

Assessment Report and Recommendation

APPLICATION DETAILS:

JRPP No:	2012NTH008
DA No:	DA0046/2012 (MOD0001/2013)
PROPOSED DEVELOPMENT:	Retain the Temporary Access to the Northern Carpark
PROPERTY DESCRIPTION	Lots 1 & 2 DP 563441, Lot 3 DP 222686 4-10 Kathleen Street, South Tamworth (Southgate Shopping Centre)
APPLICANT:	Coles Group Property Developments Limited
OWNER:	Coles Group Property Developments Limited
REPORT BY:	Sam Lobsey - Senior Development Assessment Planner Jackie Kruger - Director Planning and Community Services
LODGEMENT DATE:	4 July 2012
LAND ZONING:	B1 Neighbourhood Centre Tamworth Regional Local Environmental Plan 2010
DATE CONSENT ISSUED:	13 October 2011

EXECUTIVE SUMMARY:

Reason for consideration by the Joint Regional Planning Panel:

The original development application was referred to the Northern Region Joint Regional Planning Panel for the reason that 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 \$5.0m.

The modification to the development consent is sought pursuant to section 96(2) of the Environmental Planning and Assessment Act 1979 which must be determined by the Panel in accordance with State Environmental Planning Policy (Regional and State Development) 2011.

Brief Description of Proposal:

Pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979, consent is sought to modify the development consent to retain the temporary vehicle access to the northern car park near the intersection of Alice Street and Kathleen Street on a permanent basis (**Annexure 1**).

Site Description:

The development site comprises Lots 1 and 2 DP 563441 and Lot 3 DP 222686, 4-10 Kathleen Street, South Tamworth. The site is approximately 11,245m² in area with frontage to Kathleen Street to the west, Alice Street to the north, Anne Street to the south and Pirates Rugby Union Club to the east.

A roundabout is required to be constructed at the intersection of Kathleen and Willis Streets to provide a safe access to the site. However, a temporary access was constructed in the northern car park near the intersection of Alice Street and Kathleen Street to provide access to the temporary post office, Southgate Inn and Bottle Shop during construction of the new shopping centre.

