

**CONSULTANT'S ASSESSMENT REPORT
DA 514/2013
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING WESTFIELD
TUGGERAH SHOPPING CENTRE**

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SUMMARY

A development application has been received for alterations & additions to the existing Westfield Tuggerah shopping centre and associated car parking. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Westfield Limited
Owner	P.T. Limited
Application No	DA/514/2013
Description of Land	Lots 1-6, 10, 11, 13, and 14 in DP 10625, Lot 1 DP 1056960, Lots 4 - 7 DP 242143, Lot 2 DP 365107, Lot 2 DP 500274, Lot 2 DP 591346, Lot 2 DP 537790 and Lot 71 and 72 DP 803155, No. 50 Wyong Road TUGGERAH
Proposed Development	Alterations & additions to shopping centre comprising 12,638m ² of retail floorspace (stage 1) and construction of Gmax cinema (stage 2)
Site Area	21.34 hectares
Zoning	3(a) Business Centre
Existing Use	Shopping Centre and cinemas
Employment Generation	500 including construction phase
Estimated Value	\$49.6 million

RECOMMENDATION

- 1** *That the Joint Regional Planning Panel grant consent to DA/514/2013, subject to the conditions contained in Appendix A.*
- 2** *That those who made written submissions be advised of Council's Decision.*
- 3** *That a copy of the determination be forwarded to the Roads and Maritime Services for information.*

Referral to Hunter and Central Coast Joint Regional Planning Panel

The proposal is referred to the Hunter and Central Coast Joint Regional Planning Panel (JRPP) for determination pursuant to Schedule 4A of the Environmental Planning & Assessment Act, 1979, given the development has a capital investment value (CIV) of over \$20 million.

PRECIS

- The proposal involves additions to the eastern wing of the existing Westfield shopping centre comprising a new 2 level department store and specialty retail tenancies at levels 1 & 2;
- Construction of a new G Max cinema at the rear of the existing cinema complex;
- Reconfiguration and expansion of at grade car parks to the rear of the site, construction of new carpark deck at level 1, provision of a new ramp to a proposed roof car park, new roof top carpark;
- Construction of new bus interchange at the rear of the shopping complex with a new vehicular ramp off Gavenlock Road to avoid bus movements within designated car parking areas;
- The proposal complies with the maximum floorspace requirements of an additional 15000m² of retail floorspace after 2011 pursuant to Wyong Development Control Plan (DCP) 2005 Chapter 81 – Retail Centres a total floor space area of 12,638m² is proposed.
- The development application was referred to the Roads and Maritime Services in accordance with Clause 104 Traffic Generating Developments of State Environmental Planning Policy (Infrastructure) 2007;
- The proposed development was advertised with four (4) public submissions being received.

INTRODUCTION

Site and Locality

The subject site comprises 21.34 hectares of land which is currently occupied by a regional shopping centre with ancillary parking facilities. This shopping centre is bounded by Wyong Road to the north, Gavenlock Road to the east, vacant bushland land to the south and Tonkiss Street to the west.

The existing shopping centre comprises an enclosed linear building with 83,260m² of Gross Leasable Area (GLA), with the eastern wing being of one level and western wing of two levels with some roof top parking. The retail component comprises a department store, two (2) discount department stores (DDSs), three (3) supermarkets, range of mini majors and specialty stores with a central food court and cinemas. An existing child care centre is located at the rear of the food court with a service station being located adjacent to the southern vehicular access point off Gavenlock Road. Existing on grade car parks are located to the front and rear of the shopping centre with vehicular access being available off Wyong Road, Tonkiss Street and Gavenlock Road. The existing bus interchange is positioned to the rear of the centre to the east of the cinema complex.

Surrounding development consists of the following:

North: Residential development being the Woodbury Park Residential Estate to the north of Wyong Road;

East: Vacant bushland, residential development comprising detached dwellings and townhouse development, chiropractor;

South: Vacant bushland which provides a buffer to residential development comprising detached dwellings and Tuggerah Public School to the south east;

West: Vacant land to the west of Tonkiss Street zoned 10(a) Investigation (owned by PT) which is known as the Gateway site and designated as part of a potential State Significant site.

The site is located approximately four kilometres to the south of the Wyong Town Centre and also within close proximity to Tuggerah Railway Station, Tuggerah Straight, Tuggerah Business Park and Tuggerah Supa Centa.



Figure 1 – Locality of Subject Site

Description of Proposed Development

This application seeks consent for alterations and additions to an existing shopping centre (being modifications to a previous approval DA/912/2007. This development has not been enacted upon, except for some surveying work associated with the car park and adjoining vegetated areas of the site. The consent lapsed on 19 February 2010 and was subject to the recent Section 96 Application. which does not appear to have been enacted beyond preliminary works stage and which was issued by Council on 19 February 2007) as follows:

Level 1 (Ground level)

Stage 1

- Construction of ground level department store (Myer);
- Provision of seven (7) specialty shops and extension of mall area to provide access to department store at ground level;
- Alterations to existing car park (45 spaces) near the southern entrance to the food court adjacent to the existing child care centre;
- Relocation of the bus interchange adjacent to the southern edge of the site being to the south of the existing child care centre;
- Reconfiguration and extension of the existing at grade rear carpark providing 350 spaces with access being retained from an existing access point off Gavenlock Road;
- Provision of two new loading docks to service additional retail areas;
- Construction of new vehicular ramp to south of existing service station with direct access to and from the bus interchange along the southern edge of the site to avoid designated car parking areas. A new access ramp was proposed off Gavenlock Road in a similar position to the current under DA 912/2007. This consent lapsed on 19 February 2010.
- Provision of landscaping adjacent to the new ramp off Gavenlock Road, the proposed roadway and bus interchange along the southern edge of the site, with additional tree planting only proposed along the southern and eastern edges of the expanded rear at grade car park and some additional landscaping adjacent to the entry off the roundabout along Gavenlock Road to the north of the existing eastern wing.

Stage 2

- Construction of new G max cinema with 2450 seats to the rear of existing cinema complex similar to that approved by Council pursuant to DA 2976/02.

Level 2

- Construction of the second level department store (Myer) including escalators and goods lift;
- Provision of two (2) mini major stores, eleven (11) specialty shops, three (3) kiosks, Centre management offices, storage areas, new goods lift;
- New mall extension to provide access to department store;
- Two service areas;
- New escalators to roof level;
- New car park over the at grade car park comprising 245 spaces;
- Provision of ramp to service roof top car park.

Roof Top

- Roof top car park comprising 383 spaces.

Architectural plans including elevations are attached to this report.

The development proposal involves an additional 12, 638m² of retail floor area taking the total retail floor area to approximately 82,878m² with an additional 530 parking spaces being provided, increasing the total number to 3826 spaces. Also expansion of the G Max cinema is proposed from 2160 seats to 2450 seats being an increase of 290 seats.

There is no indication of proposed tenancies other than that of the Myer department store.

Referrals

External

The development application was referred to the Roads and Maritime Services in accordance with Clause 104 Traffic Generating Developments of State Environmental Planning Policy (Infrastructure) 2007 and also to Transport for NSW and NSW Police for comment. The issues raised by these organisations are discussed in detail in a later section of this report and where necessary reflected in the conditions of consent.

Internal

The application has been referred within Council to:

- Future Planning;
- Development Assessment Engineer;
- Transportation Officer
- Health and Building Officer;
- Environmental Health Officer;
- WS Planning and
- Ecologist.

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

Summary

Key issues that were identified as part of the assessment of the subject application included:

- Potential impact of a new department store onto Erina Fair which has been identified as a town centre pursuant to the Central Coast Regional Strategy 2008 and which is located outside the Wyong LGA;
- Whether the key evaluation criteria detailed in DCP No. 81 has been addressed within the Economic Impact Assessment (EIA) and other information accompanying the application;
- The implementation of a new bus interchange which satisfies both bus operators and Transport for NSW;
- The provision of safe and direct pedestrian access from the shopping centre to the new bus interchange and potential impacts onto the nearby child care centre;
- Potential noise and amenity impacts onto nearby residential properties particularly from the new ramp and access road off Gavenlock Road;

- The potential impact of the access road and associated works along the southern boundary near the new bus interchange onto existing vegetated areas of site and which part is to be zoned E2 Environmental Conservation under draft Wyong LEP 2012.

