been issued by the Principal Certifying Authority.

Food premises

- 3.1 The fit out of the kitchens shall comply with AS4674-2004 Design, Construction and Fit Out of Food Premises and Food Standards Code
- 3.2 The applicant is to notify the food business to the NSW Food authority prior to commencing operations. This may be done at www.foodnotify.nsw.gov.au
- 3.3 Food premises registration (for inspection purposes) must be obtained from Council **prior to the issue of an Occupation Certificate and/or use of the premises.**
- 3.4 Plans and specifications showing details of all mechanical ventilation systems shall be submitted to the Principal Certifying Authority and approval obtained **prior to the issue of a Construction Certificate.**

Noise

- 4.1 Full details of mechanical plant shall be provided to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate or Complying Development Certificate.

No Occupation Certificate for any building shall be issued until the Principal Certifying Authority is provided with suitable evidence that the location and operation of this equipment complies with the recommendations in the RSA Acoustics Noise Assessment report (reference: 610.07939.05190 Revision O, dated 2.12.2010)

Fuel tanks and associated matters

- 5.1 Installation of the three (3) 55 KL double walled compartmental underground fibreglass MS tanks shall comply with the Standards stated in the Motor Spirit Preliminary Hazard Analysis by MCHP Architects dated 22 March 2011. A certificate prepared by a suitably qualified person, together with a copy of the report on completion of the installation, shall be submitted to and accepted by Council stating that the development complies with the standards listed in that report, **prior to the issue of any Occupation Certificate.**
- 5.2 Installation and operation of the LPG facility shall be in accordance with AS/NZS 1596. A certificate prepared by a suitably qualified person, together with a copy of the report on completion of the installation, shall be submitted to and accepted by Council stating that the development complies with that standard **prior to the issue of any Occupation Certificate.**
- 5.3 Non smoking signage is to be located at the dispensers in accordance with AS/NZS 1940.
- 5.4 All areas where oil petroleum and the like may be deposited shall be sealed and drained to an oil arrestor of sufficient size to separate these deposits from collected water prior to discharge.
The discharge of surface water from the site (including that from within the building) shall be in accordance with the requirements of Council and Sydney Water. Details shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**

Signage

- 6.1. The pylon sign located at the northern corner of the site, adjacent to Roberts Road, is not approved.
- 6.2. The display of signage, other than that which is approved by this consent or which is exempt development, is prohibited. Approved signage must not be altered without the prior approval of Council and the Roads and Traffic Authority. All signage shall only relate to the approved uses on the site.
- 6.3. The approved signage shall not include flashing lights or flashing animated signs.
- 6.4. No advertising flags, banners or the like are to be erected.
- 6.5. Advertising panels within the approved pylon signs shall only be illuminated for the duration of the approved trading hours of each of tenancy.

Crime Prevention

- 7.1. Fencing 1.8m high shall be provided along the western edge of the drainage reserve, between the bulky goods building and the building adjacent to Amarina Avenue. The fence is to be of a palisade style. Details are to be provided on the plans approved with the Construction Certificate.
- 7.2. Suitable fencing is to be provided to prevent access adjacent to the northern side of the bulky goods retail building. The undercroft of that building is to be enclosed with security fencing. Details are provided on the plans approved with the Construction Certificate.
- 7.3. The loading dock at the southeast corner of the site (adjacent to the 'chemist' tenancy) shall be provided with fencing positioned at a point equal with the northern most elevation of that building. Details are to be provided on the plans approved with the Construction Certificate.

General

- 8.1. A Works Permit shall be obtained from Council's Customer Service Centre at least 48 hours prior to undertaking any works on public/Council-controlled areas. The permit must be retained on site at all times.
- 8.2. All exhaust and other emissions including noise from the premises shall comply with the provisions of the Protection of the Environment Operations Act 1997 and Regulations.

Section 94 contributions

- 9.1. Prior to the issue of any Construction Certificate, the payment of a section 94 contributions levy determined in accordance with the information provided to satisfy the deferred commencement consent.

