

JRPP PLANNING REPORT

JRPP No:	2013SYW011
DA Number:	709/2013/JP
Local Government Area:	THE HILLS SHIRE COUNCIL
Proposed Development:	ALTERATIONS AND ADDITIONS TO AN EXISTING SHOPPING CENTRE INCLUDING ADDITIONAL RETAIL SPACE, LIQUOR SHOP, AND MECHANICAL REPAIRS TENANCY, ASSOCIATED SIGNAGE, LANDSCAPING AND CAR PARKING.
Street Address:	LOT 7 DP 28985 AND PROPOSED LOT 2 IN A SUBDIVISION OF LOT 70 DP 1125269 – NOS. 90 - 92 WRIGHTS ROAD, KELLYVILLE
Applicant/Owner:	MILESTONE (AUST) PTY LTD
Number of Submissions:	1 ST NOTIFICATION - EIGHT 2 ND NOTIFICATION - THREE
Recommendation:	APPROVAL
Report by:	DEVELOPMENT ASSESSMENT COORDINATOR ROBERT BUCKHAM

BACKGROUND

MANDATORY REQUIREMENTS

Owner:	Coles Group Property Developments Ltd and Aldi Foods Pty Ltd	1.	<u>LEP 2012</u> – Satisfactory.
Zoning:	B2 Local Centre	2.	<u>THDCP Part B Section 6 - Business</u> – Variation required – see Report.
Area:	40,514m ²	3.	<u>THDCP Part C Section 1 – Parking</u> – Variation required – see Report.
Existing Development:	Existing supermarket and specialty shops and vacant land.	4.	<u>THDCP Part C Section 2 – Signage</u> – Complies.
		5.	<u>THDCP Part C Section 3 – Landscaping</u> – Complies.
		6.	<u>SREP 19 – Rouse Hill Development Area</u> – Complies.
		7.	<u>SEPP 64 Advertising and Signage</u> – Complies.
		8.	<u>Section 79C (EP&A Act, 1979)</u> – Satisfactory.
		9.	<u>Section 94 Contribution</u> – Contributions Plan No. 8 not applicable to Retail Development.

SUBMISSIONS**REASONS FOR REFERRAL TO JRPP**

1. Exhibition:	Yes, 31 days	1.	Capital Investment Value in Excess of \$20 million.
2. Notice Adj Owners:	Yes 31 days		
3. Number Advised:	1 st Notification - 90 2 nd Notification - 94		
4. Submissions Received:	1 st Notification - Eight 2 nd Notification - Three		

HISTORY

24/11/2009	Development Application 930/2009/HC for an Aldi Supermarket and specialty stores approved on the subject site by Council's Development Assessment Unit.
27/07/2010	Section 96 Modification granted to application 930/2009/HC/A by Council's Development Assessment Unit to Stage the development (Aldi – Stage 1 and Specialty Shops – Stage 2).
30/11/2010	Two lot subdivision (212/2010/ZA) approved under Delegated Authority. The subdivision was consistent with the Staged components of DA 930/2009/HC/A.
02/10/2012	Section 96 Modification 212/2010/ZA/A approved (Refer Attachment 5) under Delegated Authority for a modified 2 lot subdivision consistent with the development sites of the subject application and DA 709/2013/JP. A subdivision certificate has been lodged with Council awaiting concurrence from Integral Energy.
19/12/2012	Subject Development Application 709/2013/JP lodged.
07/03/2013	Briefing to JRPP Members.
19/03/2013	Development Application 501/2013/HC approved by Council's Development Assessment Unit for an Aldi supermarket on the southern portion of No. 92 Wrights Road, Kellyville.
20/03/2013	Letter sent to applicant requesting additional information in relation to signage, acoustic impacts, traffic impacts, fire safety and drainage.
16/04/2013	Additional information in response to Council's letter dated 20 March 2013 received.
18/06/2013	Correspondence received from applicant in relation to connection between existing and proposed loading docks.
09/07/2013	Further correspondence received from applicant in relation to connection between existing and proposed loading docks.
22/07/2013	Further correspondence received from applicant in relation to connection between existing and proposed loading docks.

PROPOSAL

The Development Application is for the redevelopment of the Kellyville Plaza. The main elements of the subject development proposal are:

- Extension of the existing Kellyville Plaza Shopping Centre including new mini major and specialty retail tenancies and provision of a new outdoor dining and children's playground area.
- Extension and fitout of the existing Coles Supermarket to provide a Coles Superstore (total proposed GFA of 5,811m²).
- Construction and fitout of a new 1st Choice Liquor Store with loading dock at 90 Wrights Road (1,270m² GFA).
- Construction and fitout of a new Kmart Tyre and Auto Service on the Ground Level undercroft car park (340m² GFA) at 92 Wrights Road.
- Provision of 540 total car parking spaces (215 more than the 325 existing) across the site including construction of a new two level car park on 92 Wrights Road.
- New loading dock to service specialty retail tenancies.
- New loading bay adjacent to the new entrance of the Kellyville Plaza extension to service the new specialty retail tenancies.
- New service vehicle access to 90 Wrights Road for the proposed 1st Choice Liquor Store.
- Extended trading hours for the proposed Coles Superstore on Sundays, from 6am to 12 midnight.
- Blanket retail use for all new specialty retail tenancies operating 7am to 12 midnight, Monday to Saturday and 8am to 10pm Sundays.
- New centre and business identification signage.
- Removal of existing trees (25) located on the site.
- New landscaping throughout the car park and along the site boundaries.
- Reconfiguration of the existing car park layout on 90 Wrights Road and erection of new shade structures.
- Proposed public domain works including through site links from the Smalls Creek cycleway and footpath.
- Consolidation of the site into a single lot.