These issues have now been addressed and discussed in detail in other sections of this report and approval of the development is recommended, subject to the conditions included in Appendix A.

VARIATIONS TO POLICIES

There are no variations to any policies proposed.

HISTORY

Westfield Shopping Centre was granted approval in March 1993. The centre was opened in October 1995 and currently comprises approximately 69,497m² (GLA) retail. The cinema complex and other non retail specialty premises within the centre equates to approximately 13,763m² of floorspace with a total Gross Leasable Area (GLA) being 83,260m².

Development Applications 2975/2002 and 2976/2002 were approved by the NSW Land and Environment Court on 1 August 2003. These applications included alterations and additions to the existing shopping centre and Greater Union Cinema Complex. A Section 96 application (DA2976/02A) was lodged for the Greater Union Cinema Complex which involved the reduction in the number of additional cinemas from four smaller cinemas to one bigger cinema, with a much larger screen known as a G Max. The modification resulted in a reduction of 280 seats from the proposal approved by the Court.

Subsequently DA/3030/2003 for alterations and additions to this shopping centre was approved which superseded the previous approval granted by the NSW Land & Environment Court in August 2003.

In 2008 a further Development Application 912/2007 was approved by Council for 16,544m² of additional retail floorspace including a new discount department store, specialty retail tenancies and new mini major tenants, new accessway from Gavenlock Road, provision of a new bus interchange, reconfiguration and extension of an at ground car parking area, new car park deck to rear of the site and expansion of roof top car park with new ramp facilities. These works were known as Stage 3 works.

A Section 96 Application for modifications to the approved Development Application 912/2007 was lodged with Council in July 2013 on the basis that work had commenced on the site and the modifications were substantially the same development. A number of concerns were identified by Council officers and the proponent subsequently lodged the new application. The current application lodged with Council addresses previous concerns raised in relation to the traffic and parking matters particularly the design and operation of the new bus interchange.

PERMISSIBILITY

Wyong Local Environmental Plan 1991

The subject site is zoned 3(a) Business Centre under the Wyong Local Environmental Plan (LEP) 1991. The proposal involves alterations and additions to an existing shopping centre and both retail and commercial land uses are permissible with consent.

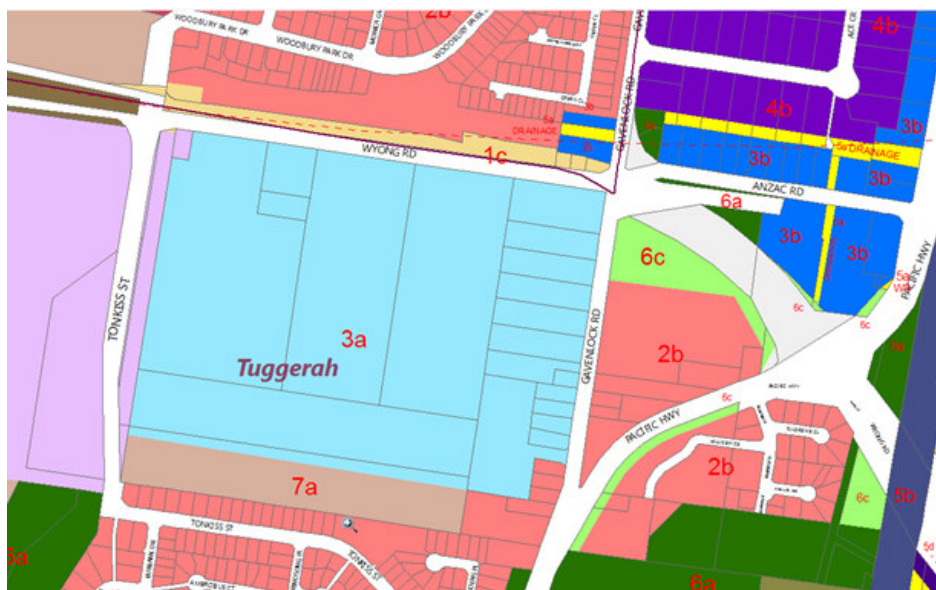


Figure 2 – Zoning of the Subject Land (WLEP 1991)

The proposed development is consistent with the objectives of the zone as:

- The development proposal will provide additional facilities that will complement and support the growth of this identified regional shopping centre, as a primary retail and entertainment destination within the central coast;
- The proposal is consistent with the Central Coast Regional Strategy 2008 as well as the retail hierarchy established by both the Wyong Retail Strategy and Wyong DCP No.81 – Retail Centres; and
- The proposal satisfies the provisions of Wyong DCP No.81 – Retail Centres and Wyong DCP No.80 – Tuggerah Precinct.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

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

- NSW Environmental Planning and Assessment Act 1979 (as amended);
- NSW Environmental Planning and Assessment Regulation;
- State Environmental Planning Policy 55 –Remediation of Land;
- State Environmental Planning Policy No.44 – Koala Habitat Protection;

- State Environmental Planning Policy No. 64- Advertising Signage;
- State Environmental Planning Policy (Infrastructure) 2007;
- Draft State Environmental Planning Policy (Competition) 2010;
- Wyong LEP 1991;
- Draft Wyong LEP 2012;
- Wyong DCP 2005:
 - Chapter 50 – Advertising
 - Chapter 61 – Car Parking
 - Chapter 69 – Waste Management
 - Chapter 70 – Notification of Development Proposals
 - Chapter 80 – Tuggerah Precinct
 - Chapter 81 – Retail Centres
- Landscape Policy No.L1;
- Central Coast Regional Strategy;
- Wyong/Tuggerah Planning Strategy;
- Retail Centres Strategy;
- Wyong/Rural West Section 94 Contributions Plan.

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control, the retention of vegetation where possible and appropriate landscaping and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations.

As detailed under the Act, Ecologically Sustainable Development can be addressed through the implementation of the following principles:

- a) the precautionary principle, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
- b) inter-generational equity, namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations;
- c) conservation of biological diversity and ecological integrity, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration;
- d) improved valuation, pricing and incentive mechanisms, namely, that environmental factors should be included in the valuation of assets and services.

The proposed at grade car park, access road to the bus interchange, the proposed bus interchange itself and ancillary drainage works, etc. will necessitate some clearing of the EEC's currently located upon the subject site. A Construction Environmental Management Plan (CEMP) can be prepared for the proposed works incorporating appropriate measures to be implemented during the construction phase so as to manage soil, surface water, pollutants, etc. whilst also protecting surrounding vegetated areas from construction vehicles and equipment, etc. On going maintenance of the adjoining areas including weeds once construction activities have been completed on site can be managed by implementation of a Vegetation Management Plan (VMP) and will be conditioned accordingly. Due to the relatively small amount of these communities that will be removed (i.e. 1.6ha of which 0.12ha is degraded), the amount of these communities occurring within the surrounding locality and consideration of the seven part tests under S5A of the Environmental Planning and Assessment Act, the assessment concludes that the proposed works are unlikely to have a significant effect on the EECs.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application. This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope / combat / withstand these potential impacts. In this particular case, the following matters are considered to warrant further discussion, as provided below:

Reduced Car Dependence – The proposal involves provision of a new bus interchange which will allow improved public transport facilities to be integrated into this regional shopping centre which will promote the usage of public transport to access the facility rather than relying on motor vehicles. Increased patronage may also benefit the operators and therefore allow for increased services to be provided to this centre. Also younger people of the community will be able to more readily access the centre for entertainment purposes such as visits to the cinema.

ASSESSMENT

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

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

(a)(i) The provisions of any environmental planning instrument

Environmental Planning and Assessment Act 1979

Schedule 4A of the Environmental Planning and Assessment Act 1979 sets out that development that has a capital investment value (CIV) of more than \$20 million must be referred to a regional panel for determination. In this case the development will be forwarded to the Hunter and Central Coast Joint Regional Planning Panel for determination.

State Environmental Planning Policy (Infrastructure) 2007

Under Clause 104 of the SEPP Infrastructure, any development specified in Column 1 of the Table to Schedule 3 must be notified to the RMS.