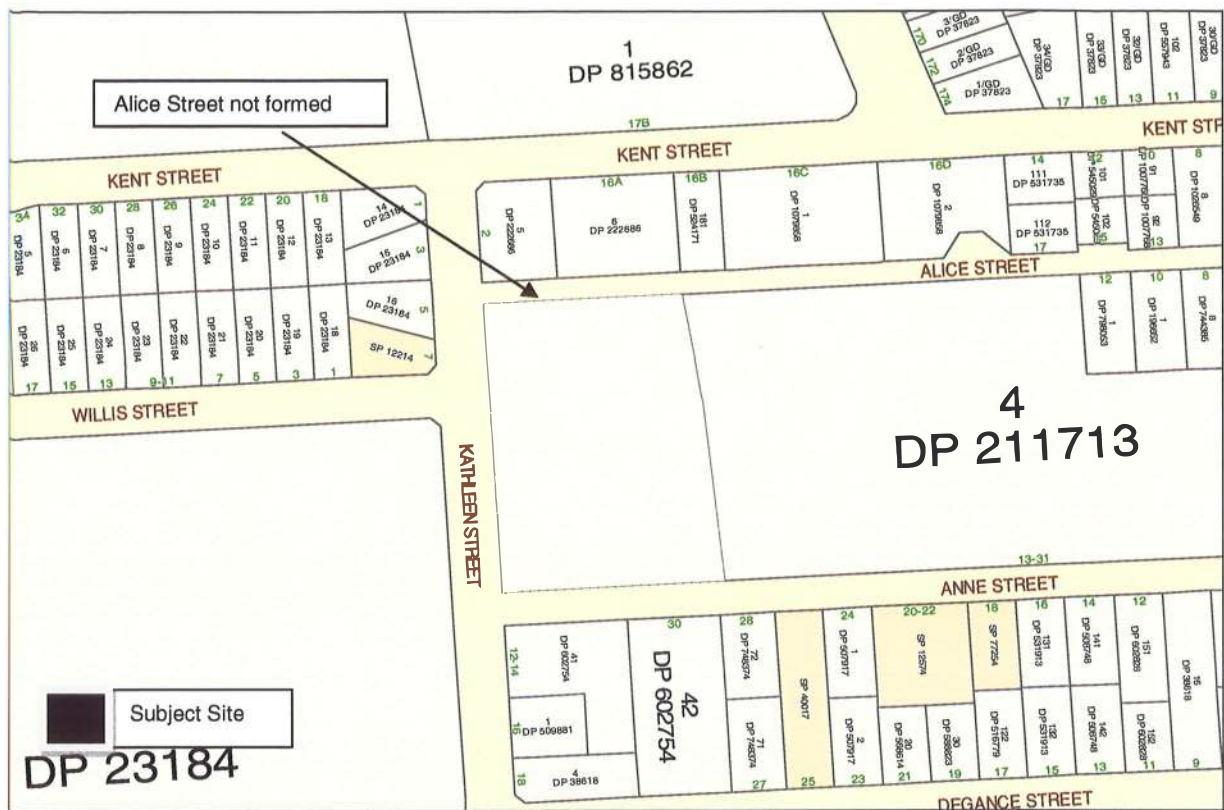


Diagram 1- Locality Plan



Diagram 2 - Aerial Image (2010)

Background:

Development Application No: DA0046/2012 for demolition of existing shopping centre and construction of new shopping centre and signage on the subject land was granted conditional development consent on 13 October 2011 by the Northern Joint Regional Planning Panel (Ref No. 2011NTH025).

Subsequent modifications to the development consent have been determined by Council as follows:

Modification pursuant to 96(1A) on the 23 February 2012 (MOD0058/2012) for:

- Amendment to the car parking layout;
- Relocation of the Coles pylon sign to main entry opposite Willis Street;
- Raising the floor level of shopping centre by 400mm;
- Raising the roof to Coles plant room by 1300mm; and
- Amendment internal layout.

Modification pursuant to 96(1A) on 21 June 2012 (MOD0098/2012) for:

- Installation shade sails within the carpark area;
- Amendment alterations to the internal layout of the centre;
- Detailed content of site specific signage;
- Modification to Tenancy No.5 to create two (2) smaller tenancies; and
- Amendment the landscape plan including removal/planting of trees throughout the site.

Modification pursuant to Section 96(1A) on 27 September 2012 (MOD0025/2013) for:

- Reinstating Tenancy No. 5; and
- Amendment to conditions:
 - o 53b which required the car park to be designed for large rigid trucks;
 - o 53c which required registration of a Right of Carriageway over Lots 1 and 2 DP 56344 and Lot 3 DP 222686; and
 - o 55 which required Lot consolidation prior to the issue of a Final Occupation Certificate.

The subject modification was lodged as a result of the submissions received by the adjoining landowner (Southgate Inn) during the notification period of the original development application and subsequent section 96 applications raising concern with regard to the existing access off Kathleen Street and requesting it be retained.

Consultation:

The proposed modification was notified in accordance with the Tamworth Regional Development Control Plan 2012 for a period of fourteen (14) days from 19 July 2012 to 6 August 2012. No submissions were received.

Recommendation:

The proposal for the driveway giving access from Kathleen Street to Alice Street to remain open reflects the outcome preferred by the owners of the Southgate Inn, is consistent with the report submitted by RoadNet and the Dobinson Report (**Annexure 2**) provided on behalf of the developer, and reflects a similar access arrangement prior to the redevelopment of the Southgate Shopping Centre.

However, following a review of the information submitted by the applicant, it is the recommendation of Council that the driveway not be retained for the following reasons:

- The new round about is the primary access to the car park and the driveway is not necessary or conducive to safe traffic movements;
- The temporary driveway is only approximately 30 metres from the roundabout; and
- Access for delivery vehicles and patrons can be accommodated through the roundabout and right of way within the car park.