Financial matters

- 10.1. A security payment of \$15,000 in the form of cash, bank guarantee, cheque or credit card (financial transactions fees apply) shall be paid to Council **prior to issue of Construction Certificate**. The security payment is GST inclusive and comprises the following:

Refundable works bond	\$15,000
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TOTAL**\$15,000**

The security payment covers the following matters and will be released upon satisfactory completion of these items:

- (a) creation of drainage easements on the title of downstream properties;
- (b) creation of inter-allotment easements on the title;
- (c) creation of drainage easements on the title in favour of Council
- (d) road and stormwater drainage works in roadways and public areas;
- (e) creation of the Positive Covenant on the property title;
- (f) connection to Council's stormwater drainage system;
- (g) installation and maintenance of sediment control measures for the duration of construction activities;
- (h) construction of the on-site detention storage system;
- (i) undergrounding of electricity and telecommunications cables;
- (j) landscape final inspection to ensure that landscaping is implemented in accordance with the approved plan and conditions of consent and satisfactorily maintained for the post final inspection twelve (12) month period;
- (k) tree final inspection to ensure that trees have been retained, protected or replanted in accordance with conditions of consent and/or Arborists' report for the post final inspection twelve (12) month period; and
- (l) Ensuring no damage occurs to or building debris/materials are left on Council land including footpath, nature strip, kerb and gutter. The security bond may be used to recover the costs incurred by Council in cleaning and restoring the land to its original condition.

- 10.2 Fees are payable where Council is appointed as principal certifying authority to carry out the post-approval inspections. A quotation for the fees can be obtained by contacting Council and the fees shall be paid **prior to the carrying out of any of the inspections.**

Any re-inspection which is necessary due to site access not being available, defective work, or the matter not being ready for inspection will be charged in accordance with Council's Fees and Charges Policy. Council will advise in writing if an additional re-inspection is required and the re-inspection fee shall be paid **prior to release of the damage deposit.** If the additional fee is not paid it will be deducted from the damage deposit.

Public Authority Matters

- 11.1 **Prior to the issue of an Occupation Certificate** all existing overhead electricity and telecommunication cabling adjacent to the development site shall be placed underground at the applicants' expense in accordance with the specifications of Energy Australia and the telecommunications supplier and the following requirements:

- (a) Where the property is located on the **opposite side of the street** to the main power lines and telecommunication cables, the services are to be placed underground from the development site to the nearest location on the opposite side of the street for connection to the existing mains supply as directed by Energy Australia and the telecommunications carrier. The method of construction across the road carriageway shall be by directional boring beneath the road pavement; **OR**
- (b) Where the property is located on the **same side of the street** as the main overhead power lines and telecommunication cables, all services are to be placed underground for the full length of the frontage of the site. Any overhead powerlines and telecommunication cables that cross the road from the development site must also be placed underground and the cabling installed and

distributed to properties in accordance with Energy Australia and the telecommunications carriers' requirements.

- 11.2 **Prior to the issue of a Construction Certificate** the applicant must contact the Engineer Planning and Supply Negotiations (West) Energy Australia on 131 535, to obtain a quotation to underground power supply lines and where appropriate a quotation to underground the main overhead power supply lines adjacent to the frontage of the subject property and the telecommunications carrier on 1100 advising that undergrounding of the telecommunication cabling is required.
- 11.3 If required, an easement shall be created in favour of electrical and telecommunications suppliers and comply with the following:
- For the provision of underground services and above ground pillar boxes for access to their equipment;
 - The easement is to be 3m wide abutting the property boundary at the point of entry and 1.5m within the property;
 - Where the easement is to be enclosed, a minimum headroom of 2m is required above the floor level; and
 - The wording of the easement shall be approved by Energy Australia and the Telecommunications Carrier where applicable, **prior to the issue of a Construction Certificate**.
 - Written evidence that the wording of the easement has been approved by the relevant service providers shall be provided to Council **prior to the issue of a Construction Certificate**.
 - The required easement shall be created and registered **prior to issue of an Occupation Certificate or use of the building**.
- 11.4. Ragbolt mounted network standard metal columns fitted with MBF 80 lamps shall be installed 1 metre behind the face of the kerb with a 2 metre outreach arm. Furthermore, street lighting shall comply with AS/NZS 1158.3.1:1999 for pedestrian area lighting or any subsequent standard and the requirements of Energy Australia.
- 11.5 Any disturbance to public land as a result of the undergrounding of services shall be restored at no cost to Council.
- 11.6 Where undergrounding services, a plan indicating the depth and location of all services (i.e., gas, water sewer, electricity, telecommunication, traffic lights, etc) within the area affected by the development shall be submitted to Council **prior to the issue of a Construction Certificate**.