The consent authority must also take into consideration the following:

- “(i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
- (ii) the accessibility of the site concerned, including:*
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
- (iii) any potential traffic safety, road congestion or parking implications of the development.”*

As previously mentioned, in February 2008 Council granted approval for extensions to the eastern wing of this shopping centre comprising 16,544m² of retail floorspace and the provision of 750 additional parking spaces including reconfiguration of the bus interchange and a new access point off Gavenlock Road similar to the current application. The current application is for a reduction of retail floorspace (i.e. 12,638m²) with the provision of 530 additional car parking spaces on site. Consequently the traffic impacts from this development proposal are likely to be less than the 2008 approval. Since the issuing of the 2008 approval substantial traffic modelling of future development and identification of future road infrastructure has been undertaken by the applicant as part of the State Significant Project – Tuggerah Town Centre in consultation with the RMS. This traffic modelling included the traffic from the 2008 approved extensions to Westfield Tuggerah shopping centre. Therefore detailed modelling of potential traffic implications and extensive consultation has occurred with Council and the RMS who have raised no objection to the proposal subject to the inclusion of their requirements in the conditions of consent and which are detailed in a later section of this report.

Draft State Environmental Planning Policy (Competition) 2010

Clause 9 (1) of this draft SEPP states:

“The likely impact of proposed commercial development on the commercial viability of other commercial development is not a matter that may be taken into consideration by a consent authority for the purposes of determining a development application under part 4 of the Act to carry out the proposed development”

Whilst this SEPP remains in draft form only, it establishes principles for the assessment of development applications relating to commercial/ retail development that have been adopted by the Department of Planning and Infrastructure and NSW Land and Environment Court.

Furthermore the Department of Planning and Better Regulation Office has released a report titled *“Promoting Economic Growth and Competition through the Planning System”* dated April 2010.

This report states that:

“the intention of the NSW Government is not to limit the number of supermarkets or other types of retail outlets in nominated existing activity centres or zones in regional strategies. Removing such restrictions from current planning instruments will help ensure that restrictions are not codified into environmental planning instruments which prevent the potential for competition in regions or sub regions.”

In terms of local provisions the report states that:

“the use of LEPs and DCPs by Councils to mandate separation distances between particular types of stores should be avoided. If a retailing use is a permitted use within a zone, then it should be left to the market to decide how many stores of the same type the local population can support.”

Whilst for the assessment of development application the report states that:

“competition between individual trade competitors or between centres is not, in itself, a relevant planning consideration to which s79C of the Act applies. Whilst loss of trade for existing businesses is not in itself a relevant planning consideration, the flow-on resultant impact on community facilities as a whole may be a relevant consideration as established in Kentucky Fried Chicken Pty Limited v Gantidis (1979).”

The principle established under the above case law and also within the draft SEPP, is that planning authorities do not require that prospective businesses prepare retail studies to assess the impacts on existing businesses unless there are clear reasons to consider the wider economic impact on the extent and adequacy of community facilities as a whole which may be threatened by the proposal. In this case the proposal will not adversely impact on community facilities but will provide a further choice and range of goods and services within the Wyong LGA.

Wyong Local Environmental Plan 1991

Clause 28 – Tree Management

Clause 28 of WLEP 1991 requires development consent for the removal of trees and states that Council shall not grant such consent unless:

- “(a) such works are ancillary to or necessary to undertake a use permitted on the land, and*
- (b) the Council has made an assessment of the importance of the vegetation in relation to:*
 - (i) soil stability and prevention of land degradation, and*
 - (ii) water quality and associated ecosystems, such as streams, estuaries and wetlands, and*
 - (iii) scenic or environmental amenity, and*
 - (iv) vegetation systems and natural wildlife habitats.”*

The proposal will result in the removal of both native and exotic vegetation, including native trees of which four (4) are hollow bearing trees. The disturbance footprint includes approx. 1.60 ha of native vegetation of which 0.12 is degraded and a Vegetation Management Plan (VMP) will need to be prepared to detail how vegetation is removed, retained and maintained. This will be conditioned accordingly.

Provided that an appropriate VMP is prepared in accordance with DCP No. 14 – Tree Management the vegetation to be removed is not deemed significant in regards to soil stability and prevention of land degradation or water quality and associated ecosystems, such as streams, estuaries and wetlands, scenic or environmental amenity or vegetation systems and natural wildlife habitats. As such, consent is able to be granted for the removal of the trees, should the application be supported.

Clause 29 - Services

This clause requires all new development to have adequate water supply and facilities for the removal or disposal of sewage and drainage.

Water supply is available to the above site from an existing 150 mm water main that is located on the northern alignment of Gavenlock Rd and a supply to the proposed eastern wing can be serviced from the existing reticulation system within the development site. The works associated with the proposed entry off Gavenlock Road will require the replacement of the existing asbestos cement water main with a new PVC water main. Any proposed adjustments to Council's water assets will require a detailed design to be prepared by the applicant. The plans are to be submitted to Council for approval prior to the issue of the Construction Certificate.

Any adjustment/protection of the water mains are to be fully funded by the developer. The design and construction of the water mains are to be in accordance with the WSAA Water Supply Code of Australia WSA-02 Sydney Water Edition.

The site is currently serviced for sewer via existing lines that gravitate to the Sewerage Pump Station WS8 catchment area and a sewer service to the proposed eastern wing development can be serviced from the existing sewer reticulation system within the development site. Some components of the downstream sewerage infrastructure will require upgrading to accommodate the ultimate development in this area. The upgrading work will be funded by the developer from the contribution charges. The existing system can accommodate the above loading. The existing sewer infrastructure must be protected during construction in accordance with Council's Guidelines for Building Over and Adjacent to Sewer Mains. Particular attention is drawn to the proposed retaining walls. Any proposed adjustments to Council's sewerage assets will require a detailed design to be prepared by the applicant. The plans are to be submitted to Council for approval prior to the issue of the Construction Certificate.

Any adjustment/protection of the sewer mains are to be fully funded by the developer. The design and construction of the sewer mains are to be in accordance with the WSAA Sewerage Code of Australia WSA-02 Sydney Water Edition. Council will undertake final connections to its live sewer system at the developer's full cost.

The submitted concept stormwater drainage plans detail runoff from all new impervious area and overland flows from an upstream catchment collected and piped to the existing property drainage system. The existing infrastructure conveys stormwater either to the east (Council's trunk drainage system traversing the property) or the west (likely to Tonkiss Street).

Construction of a new/modified Level 2 carpark is proposed over an existing significant trunk drainage line and associated drainage easement. Council's Assets and Planning Section has subsequently conducted a closed circuit television (CCTV) inspection of the 3 drainage lines noting that this infrastructure is in a satisfactory condition.

For construction, the required pier footings shall be located clear of and below the invert of this underground infrastructure in accordance with general engineering practice (i.e. Zone of Influence requirements). A post development CCTV inspection shall be carried out by the Applicant to ensure that this infrastructure has not been damaged during construction.

To facilitate the extended rear carpark, lowering of three (3) Council's trunk drainage lines is proposed. Conditions have been recommended that such works be approved by Council under the Local Government Act 1993.

No OSD is required for this proposal.

(a)(ii) The provisions of any draft environmental planning instrument

Draft Wyong Local Environmental Plan 2012

The Draft Wyong Local Environmental Plan (WLEP) 2012 was considered by Council at its meeting of 8 May 2013. At this meeting, the Council resolved, in part:

“599/13 That Council resolve to submit draft Wyong Local Environmental Plan 2012, as amended in accordance with the matters raised in this report and within Enclosures 1 and 2, and also include the additional amendments set out in Annexure 3 now attached, to the Director-General of the Department of Planning and Infrastructure, in accordance with Section 68 of the Environmental Planning and Assessment Act 1979.

600/13 That Council request the Director-General of the Department of Planning and Infrastructure to submit a report under the provisions of Section 69 of the Environmental Planning and Assessment Act 1979 recommending that the Minister for Planning and Infrastructure make the draft Wyong Local Environmental Plan 2012. “

The draft WLEP 2012 has been forwarded to the Department of Planning and Infrastructure for gazettal.