On this basis, the modification to the development consent should not be supported. However, it is recommended that the consent be amended to include a condition which allows for the temporary access near the intersection of Alice Street and Kathleen Street to remain in operation until such time as Alice Street is legally closed under the Roads Act 1993.

Annexure:

- | | |
|------------|---|
| Annexure 1 | Alice Street Access Site Plan prepared by Buildplan Group, Drawing No. S3808 S96 – DA103, Revision No. 3 dated 28 August 2012 |
| Annexure 2 | Review of Council Requirements Regarding Vehicular Access from Kathleen Street prepared by Ken Dobinson, dated 25 August 2012 |
| Annexure 3 | Traffic Impact Assessment Report prepared by RoadNet Pty Ltd, dated June 2012 |
| Annexure 4 | Description of Modification prepared by Applicant (Coles), dated 8 June 2012 |
| Annexure 5 | Conditions of Consent (DA0046/2012) as modified by Modification No. MOD0025/2013 |
-

1. Environmental Planning and Assessment Act 1979

S79C(1) Matters for Consideration

The modification to the application does not give rise to any further considerations under Section 79C of the Environmental Planning and Assessment Act 1979, with the exception of the following:

S79C(1)(b) *The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality*

Traffic, Parking and Access

Prior to demolition of the former Southgate Shopping Centre, and commencement of the Coles redevelopment, there were a number of driveways providing access from Kathleen Street to the car park. Conditions of development consent for the new shopping centre included a requirement to remove these driveways and consolidate vehicle access into a new roundabout at the corner of Kathleen and Willis Street to satisfy the recommendations of the "Austroads Guide to Road Design Part 4: Intersections and Crossing General", improve traffic management and enhance road safety.

The driveway, subject to this modification was approved on a temporary basis for the Post Office, Southgate Inn and bottle shop while construction was being undertaken.

Council's Infrastructure Planning engineers have reviewed the Traffic Impact Assessment Report prepared by RoadNet Pty Ltd dated June 2012 (**Annexure 3**) which accompanied the modification to the development consent. Provided below are the conclusions of the report and Council's response.

1. *Separate Southgate Inn delivery vehicles from the Southgate Shopping Centre carpark areas.*

Council Comment:

Separation is unable to occur as there is no clearly defined road and no internal definition of access for customer vehicles and delivery vehicles. The entire area (including the Alice Street road reserve) is a carpark, serving both the hotel and supermarket patrons.

2. *To reduce the safety risk in the shopping centre carpark, it is preferable that Southgate Inn, Motel and Bottle shop patrons do not travel through the carpark.*

Council Comment:

Vehicles have historically travelled through the carpark, it is a low speed environment in a high pedestrian zone (and designated as such). Council is not aware of any reported incidents.

3. *To reduce congestion at the Willis Street roundabout.*

Council Comment:

There is no intersection analysis information provided in the report to suggest that there will be congestion at the Willis Street roundabout. The intersection analysis provided in the Statement of Environmental Effects for the Shopping Centre Redevelopment (undertaken by RoadNet) says that a Level of Service (LOS A) is provided at the Willis Street intersection with a roundabout construction, that being an average delay of 4 seconds and queue length of 12.3 metres. This is an improvement on the existing situation and a better Level of Service than channelised treatments as originally proposed.

4. *To provide practical access for large delivery vehicles servicing the Southgate Inn and Drive Through Bottle Shop.*

Council Comment:

The temporary access is constructed as a driveway with a concrete layback in the kerb-line and concrete crossover through the footpath to the boundary. The turning templates provided show that it cannot accommodate heavy vehicles if a vehicle is parked on the driveway waiting to exit. This is also the circumstance for light vehicles as there is no centre median which is required by the standard to provide delineation, and due to the narrow nature of the access, the majority of vehicles do not stay hard to the left. Therefore vehicles will use the Willis Street access as it is more practical for heavy vehicles. It should also be noted that the temporary access does not line up with the Alice Street road reserve.