Furthermore, any adjustments required shall be at no cost to Council or any public authority. The relevant authorities' written consent for any adjustments or works affecting their services shall be obtained and a copy provided to Council **prior to the issue of a Construction Certificate**.

Landscaping/Tree Matters

- 12.1 All common and private landscape areas including all planters are to have full coverage by a fully automatic irrigation system. The design, materials and installation are to be in accordance with Sydney Water Codes and all relevant Australian Standards.
- 12.2 All plants specified for industrial developments are to be native Australian plant species.

Site Operation

- 13.1 The delivery and despatch of goods, materials and the like to and from the premises shall only take place between 7am to 10pm. This includes petrol tanker deliveries.
- 13.2 All operations/activities shall be carried out wholly within the building.
- 13.3 All mechanical plant not required to operate outside of trading hours shall be turned off.
- 13.4 Any proposed lighting of the site shall be designed, located or shielded to ensure the amenity of the surrounding area is not adversely affected by light overspill and details shall be submitted and approved by the Principal Certifying Authority **prior to the installation** thereof.
- 13.5 The storage of goods, materials, equipment, machinery, refuse, or refuse bins (including industrial waste containers) shall be carried out in an area specifically designed for that purpose and not within the road reserve except in accordance with Council's Materials on the Footpath Policy.
- 13.6 An alternative renewable energy source is to be provided on site and used for the provision of lighting for all of the external areas. Details are to be provided prior to the issue of the Construction Certificate.
- 13.7 The operation shall be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupants. In the event of Council receiving complaints regarding excessive noise, the person(s) in control of the premises shall at their own cost arrange for an acoustic investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying the proposed methods for the control of noise emanating from the premises. The measures shall be approved by Council prior to implementation and shall at full cost to the applicant.
- 13.8 All exhaust and other emissions including noise from the premises shall comply with the provisions of the Protection of the Environment Operations Act 1997 and Regulations.

Construction Matters

- 14.1 The proposed development shall comply with the Building Code of Australia and details demonstrating compliance shall be submitted to the Principal Certifying Authority for approval **prior to the issue of a Construction Certificate.**
- 14.2 Footings shall be designed in accordance with the soil classification of H, or Highly Reactive (unless determined to the contrary by a suitably qualified person).
- 14.3. If the soil conditions require it 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 adequate provision must be made for drainage.
- 14.4 Certification shall be obtained from a registered surveyor at the following stage(s) of construction confirming that the building has been constructed in accordance with the approved plans including any approved amendments (S.96 approvals) and plans and details required by Council as conditions of development consent:
 - (a) footings excavation prior to placement of concrete;
 - (b) car park/garage level prior to placement of concrete or pavement;
 - (c) ground floor and first floor levels;
 - (d) roof ridge height;

- (e) all floors of the building, roof eaves and all roof ridges;
- (f) wall setbacks from property boundaries and street alignment;
- (g) dimensions and areas of balconies/courtyards;
- (h) vehicular ramp gradients.

Copies of the surveyor's certificates must be submitted to and accepted by Council at the stages nominated above.