Under draft WLEP 2012 the subject site will be zoned part B2 Local Centre and part E2 Environmental Conservation. Commercial premises are permissible within the B2 zone with consent of Council.

Commercial premises are defined within the draft Wyong LEP 2012 as:

“commercial premises means any of the following:

- (a) business premises,*
- (b) office premises,*
- (c) retail premises.”*

The development proposal falls within this definition and is a permissible development.

It is noted that roads are permissible within the E2 zone with consent of Council.

Roads are defined as:

“road means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road”.

Works associated with the bus interchange such as the roadway including excavation of the embankment, drainage, landscaping, may impact onto a minor part of the site to be zoned E2 under this draft WLEP 2012. It is understood that the zoning delineations were prepared based on broad vegetation mapping rather than a detailed survey or subsequent analysis. A detailed flora and fauna assessment accompanies this application and concludes that the impacts will not be significant and can be adequately managed with preparation of an appropriate VMP.

These works are associated with the roadway for the bus interchange with detailed flora and fauna assessments having been undertaken as part of this development application and the State Significant Site Study for the Tuggerah Town Centre and on a merit assessment are considered to be satisfactory and therefore approval is warranted under the current LEP.

(a)(iii) any development control plans

Wyong Development Control Plan 2005

Chapter 14 – Tree Management

Under clause 3.3 of Chapter 14, details of vegetation clearing including removal of any trees needs to be provided to Council including any endangered, vulnerable or locally significant plant species should be shown and in such cases an assessment of potential impacts undertaken as per Section 5A of the EP&A Act.

In accordance with DCP 14, and as recommended in the Flora and Fauna report accompanying the application, a Vegetation Management Plan (VMP) is required. The VMP is required to detail how vegetation will be removed, retained and maintained, and weeds managed (including exclusion zones for *Melaleuca biconvexa*). The VMP is to show which trees are approved for removal and which trees are to be retained and protected. The VMP is to provide the necessary detail and certainty in regards to weed removal techniques, targets for weed management and the extent of weed management on the site. The VMP is to be consistent with the Landscape Plan.

The application was also accompanied by Landscape Plans and Landscape Report. Both these documents and the Flora and Fauna report were reviewed by Council's Ecologist and after submission of an amendment report are considered satisfactory subject to attachment of appropriate conditions.

Chapter 69 – Waste Management

A Waste Management Plan for the construction stage of the proposed development has been submitted in accordance with Chapter 69 and considered satisfactory.

Chapter 67 – Engineering Requirements for Development

Should consent be granted, all necessary civil works would need to be undertaken in accordance with Council's DCP 2005 Chapter 67. Compliance with relevant standards can be addressed through conditions of consent.

Chapter 61- Parking and Access

The following table details car parking required for the proposal pursuant to Clause 3 of DCP 2005 Chapter 61 - Carparking:

Component	DCP Rate	Parking Required	Provided
Shopping centres Up to 13,000m ² greater than 40,000m ²	4.7 spaces / 100m ² GFA 3.1 spaces / 100m ² GFA	593 392	Provided (Based on additional (GLA) 518 spaces

Cinema (290 additional seats)	1 space per 10 seats (spaces may be reduced regional or district centre)	29	12 spaces (additional 290 seats)
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Whilst this shopping centre has a Gross Floorspace Area (GFA) of over 40,000m², this proposal only involves an additional 12,638m² of retail floorspace to an existing shopping centre. On this basis, 593 spaces would be required under numeric DCP requirements if parking was calculated on the additional 12,638m² of retail floorspace and 392 spaces if the rate for shopping centres over 40,000m² was applied given the overall size of this centre. However, the DCP also states that parking rates may be reduced on submission of a Traffic and Parking Report.

The detailed Traffic and Parking Report accompanying the development application is not necessarily seeking a reduction in car parking provision but has adopted a flat rate provision for additional car parking based on guidelines adopted by the RMS and being best practice traffic guidelines. This methodology was used and accepted in assessment of the previous application. Gross Leasable Area (GLA) is typically 75% of Gross Floorspace Area (GFA) and thus 3.1 spaces per 100 used within the above table of Council's DCP equates to 4.1 spaces per 100m² of GLA. This is the same rate as RMS Guidelines for shopping centres over 30,000m². If car parking for the additional retail component is assessed at 4.1 spaces /100m² GLA, 518 spaces are required.

Chapter 61 also suggests that spaces for cinemas may be reduced at regional or district centres. Studies undertaken by the traffic consultant for Westfield have found that cinema parking demand for the G Max cinema to be 1 space per 25 seats at time of peak retail parking demand. Therefore 12 spaces are required for an additional 290 seat cinema.

Consequently a total of 530 spaces are required based on calculations contained within the Traffic and Parking Report with this number being provided on site in various car parks. Therefore sufficient car parking will be provided on site to satisfy DCP requirements.

A total of 518 spaces will be provided on site based on the additional gross leasable floorspace of 12,638m². This is a more appropriate number of car spaces for this type of development and 12 spaces for the additional 290 seats in the GMax cinema.

Chapter 80 – Tuggerah Precinct

The development proposal is considered to be consistent with Clause 3 - The General Aims of the DCP relating to the role and function of this regional centre.

Section Part C – Area Plans provides additional design detail and guidelines for the four (4) identified functional land use units which combine to form the Tuggerah Precinct. The subject site is located within *Area B - Wyong Road (West) - Area B2 - The Regional Shopping Centre*.

Clause 8.2 states:

“Development Requirements - General

- *Proposals to expand and/or redevelop the existing Westfield Tuggerah retail complex and adjoining land holdings will not be supported unless an integrated site master plan has been adopted by Council.*

- *The only structures between the existing building and the Wyong Road (West) frontage are to be those associated with landscaping (e.g. arbours), and shall not contain commercial floor space."*

A masterplan for Westfield Tuggerah was prepared by Westfield in 2002 and a copy of this masterplan accompanies the application which demonstrates Stage 3 development as being a two level department store with some retail expansion within the existing building and also a new cinema extension where the current G Max cinema is being proposed. This masterplan was deemed acceptable by the NSW Land and Environment Court and that a master plan did not need to go beyond the immediate site. The Wyong/Tuggerah Strategy has now been adopted by Council which assumes the role of an integrated Masterplan for the precinct.

The proposal does not envisage any works between the existing building and Wyong Road. All proposed works are to the rear of the existing building.

"Buffer Area

- *The vegetated area situated to the rear of the Westfield complex shall be retained as a buffer area in accordance with Figure 4."*

The vegetated buffer area situated to the rear of the Westfield site will be largely retained as a buffer area except for some works associated with the bus interchange including the access road, drainage and landscaping that will impact onto an existing vegetated embankment. This is considered acceptable in this instance with suitable landscaping to be implemented adjacent to the new roadway.

Chapter 81 – Retail Centres

As previously stated, the proposal involves an increase of 12,638m² retail floorspace to the existing Westfield Shopping Centre. The proposed additional floorspace is below the provisions of Clause 7.1.2 of Chapter 7.1.2 – Retail Centres which limits additional floorspace to 15,000m² after 2011. It is anticipated that these alterations and additions to the shopping centre will not be completed until late 2016 and therefore satisfies this provision.

Clause 7.1.3 of Chapter 81 – Retail Centres states:

"Proposals to expand any section of the Tuggerah Regional Centre beyond the current floorspace level must be consistent with an agreed master plan. The master plan is to demonstrate how the Centre could integrate better with the surrounding precinct and Tuggerah Railway Station. It must also illustrate how the proposal caters for additional traffic generation, including any impact on the existing roundabouts on Wyong Road. The master plan is to be prepared by the applicant and endorsed by Council prior to the submission of a development application. An economic impact assessment is to accompany all proposals to expand the Tuggerah Regional Centre. The impact assessment must demonstrate to Council's satisfaction that the expansion:

- a Will not adversely affect other Retail Centres, existing and proposed;*
- b Is not in conflict with the Retail Centres Strategy;*
- c Is consistent with demand estimates for additional retail space based on the trade area of the centre as set out in the Retail Centres Strategy;*
- d Contributes to the overall viability of the Tuggerah Regional Centre; and*

- e *Will provide a diversity of shops to enable a comprehensive range of retailing. In this regard, the proposal must demonstrate that the additional floorspace meets an identified community need for a certain type of retailing, and that the range of retailing available to the public will be improved. ”*

The preparation of a master plan has been discussed in the previous section of this report. Detailed traffic modelling has been undertaken as part of the State Significant Site (SSS) study for the Tuggerah Town Centre which included these extensions to the shopping centre. Improved public transport facilities at the shopping centre will provide services to the nearby Tuggerah Railway Station which will promote the use of public transport facilities in the Tuggerah Regional Centre.