5. *To provide convenient access for the Southgate Inn and Drive Through Bottle Shop patrons.*

Council Comment:

The temporary driveway is not considered to be a more convenient access than the roundabout which has been designed and constructed at grade to provide a safe entry and exit. Furthermore, the Willis Street roundabout access is just 30 metres away from the temporary driveway.

6. *To maintain the Southgate Inn and Drive through Bottle Shop existing use rights.*

Council Comment:

The existing arrangement is an agreement between private parties which provided for the use of Lot DP 563441 by the Southgate Inn and access to the road reserve off Lot 1 DP 563441. There is a condition of consent which requires a Right of Way to be registered from the Willis Street access to the Alice Street road reserve for the benefit of the Southgate Inn and Bottle Shop. Therefore, the arrangement will be maintained.

7. *To limit vehicular and pedestrian safety risks by keeping the existing access operational beyond the completion of the shopping centre redevelopment.*

Council Comment:

More intersections onto a roadway in a high pedestrian area increase the likelihood of incidents which creates a higher risk.

In addition to the concerns identified above, Council's Infrastructure Planning engineers have also advised that the swept turn path assessments for large and small rigid trucks provided at Appendix A of the report, show a confliction between delivery trucks and vehicles which are parked at the temporary driveway access waiting to exit. The approved Willis Street roundabout entrance has been designed and constructed to ensure there is no confliction between delivery trucks and other customer vehicles.

Furthermore, the access does not function as it does not comply with the requirements of *Australian Standard 2890.1 - Off Street Car Parking*. The total width of the current crossing being 6.5 metres is short of the standard which recommends an entry width of 6 metres and a minimum exit width of 4 metres including a separation of a least 1 metre. Therefore a combined width of 11 metres would be required at minimum.

Given that a number of traffic and access concerns have been identified by Council's assessment of the proposal, the modification to the development consent to allow the temporary access to the retained on a permanent basis should not be supported.

The subject modification has also identified the need for Council to consider the legal status of the of the road intersection between Kathleen and Alice Streets. The section of Alice Street adjoining and intersecting with Kathleen Street is not currently constructed as a road, but as part of the shopping centre.

At the Ordinary Meeting on the 25 September 2012, Council resolved to make an application to the NSW Department of Lands to close this part of Alice Street to ensure the road is both physically and legally closed.

On this basis, it is considered reasonable to allow the temporary driveway to remain in use until the road closure application has been determined and is recommended that condition 43a be added to identify this concession. This will allow operations of the shopping centre to commence.

2 Conclusion

The proposal for Alice Street to remain open is the preferred outcome of the landowner of the Southgate Inn, which is consistent with the report submitted by RoadNet and the Dobinson and Associates Report provided on behalf of the developer. It also reflects the access arrangement in place prior to the redevelopment of the Southgate Shopping Centre.

However, Council's review of the changed traffic conditions and vehicular movements associated with the new development has identified that the proposed modification to allow the temporary access to be permanent is not suitable. Consequently, Council has resolved to close part of Alice Street, in accordance with the Road Act 1993 to ensure it is both physically and legally closed.

On this basis, it is recommended that Northern Joint Regional Planning Panel determines the modification by adding a condition which will allow the temporary access be retained until such time an application to close part of Alice Street is determined by the Minister of Lands.

3. Recommendation

It is recommended that in relation to an application to modify Development Consent No. DA0046/2012 for Retention of the Northern Car Park Access on Lots 1 and 2 DP 563441 and Lot 3 DP 222686, 4-10 Kathleen Street, South Tamworth, that the Northern Joint Regional Planning Panel approve the modification with an alteration to the conditions as follows:

Addition of Condition 43a as follows:

The temporary vehicle access near the Alice Street and Kathleen Street intersection may remain upon commencement of operations from the site and until such time as this part of Alice Street is closed under the Roads Act 1993.



Sam Lobsey
Senior Development Assessment Planner

Jackie Kruger
Director, Planning and Community Services

Date: 03 October 2012