- 14.5 The existing ground levels shall not be altered except in accordance with the levels shown on the approved plans as part of this consent. Finished ground surface levels shall match the existing levels at the property boundary. Any survey plan shall also show the extension of these levels in relation to adjoining properties.

If the existing ground levels are altered during construction, Council may require a survey plan of the finished ground levels to be prepared and submitted **prior to the issue of an Occupation Certificate** to determine if there have been changes to the pre-development levels and if there are any impacts on adjoining properties as a result.

- 14.6 All construction, demolition and excavation work shall be restricted to 7am and 5pm (Eastern Standard Time) on Mondays to Saturdays (inclusive) and prohibited on Sundays and public holidays.

- 14.7 The public area adjacent to a work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

- 14.8. There are built structures which may be in the zone of influence of the proposed works and excavations on the site. A qualified practicing geotechnical engineer must prepare a Construction Methodology Report demonstrating that the proposed construction method including any excavation and the configuration of the built structures will have no adverse impact on any surrounding property and infrastructure.

The report must be submitted with the application for a Construction Certificate and must include an investigation to determine the design parameters appropriate to the specific development and site. This would typically include;

- a) the location and level of nearby foundations and footings (site and neighbouring);
- b) proposed method of excavation;
- c) Permanent and temporary support measures for excavation;
- d) Potential settlements affecting footings and foundations;
- e) Ground water levels (if any);
- f) Batter slopes;
- g) Potential vibration cause by method of excavation; and
- h) De-watering including seepage and off site disposal rate (if any).

Excavation, retention, underpinning and construction must be undertaken onsite by an excavation contractor with specialist excavation experience. A suitably qualified geotechnical engineer, specialising in excavation must supervise the excavation procedure.

- 14.9. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

- 14.10 To maintain pedestrian safety in common areas suitable lighting is to be provided on the development site adjoining each street frontage and near pedestrian main

entrances to the site. Details shall be submitted and approved by the Principal Certifying Authority **prior to the installation** thereof.

- 14.11 All temporary buildings shall be removed from the site at the completion of the development.

Building Matters

- 15.1 Identification numbers are to be clearly displayed at the front of the premises and be easily visible from the street.
- 15.2 Where building intruder alarms are installed in the building they shall be fitted with an automated “cut-off” timing device and operated as per the Protection of the Environment Operations (Noise Control) Regulation 2008.
- 15.3 Any required mechanical ventilation shall comply with the minimum ventilation requirements of the Building Code of Australia and AS 1668 Parts 1 and 2. A certificate, together with a copy of the test report carried out at completion of installation and balancing, for the mechanical ventilation systems shall be submitted to Council stating that the development complies with the requirements of that **AS prior to the issue of an Occupation Certificate**.

Fire Safety Measures

- 16.1 Upon completion of works a final fire safety certificate is to be issued from a properly qualified person in respect of each essential fire safety measure installed within the building and specified in the fire safety schedule. The final fire safety certificate shall be provided **prior to the issue of an Occupation Certificate**.
- 16.2 As soon as practicable after a final safety certificate is issued, the owner of the building to which it relates:
- shall submit a copy of the fire safety certificate (together with a copy of any current fire safety schedule) to the Commissioner of NSW Fire Brigades;
 - shall submit a copy of the fire safety certificate (together with a copy of any current fire safety schedule) to Council for registration; and
 - shall ensure the current fire safety schedule is prominently displayed in the building.

Hoardings

- 17.1 Any hoarding, fence or awning is to be removed when the work has been completed.
- 17.2 No advertisements of any kind shall be affixed to hoardings except for a board not exceeding 2.4m x 1.8m on which may be shown the architect's/builder's/demolisher's names or any particulars regarding the subject building and notices regarding the existing or future occupancies in the building.
- 17.3 Hoardings/overhead protective structures at ground level shall have mesh wire or other such material fixed to the surface to a height at least 2 metres in order to preclude the fixing of posters.
- 17.4 A sign with the words “Billposters Will Be Prosecuted” shall be attached or printed on the hoarding/overhead protective structures at regular intervals so it is visible from the street or any adjoining public place.