Section 7.1.3 of Chapter 81 also requires the submission of an Economic Impact Assessment (EIA) which must also address certain criteria. An EIA, prepared by Urbis accompanies this development application. This report concludes:

“the proposed expansion of Westfields Tuggerah, adding some 12,638m² of retail floorspace by 2016, is well within the guidelines set out for additional floorspace in the Tuggerah Regional Centre. Whilst the population growth has not achieved the forecasts outlined in the Retail Centres Strategy, the difference in population projections i.e. -9% in 2016 and -7% in 2021 would result in the proposed expansion to Westfields Tuggerah falling in recommended guidelines. That is, the recommendation of 15,000 sq m of additional retail floorspace after 2011 would reduce in theory to around 13,650 sq m in 2016. Also market growth would continue to support ongoing development of more floorspace at the Tuggerah Regional Centre, including the Westfield Centre.”

The largest impacts will be felt by centres within the LGA (i.e. Lake Haven and Bay Village) and Erina Fair that compete most strongly with Westfield Tuggerah for non food businesses. The highest effect is Erina Fair which is outside the LGA with a -2% one off impact on trading performance occurring which can be absorbed by this centre.

The proposal is considered to be consistent with Council's Retail Centres Strategy as Tuggerah is designated as a regional centre within the Wyong LGA and the proposal will increasingly be directed towards higher order retailing and non comparison shopping, hence reinforcing its role as a regional shopping centre providing retail, entertainment and other services. The supply of district, village and neighbourhood centre retail floorspace will also continue to grow within the LGA that better serves smaller more localised catchments. Therefore market growth over the next decade will allow supply of additional retail floorspace at all levels.

The EIA accompanying the development application suggests that “around 22% of Wyong resident expenditure” is escaping to retail centres and locations outside the LGA. This escape expenditure therefore results in both lost retail turnover and potential employment. The proposed expansion of Westfield Tuggerah will also increase the centre's retail offer, mostly of non food retailing, and so would be expected to reduce the propensity of Wyong residents to spend outside the LGA. The proposed expansion will improve the regional draw of Tuggerah given that it is well positioned geographically to the key arterial routes through the central coast including the Pacific M1 Motorway and the Pacific Highway.

An analysis indicates that there are a number of community benefits to be gained from the proposed expansion, such as a wider range of higher order retailing and a reduced need to travel outside the LGA to larger centres including to Erina Fair. The proposal will also provide increased employment opportunities during the construction phase.

In 2011 Council engaged Don Fox Planning (DFP) to prepare a review of Council's Retail Centres Strategy (2007) and to make recommendations in accordance with new and updated state government policies and strategies. DFP have recommended that the restrictive time and floorspace limits is a source of frustration for the operators of the larger centres in Wyong including Westfield's. Also it was concluded that "*market demand*" should be the impetus of expansion of centres provided it does not detrimentally affect existing centres. The proposal in its current form is not likely to lead to adverse impacts on existing or proposed centres within Wyong which has been demonstrated by the accompanying EIA.

The EIA prepared by Urbis and the submission by LOCATIQN have been reviewed by Council's independent consultant Leyshon Consulting who has provided the following comment:

"The proposed development is consistent with the role of Westfield Tuggerah at the apex of the retail hierarchy in Wyong LGA.

The proposed expansion of Westfield Tuggerah is within the guidelines established by DCP 81, as far as the expansion of retail floorspace at the centre is concerned.

The proposed expansion of the centre is likely to have less impact than that previously approved by Council in 2008. Further, compared with the 2008 application, the current application has the benefit of adding a Myer department store. This will significantly improve local residents' access to a full range of comparison goods retailing in Wyong LGA.

Despite our reservations about the volume of available retail expenditure (as discussed above), our advice to Council is that the impact of the proposed development on relevant centres is likely to be relatively modest and does not constitute a basis for refusing the subject application on economic impact grounds."

(a)(iia) any planning agreement that has been entered into or any draft planning

There are no planning agreements applicable to the application.

(a)(iv) Any matters prescribed by the Regulations

Clause 92(1)(b) of the Regulation requires Council to consider the provisions of *Australian Standard AS 2601-1991: The demolition of structures*. The demolition of the existing structures such as concrete car parks, concrete bridge beams, minor structural elements, etc. on site will be necessary and can be addressed through conditions of consent.

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

The relationship to the regional and local context and setting.

The existing Westfield's Tuggerah shopping centre acts as part of a designated regional centre that services the Wyong LGA, particularly the growing northern sector. It has been identified in the Wyong/Tuggerah Strategy Planning Strategy and both Council's DCP No.80 Tuggerah Precinct and DCP No. 81 Retail Centres as part of the Tuggerah Regional Centre. The proposed alterations and extensions to this shopping centre are consistent with the existing character and amenity of this precinct. The scale, form, density and design of the development is considered satisfactory for the locality and will provide additional retail and entertainment facilities as well as upgraded public transport services for residents of the Central Coast that will positively contribute to the on going viability of this regional centre.

The access, transport and traffic management measures.

External

The proposal has been referred to Roads and Maritime Services and Transport for NSW for comment. Whilst Transport for NSW have raised some concerns with the proposed bus interchange further information submitted to Council indicates that these issues can be overcome at detailed design stage and appropriate conditions can be attached to any development consent. These issues are discussed in further detail in other sections of this report.

The upgrading of intersections such as Wyong Road and the Pacific M1 Motorway and Wyong Road and the Pacific Highway will be subject to a Transport Infrastructure Contribution (TIC) between the RMS and proponent and conditioned accordingly.

Internal

The proposed ramp off Gavenlock Road has been redesigned during assessment of this application to reduce potential noise impacts onto nearby residential properties to the east and south. This matter is further addressed in a later section of this report.

The new bus interchange will be serviced via a new separate access road along the southern part of the site. This arrangement to separate buses from patron parking is generally supported on traffic and safety grounds. Comments from Council's Traffic and Transport Section have been considered as part of this engineering assessment, with additional Construction Certificate information sought for the required Local Traffic Committee approval.

Amendments to the proposed development will be required in order to comply with AS/NZS 2890.1 (2004) - "Off-street car parking", AS 2890.2 (2002) – "Off-street commercial vehicle facilities" & AS/NZS 2890.6 (2009) – "Off-street parking for people with disabilities". A Road Safety Audit has also been recommended for the design of the proposed internal bus interchange and internal car parks.

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

A clearly defined pedestrian walkway will need to be provided from the rear of the existing shopping centre to the bus interchange to avoid any conflicts associated with parking for the child care centre and across any roadways to the bus interchange. Plans indicate that a designated walkway can be provided which is separated from the nearby food court car park. Appropriate signage, lighting and a raised pedestrian threshold over the eastern access road will need to be implemented to ensure safety for pedestrians using the proposed bus interchange and this will be conditioned accordingly.

The impact on utilities supply.

The development can be serviced from existing utility services provided to the site as outlined in a previous section of this report.

Any effect on other land resources.

The site is not known to contain any valuable land resources.

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

Under Clause 15 of Wyong LEP 1991, the site is classified as Class 4 and Class 5 Acid Sulfate Soils. Given the amount of excavations associated with this development proposal Council Engineers have not requested submission of an Acid Sulfate Soil Management Plan in this instance.

Any effect on the flora and fauna.

Council's Ecologist has assessed the ecological impacts of the development proposal in accordance with sections 5A and 79C of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) and provided the following comments:

“According to the updated flora and fauna assessment, the proposal would have a surface disturbance area of approximately 2.41 ha. This area includes built up areas within the existing car park, a strip of planted native vegetation, cleared and disturbed land and naturally occurring native vegetation. This disturbance footprint includes around 1.60 ha of native vegetation, which comprises 0.61 ha of River-flat Eucalypt Forest EEC and approximately 0.69 ha of Swamp Sclerophyll Forest EEC (of which 0.12 ha is degraded). Vegetation clearing in these communities will involve removal of approximately 155 stems (43% of relevant patch) of the threatened plant Melaleuca biconvexa, and mature native trees (including four hollow-bearing trees).”

Based on the field surveys, habitat assessments and mitigation measures and provided that the appropriate conditions as recommended are attached to any development approval, it is concluded that there is not likely to be a significant impact on any threatened species, populations or ecological communities as a result of the development. A Species Impact Statement is therefore not necessary.

The provision of waste facilities.

Waste management measures for the construction phase has been detailed within a Waste Management Plan accompanying the application and considered to be appropriate for this type of development.

Whether the development will cause noise and vibration.

The subject site is zoned 3(a) Business Centre whilst lands along the eastern side of Gavenlock Road and part of the south eastern corner of the site are zoned for residential purposes. Lands immediately to the south of the site are zoned 7(a) thus providing a natural buffer to existing residential properties further south of the shopping centre. Consequently there are some residential properties to the east and south east of the site positioned at the interface of this existing regional shopping centre. It is anticipated that existing background noise levels would be significantly higher than within a standard residential zoned area given noise from operations of the shopping centre including any mechanical equipment, loading docks, etc and existing traffic movements.

The proposal provides for a new ramp access off Gavenlock Road. This access ramp is in a similar location to an access point approved by Council pursuant to DA/912/2007. The new access point off Gavenlock Road is designed to allow direct and improved access to the new proposed bus interchange and to avoid buses having to travel through designated car parking areas on site. Therefore the new ramp is designed to mainly service buses rather than general traffic and larger service vehicles. The applicant has submitted further details to Council demonstrating amendments to the ramp facility so that the ramp is setback within 60 metres of the property to assist to minimise noise and amenity issues onto nearby residential properties. Bus movements into and out of the site from Gavenlock Road will now occur at grade thus reducing any additional accelerating/ braking noise or head light glare into residential properties.

Land immediately to the south of the proposed access ramp off Gavenlock Road is currently vacant with a number of mature trees providing a visual screen and a separation of 36 metres being available between this ramp facility and the existing southern residential property. An existing colourbond fence has been erected along part of the northern boundary of this residential property adjacent to the existing dwelling. It is proposed to retain existing Liquidamber trees immediately south of the access ramp and to plant low groundcovers and grasses near Gavenlock Road. Feature trees and mass planting is then proposed along the southern side of this ramp to screen the carpark and extend the bushland area. To ensure a reasonable level of amenity is provided to the residential property to the south, a decorative feature wall that can also act as an acoustic barrier could be integrated into the landscaping along the southern side of this ramp. A condition will be attached to any development approval requiring submission an amended landscape plan to Council prior to release of the Construction Certificate incorporating an appropriate acoustic wall having a minimum height of 1.8m and being erected along the southern side of the ramp facility for at least 45 metres and some suitable planting to screen this acoustic wall that will also shield this nearby residential property from any possible additional noise impacts.

The townhouse development opposite the site is located approximately 24 metres from the access ramp. Existing landscaping located along the frontage of this townhouse site, with townhouses being well setback off the front property boundary and facing in a north westerly direction rather than the street frontage, provides a reasonable separation and visual barrier to the proposed access ramp given that the property is positioned at the interface of a commercially zoned area.

Construction activities associated with the proposed additions and alterations will result in additional noise. A condition of consent limiting construction activities in accordance with Environmental Protection Authority's Environmental Noise Control Manual will be included. Compliance with this condition will be carefully monitored to ensure noise levels are not exceeded particularly given the surrounding residential interface.

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

There are no known natural hazards affecting the site.

Whether the development will be energy efficient.

The design of the development will need to comply with Part J of the Building Code of Australia in relation to energy efficiency.

Whether the development provides safety, security and crime prevention.

Crime prevention through environmental design (CPTED) principles have been considered in assessment of this application. A condition will be attached to any development approval to ensure that these principles are incorporated into the ongoing operations of this shopping centre so as:

- To maintain an adequate level of safety for pedestrians;
- To minimise criminal activities particularly vandalism and graffiti;
- Provision of adequate lighting and accessibility from the building to new car parks and the bus interchange;
- Opportunities for concealment or entrapment within car parks and loading areas being minimised.

Any economic and social impact in the locality.

The development proposal will result in both positive social and economic benefits to the Wyong LGA as outlined below.

The proposed alterations and extensions to this Westfield shopping centre will create additional employment opportunities within the region, including both construction and retail. The EIA prepared by Urbis has estimated that up to 200 jobs could be created during the construction phase, with over 340 ongoing jobs within the retail sector and cinema. The provision of additional employment opportunities will also assist to reduce the unemployment rate of the Wyong LGA. The local economy will also benefit with multiplier effects occurring with increased demand for materials, services and products and increased consumption generated by wage earners. The development will also support the retention of local expenditure that is currently escaping to retail centres outside Wyong, particularly non food expenditure. Increased activity at the centre will provide greater support for other businesses located in the centre and contribute to the viability of the Tuggerah Regional Centre.

The proposed expansion of Westfield's Tuggerah including the G Max cinema will provide the following benefits:

- Increase the range of goods, services, entertainment and retailers available to residents and visitors;
- Improve the shopping and entertainment experience at an existing regional centre;
- Enhance the capacity for the community to undertake linked shopping trips; and
- Increase competition, leading to greater price competition and savings for consumers.

Any impact of site design and internal design.

The existing shopping centre comprises a relatively long linear building with a central food court and cinemas with the eastern section being one level and the western section two levels. A two level department store with mini - majors and specialty stores will be nestled to the rear of the eastern wing with new integrated connections being provided at both ground and first floor level to retail outlets and new deck and roof top parking areas. The G Max cinema will be positioned at the rear of the existing cinemas. The proposed extensions will be of a similar height to the western two level wing and have been designed to integrate and be compatible with the existing building on site due to its similar architectural style, bulk and scale. The architectural style and density of the development is typically that of a retail building with good connections to designated car parks and the overall character and amenity of this precinct being maintained.

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

Construction activities have the potential to impact on current carparking arrangements, bus operations and the existing child care centre. A suitable traffic management plan will be required as a condition of consent demonstrating how carparking and bus operations will be managed during the construction phases, including the drop off and parking arrangements for the child care centre. Also further details outlining how construction activities particularly noise may be minimised onto the child care centre will be required.

As detailed previously, some vegetation removal is necessary for the construction of the new car parks, bus interchange and roads including associated earthworks and drainage. Therefore a VMP will be required to detail how removal of vegetation is minimised, protected during construction and maintained in the longer term. This will be conditioned accordingly and further details will need to be submitted prior to approval of a Construction Certificate.

Any cumulative impacts.

Detailed traffic modelling has been undertaken of the Tuggerah Town Centre which has included the additional traffic from this development proposal. Upgrading works have been undertaken to the Pacific M1 Motorway and Wyong Road intersection and further works are required at the intersection of Wyong Road and Pacific Highway which is subject to a Transport Infrastructure Contribution (TIC) between RMS and the proponent.

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

Whether the proposal fits in the locality.

The Westfield's shopping centre is designated as part of an existing regional centre. The site is zoned for commercial purposes. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed extensions and this has been demonstrated in the assessment of the application. The proposal provides for additional retail and entertainment facilities as well as improved public transport facilities that will benefit the residents of the Wyong LGA.

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

Any submission from the public.

The application was advertised in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with three (3) submissions being received during the exhibition period. One (1) submission was also received after the close of exhibition and has also being considered given its positioning in relation to the proposed alterations and extensions. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979. A summary of the submissions is detailed in the table below.