Air Quality

- 18.1 Dust emissions from the stockpiles shall be suppressed by a permanently installed irrigation system and details shall be submitted to the Principal Certifying Authority for approval **prior to the issue of a Construction Certificate.** The irrigation system shall be installed in accordance with the approved details prior to the work/use commencing and maintained at all times to Council's satisfaction.
- 18.2 The use of the premises shall not give rise to:
- (a) The transmission of unacceptable vibration to any surrounding occupancy; and
 - (b) A noise level exceeding the background (L_{90}) noise level by more than 5dB(A) when measured from an adjoining premises. The source noise level shall be assessed as an $LA_{eq,15min}$ reading and adjusted in accordance with current EPA Guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and intermittency or any subsequent guidelines.
- 18.3 In the event of Council receiving complaints regarding air pollution or odour from the premises, the person(s) in control of the premises shall at their own cost arrange for an environmental investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying the proposed methods for the control of odour emanating from the premises. Such measures are to be installed at no cost to Council and may require further development consent from Council.

Subdivision

- 19.1 The final plan of the subdivision shall not be issued until a survey certificate prepared by a registered surveyor is submitted to Council which shows the location of all buildings in relation to the property boundaries and confirming compliance with the development consent.
- 19.2 The right-of-way shall be registered under section 88B of the Conveyancing Act 1993 to ensure reciprocal right-of-way access arrangements.
- 19.3 A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained for the proposed development. Application must be made through an authorised Water Servicing Coordinator. For details see the Sydney Water website www.sydneywater.com.au then follow the "e-developer" icon, or telephone 13 20 92.
- The Section 73 Certificate must be submitted to the Principal Certifying Authority **prior to the issue of a Subdivision Certificate or occupation of the development.**
- 19.4 The approval of the relevant electricity supply authority shall be obtained for the supply of electricity to the site.
- 19.5 **Prior to the issue of a Subdivision Certificate,** compliance with the requirements of relevant service authorities.

Disabled Access

- 20.1 Access to the building for persons with disabilities shall be in accordance with the requirements of the Building Code of Australia and the relevant standards. Details shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**
- 20.2 Sanitary facilities for persons with disabilities shall be provided in the building in accordance with the Building Code of Australia and the relevant standards. Details

shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**

- 20.3 A carparking space for persons with disabilities shall be provided in accordance with the Building Code of Australia and the relevant standards. Details shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**

Waste Management

- 21.1 Submission of a comprehensive Waste Management Plan to the Principal Certifying Authority for approval **prior to the issue of a Construction Certificate.** Such plan shall address demolition, construction and operation waste arising from the development and shall include:-

- type and likely quantity of waste arising from the demolition and construction activities;
- storage, disposal and recycling measures for all demolition and construction waste, including specific disposal points and arrangements;
- type and likely quantity of trade and operational waste arising from the proposed development, including storage and collection details. Note: Strathfield Council does not provide a trade waste service;
- provision for a suitable number of 240 litre garbage bins and 240 litre recycling bins for the residential development;
- storage, disposal, collection and recycling arrangements for all trade and operational waste; and
- fitout details of any garbage/waste enclosures and storage areas.

Full compliance must be given to the endorsed Waste Management Plan submitted for the proposed development. Copies of any weighbridge receipts from all approved waste disposal facilities shall be retained for presentation to the Principal Certifying Authority upon request.

- 21.2. A Trade Waste Agreement is to be entered into with Sydney Water for the fast food shop and separate food shop as required. Any grease trap must be constructed and installed in accordance with Sydney Water's requirements.
- 21.3. The waste storage rooms shall be designed to comply with the relevant standards and details shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**

Parking/Traffic Matters

To be determined following response from the RTA and receipt of additional information.

Drainage/Stormwater

To be determined following receipt of required details

Roads and Traffic Authority

Subject to receipt of advice from the RTA.