Doc. No	Summary of Issues	Response
D03604361	The area is already well served by Department Stores. There are only 15 shopping centres in Australia with 2 department stores and which have larger trade areas than the size of Westfield Tuggerah.	Myer wishes to establish another retail store to serve the northern developing areas of the Central Coast. An additional department store will further enhance the regional role of the Tuggerah shopping centre and maintain retail growth within the LGA.
	Growth in retail demand slows DCP No. 81 predicted 166,090 by 2011 with 2011 Census indicates actual population of 153, 992. A population of 166,090 is not predicted till post 2017.	It is acknowledged that population growth has slowed, however forecasts within the (EIA) estimates that by 2016 the population will reach 163,265. The proposal involves only 12,638m ² of retail floorspace area which is less than the 15000m ² permitted by DCP 81 and the extensions will not be completed till late 2016.
	Generally falling performance of department stores	The viability of an individual retailer within a shopping centre, such as David Jones at Tuggerah is not considered to be relevant planning matter as competition between individual trade competitors or between centres is not in itself a relevant planning consideration to which Section 79C of the Environmental Planning and Assessment Act is applicable.
	Cumulative impacts of other retailing opportunities not considered	The EIA has considered existing & proposed developments within the Wyong LGA including the impacts of on line retailing.
	Viability of existing department stores	As above. The viability of an individual retailer within a shopping centre, such as David Jones at Tuggerah is not considered to be relevant planning matter
	Disruption to retail hierarchy	As outlined in other sections of this report the expansion of Westfields at Tuggerah will support an identified regional centre within the Wyong LGA and will not significantly impact onto any existing or proposed district, village or neighbourhood centres as outlined within Council's Retail Centre Strategy

Doc. No	Summary of Issues	Response
	DCP No.81 Evaluation Criteria Not met	This matter has been discussed within another section of this report which demonstrates that this proposal satisfies this evaluation criteria in that it will not significantly impact on existing or proposed centres, additional higher order retailing will be provided within the LGA and positive benefits for the community in terms of increased employment and that travel outside the LGA can be avoided.
	Development contrary to provisions of draft LEP	The exhibited draft Wyong LEP for the subject site indicates that the site will be zoned part B2 and part E2. This draft LEP is still being considered by the Department of Planning and Infrastructure. Existing vegetated parts of the site to be zoned E2 under this draft WLEP have not been ground truthed and the zoning delineations were based on broad LGA mapping only. Further ecological assessment of the site has revealed that actual vegetation communities are inconsistent with previous broad mapping. Assessment of this application has included consideration of impacts onto land proposed to be zoned E2 and concluded the potential impacts will not be significant.
	Adverse impact on flora and fauna	An assessment of the proposal on lands containing EEC's has been fully considered and the potential impacts are not considered to be significant. Conditions will be attached to any development approval to ensure that during the construction phase that appropriate measures are installed to ensure any potential impacts are minimised.
	Traffic and Transport Conflicts with child care centre Additional bus movements along Gavenlock Road Proximity of new entry to any future roundabout at the intersection of Gavenlock Road & Pacific Highway	Traffic and transport issues have been considered in detail in other sections of this report. Sufficient parking and drop off areas will be available for the existing child care centre and safe and convenient pedestrian access will be provided to the bus interchange. Gavenlock Road has always been envisaged to cater for regional bus movements. Any improvements to the intersection of Gavenlock Road and Pacific Highway will be subject to future upgrades of Wyong Road.
	Public transport solution for the site should be revisited	Extensive discussions between the applicant, Council officers, TfNSW and the bus operators has occurred in respect to the positioning and design of the proposed bus interchange. The proposed bus interchange is readily accessible from the central section of the shopping complex with provision of a designated pedestrian walkway.

Doc. No	Summary of Issues	Response
	Inconsistent with Wyong DCP 80 as there is no current master plan adopted for Westfield Tuggerah	A master plan for the subject site was prepared in 2002 by Westfield's and accepted by the NSW Land & Environment Court. This master plan included a proposed 2 level department store & cinema complex in similar positions to that being proposed within this application.
	Expansion of Westfield Tuggerah is inconsistent with objectives of DCP 81	As outlined in other sections of this report, the proposal is considered to be consistent with the objectives of DCP No.81 and summarised as follows: <ul style="list-style-type: none"> • The proposal will positively contribute to the growth of this regional centre; • The proposal will assist to create an attractive and safe urban environment by reinforcing the existing built form; • The proposal will provide improved and well integrated public transport facilities being readily accessible and which avoids designated car parking areas to avoid conflicts; • The development will allow a wider range of goods and services for the community whilst providing additional employment opportunities and promoting economic growth for the LGA.
	The proposed extension fails to integrate with other elements of the Tuggerah Regional Centre	The development proposal will provide improved public transport facilities to this regional shopping centre using the existing surrounding road network.
	Infrastructure Provision to be considered.	The need for additional infrastructure has been reviewed during assessment of this application and appropriate conditions attached where and when necessary.
D03579530	The proposed new access will adversely impact on my standard of living increasing noise pollution from associated vehicles entering & leaving 35 metres from my residential property.	The proposed ramp has been redesigned during assessment of the application so as to avoid additional accelerating/ braking noises from buses. Mitigation measures have been recommended within this report to minimise potential noise impacts.
	Impact of extra traffic volumes	The proposed ramp facility has been designed to cater for buses rather than general traffic to the centre. Extensive traffic modelling has been undertaken for the SSS Study taking into consideration traffic from this development proposal.
	Insufficient turning area for turning lanes for vehicles entering the new ramp off Gavenlock Road. This access point is opposite the driveway of units opposite the site.	Detailed engineering design plans will need to be provided to Council prior to the issuing of a construction certificate. A condition will be imposed requiring the widening of Gavenlock Road that will allow adequate turning movements onto the new ramp facility.
	Many pedestrians use Gavenlock Road to access Westfield's. Should the road be widened limited room available for footpath?	A condition will be imposed requiring the construction of a footpath along the western side of Gavenlock Road for pedestrians which is similar to the previous approval.

Doc. No	Summary of Issues	Response
	Current no right hand turn available onto Gavenlock Road. The proposed access will direct traffic into an adjoining residential area.	The increase in traffic along Gavenlock Street south of Tuggerah Parade is not considered to be significant being less than 20 vehicles per hour (two ways). Council Engineers have indicated that right turn in left turn out will be recommended for this new access ramp for heavy vehicles.
	Heavy vehicles will also be using this proposed access and considering its proximity to residential properties will increase noise and safety issues. South of the current access is restricted to a 5 tonne vehicle limit to keep heavy vehicle traffic out of the residential area of Gavenlock Road.	The ramp is designed to cater for buses to avoid designated car parking areas on site rather than customers, staff and service vehicles. The 5 tonne limit can remain along Gavenlock Road to the south of the shopping centre site so as to restrict heavy vehicles movements and will be subject to Local Traffic Committee Approval.
	Some of the noise problems could be avoided if Westfield was to move the bus terminal back to the front of Westfield's.	The location of the bus interchange has been subject to lengthy discussions and has been designed and located on site to avoid general parking areas to increase safety whilst being accessibility to all users.
	Vehicle lights will shine into my home when vehicles enter and exit the proposed ramp off Gavenlock Road.	The implementation of an acoustic wall will provide some screening to the residential property to the south.
	Noise impacts from undercover parking proposed at the rear of Westfield's.	A covered car park will be provided over an existing car park at the rear of the site which is over 140 m from residential properties to the south east being separated by a vegetated buffer area.
	The future pad sites should be dedicated to green space and used to maintain a buffer between residential properties & Westfield's. Extensive planting of trees and constructed swale or sound proof wall to minimise the effects of the development should be implemented.	Landscaping will be implemented adjacent to the southern side of the access ramp, with planting of trees along the southern edges of proposed car parks and at the rear of one pad site. A condition will be imposed that a suitable decorative acoustic wall be integrated into the landscaped area along the southern side of the ramp to minimise any noise impacts from this ramp and nearby carparks.
	The A4 plan of the car park and rear access is not clear or easy to read.	Whilst A4 copies of the plans are forwarded to residents copies of plans are available on the web site or may be viewed at Council.
D03601072	The plans state that Gavenlock Road will be widened to allow new access road to the south of Tuggerah Parade. It does not state how this widening will occur & which parts of council strip will be affected. Issue of a safe crossing needs to be addressed.	Widening of Gavenlock Road will be required along the western side of Gavenlock Road for the full extent of the Westfield property including the provision of a footpath. A pedestrian refuge will also need to be provided to the south of the existing southern access to the centre. Conditions will be imposed requiring these works be undertaken and engineering details be provided to Council prior to release of the Construction Certificate.
	Inconsistency in documents in terms of where new bus entry is proposed to be located. Concerned that inconsistencies that may affect my property.	An amended ramp design has been lodged with Council during the assessment period. The access ramp will need to be designed so as not to conflict with the existing driveway opposite the site providing access to the townhouse development.

Doc. No	Summary of Issues	Response
	There will be a severe noise impact resulting from the new access off Gavelock Road on nearby residential properties.	This matter has been discussed within other sections of this report. The proposed ramp has been redesigned so as to assist to minimise noise impacts onto nearby residential properties.
	Increased noise from buses using Gavelock Road to access new entry.	These matters have been discussed in other sections of this report.
	The new access road will be directly opposite my driveway. The plans do not show how residents of the townhouse complex will be able to safely enter or exit their driveway,	Detailed engineering plans of the access ramp will be required and the access ramp will need to be designed to ensure safe access is available to the nearby townhouse development.
	Data in the traffic report is flawed in terms of number of vehicle movements along Gavelock Road.	Data in the traffic report has been examined and the number of vehicle movements along Gavelock Road appears to be accurate.
	The new entry road off Gavelock Road would actually cause more traffic congestion in the area.	The new entry road off Gavelock Road is designed to cater for bus movements to the site and will be designed so as to avoid any congestion occurring along Gavelock Road.
	The intersection of Gavelock Road and Pacific Highway needs to be upgraded so as to allow car and bus to fit side by side.	An upgrade of this intersection to traffic lights has been identified by the RMS & Council as part of a previous traffic study. The works will be carried out by the RMS as part of a future Wyong Road upgrade rather than this development proposal.
D03976623	If the existing child care centre car park is relocated it would need to be convenient and safe for children attending the centre.	The proponent has provided correspondence to Council advising that further discussions regarding this matter have occurred between Westfield and the operators of this centre. Exclusive parking for the child care centre will be allocated within the food court car park to the east of the child care centre and this will be subject to agreement between the parties. A condition can be attached requiring some spaces to be allocated to the child care centre for its exclusive use. Also a drop off area will be available for the child care centre adjacent to the pedestrian walkway, therefore avoiding the crossing of any roadway or car park when children are dropped off at the centre.
	The positioning of the bus interchange will be too noisy for children when sleeping and bus fumes hazardous for the children.	The CEMP will need to outline how noise impacts during construction will be minimised. This will be conditioned accordingly. The child care centre is currently located adjacent to the southern road way and subject to fumes from vehicles and vehicular noise.

Any submission from public authorities.

Roads and Maritime Services

The RMS has no objections to the proposal subject to appropriate conditions being attached to any development approval such as:

- The developer entering into a Transport Infrastructure Contribution (TIC) with the RMS as a mechanism to enable the payment of monetary contributions to RMS towards the upgrade of the Pacific Motorway/ Wyong Road interchange upgrade opened in February 2013 and the Pacific Highway/Wyong Road intersection upgrade currently in planning;
- A Construction Traffic Management Plan (CTMP) shall be prepared and include a vehicle Movement Plan and Traffic Control Plan. These plans are to be designed to minimise impacts onto the operation of the road network during construction;
- Legal and other costs to the developer associated with the development, execution and on going maintenance of the TIC Deed, and any future changes to the Deed initiated by the developer and agreed by RMS shall be at full cost to the developer and at no cost RMS;
- All works associated with the subject development shall be carried out at full cost to the developer and at no cost to RMS or Council, to Council requirements.

These matters have been considered and appropriate conditions will be attached to any development approval.

NSW Police

The NSW Police have reviewed the plans and provided comments in relation to car parking and loading dock areas, bicycle parking and the design of the bus interchange so as to achieve a reduction of criminal activity and the safety of members of the community and their property within this shopping centre complex. A summary of the matters raised are as follows:

- Clear signage should be provided throughout the car park to indicate exit routes;
- Lower and upper car parks be closed off after hours to avoid crime and provide safety;
- Staff parking be close to the exit for late night/early morning staff returning to vehicles;
- Access to loading docks be restricted to authorised personnel only and these areas secured outside business hours with clear sight lines being available to any new loading dock areas;
- Cycle parking should be located within view of capable guardians to reduce risk of stolen and vandalism. Covered and lockable racks to secure bicycles is desirable;

- CCTV surveillance equipment can enhance physical security and assist in the identification of people involved in anti social or criminal behaviour. Cameras can be placed at all entry and exit points;
- Regular security patrols of the building and the car park areas be undertaken as part of the management plan of the development;
- The bus interchange be designed with adequate and effective lighting to encourage use at night time.

A condition will be attached that appropriate CPTED principles taking into consideration the above comments be incorporated into the design and to ensure on going adequate safety measures are implemented at the shopping centre. Implementation of adequate lighting to the proposed bus interchange is considered to be essential for safe operation of this facility at night.

Transport for NSW

Transport for NSW advised that further information should be provided by the proponent to allow an assessment of the proposed bus interchange including full dimensions and to demonstrate the capability of the island to support two side operations, bus turning paths and details demonstrating that safe and efficient movement of buses into the Tonkiss entry/exit can be facilitated. Transport for NSW encourages the use of this bus interchange for public buses and prefers a separation of parking between public and private buses.

The proponent has submitted further information to Council including a dimensioned plan of the proposed bus interchange. A detailed civil engineering design of the proposed bus interchange will still need to be provided to Council prior to the issuing of the Construction Certificate with the minimum width of the interchange to allow for manoeuvring of buses around stationary vehicles to be 10 metres. The proposed bus interchange is to be one way arrangement circulating west to east and any design is to include swept paths of buses entering and exiting the interchange. Appropriate conditions will be attached to any development consent requiring satisfactory details to be submitted to Council prior to the issuing of any Construction Certificate.

Buses currently access Tonkiss Street from the shopping centre. The relocation of the bus interchange and proposed extensions to the shopping centre will not change these arrangements. To improve traffic movements at the intersection of Tuggerah Parade and Westfield Parade and onto Tonkiss Street it has been suggested that "Do not Queue" line marking be implemented at the intersection of Tuggerah Parade and Westfield Parade. A condition can be imposed onto the development consent requiring this to be implemented prior to the issuing of the Occupation Certificate for this development proposal.

The proposed bus interchange has been designed to accommodate nine bus stops and five bus/coach layover stops. It is proposed that eight of the nine bus stops will be allocated as public bus stops and that one bus stop be allocated for mini/coach set down/pick up. It has been suggested that the western space located on the southern side of the central island be allocated for the purposes of mini bus/coach set down/pick up that allows some separation from public bus stops and this could be appropriately sign posted. Mini bus and coach parking would then be provided within the layover area provided on the southern side of the interchange.

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

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is not contrary to the public interest.

OTHER MATTERS FOR CONSIDERATION

Contribution charges for water supply and sewage are applicable in accordance with Development Servicing Plan for the Wyong District (Wyong South Area).

CONCLUSION

The proposed development is consistent with the role of Westfield Tuggerah at the apex of the retail hierarchy in Wyong LGA. The proposed expansion of Westfield Tuggerah is within the guidelines established by DCP 81, as far as the expansion of retail floorspace at the centre is concerned.

The proposed expansion of the centre is likely to have less impact than that previously approved by Council in 2008. Further, compared with the 2008 application, the current application has the benefit of adding a Myer department store. This will significantly improve local residents' access to a full range of comparison goods retailing in Wyong LGA.

Despite our reservations about the volume of available retail expenditure, our advice to Council is that the impact of the proposed development on relevant centres is likely to be relatively modest and does not constitute a basis for refusing the subject application on economic impact grounds.

This Development Application for alterations and additions to a shopping centre including car parking facilities has been assessed in accordance with Section 79C(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies. The proposal satisfies the objectives and provisions of Wyong Local Environmental Plan 1991 as well as relevant chapters of Wyong Development Control Plan 2005 and will not result in significant adverse impacts for the locality. Accordingly the application is recommended for approval, subject to conditions.