Site and Surroundings

The subject site comprises two lots being Lot 7 DP 28985 and part Lot 70 DP 1125269. Existing on the western side of the site is the Kellyville Plaza Shopping Centre which has an existing gross floor area of 6,690m² and includes a Coles Supermarket, 25 specialty retail shops, at-grade car parking for 325 spaces, landscaping and signage.

Vehicle access to the site is from the existing roundabout on Wrights Road and via the adjoining Woolworths site to the south west. Coles service vehicles access the rear loading dock via York Road (which has not been dedicated) approximately 77m to the south west utilising the existing right of carriageway easement across the rear of the Woolworths site. The dedication of York Road was reported to Council on 19 December 2012 where it was resolved to support the easement release necessary to facilitate the dedication of York Road to the public. Council staff are awaiting the submission of an amended to finalise the transfer.

The loading dock facility for the Coles Supermarket is at the rear of the Kellyville Plaza building. A smaller loading dock is located at the south eastern end of the building for the specialty retail shops. A 3m high concrete acoustic wall exists along the rear boundary of No. 90 Wrights Road.

Construction has commenced on a new ALDI Store which was approved by Council's Development Assessment Unit as part of a separate Development Application (501/2013/HC) and will be contained wholly within the separate lot fronting Wrights Road on 92 Wrights Road (Lot 1 as per the approved modified subdivision DA 212/2010/ZA/A).

ISSUES FOR CONSIDERATION

1. SEPP State and Regional Development 2011

Clause 20 of SEPP (State and Regional Development) 2011 and the Schedule 4A of the Environmental Planning and Assessment Act, 1979 provides the following referral requirements to a Joint Regional Planning Panel:-

Development that has a capital investment value of more than \$20 million.

The proposed development has a capital investment value of \$31,546,240 thereby requiring referral to, and determination by, a Joint Regional Planning Panel. In accordance with this requirement the application was referred to, and listed with, the JRPP for determination.

2. Compliance with The Hills Local Environmental Plan 2012

Under the provisions of The Hills LEP 2012 the subject site is zoned B2 Local Centre.

(i) Permissibility

The site is zoned under The Hills Local Environmental Plan 2012. The proposal is part defined as a "retail premises" and also "vehicle repair station" which are both permissible with consent in the zone.

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

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

but does not include highway service centres, service stations, industrial retail outlets or restricted premises."

"vehicle repair station" means a building or place used for the purpose of carrying out repairs to, or the selling and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop or vehicle sales or hire premises."

The proposal is consistent with the definitions of a retail premises and a vehicle repair station.

(ii) Compliance with The Hills LEP 2012 – Zone Objectives

The site is zoned B2 Local Centre under The Hills LEP 2012. The objectives of the zone are:

- *“To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.”*

The proposal is considered to be consistent with the stated objectives of the zone, in that the proposal will provide for a greater range of retail uses to meet the needs of the surrounding residents.

As such the proposal is considered satisfactory in respect to the LEP 2012 objectives.

3. Compliance with THDCP Part B Section 6 - Business

The proposal has been assessed against the provisions of THDCP Part B Section 6 – Business. The proposal complies with the relevant development controls of the DCP with the exception of the controls listed below:

DEVELOPMENT STANDARD	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Wrights Road Town Centre – Precinct Map	6 metres eastern side setback required and to be used exclusively for landscaping and screening purposes.	A setback of 5.85m is provided. The reduced setback occurs as a result of the construction of a retaining wall that encroaches 150mm within the 6 metre eastern boundary setback	No, however the setback encroachment of 150mm is minor and an adequate setback is provided for landscaping.
Wrights Road Town Centre – Precinct Map	The maximum height of buildings within the B2 Local Centre zone shall be 3 storeys or as specified on the precinct plan maps contained in Appendix A to this Section of the DCP.	Part site affected by 5m Building Height as shown on the Wrights Road Town Centre – Precinct Map. A portion of the loading dock access road and manoeuvring area encroaches the height limit by 1.2m. A condition is recommended to increase the height of the acoustic barrier in this location from 1.8 metres to 2.6 metres hence increasing the encroachment to 2.0m.	No, however the height encroachment of 2.0 metres is minor and adequate separation and landscaping is provided to the adjoining dwellings to the north.

a) Wrights Road Town Centre – Precinct Map – Setback

The DCP Precinct map for the subject site requires a 6m eastern setback (refer Attachment 4). The proposed development encroaches 150mm within the 6 metre eastern boundary setback. A retaining wall is set back 5.85m from the boundary, this created a 150mm encroachment.

The relevant objectives of this clause of the DCP are:

- (i) To provide an attractive streetscape and substantial areas for landscaping and screen planting; and*
- (iv) To protect privacy and amenity of any adjoining land uses.*

The applicant in justifying the proposed variation to the Development Standards states that:-

- The proposed setback does not diminish the access or enjoyment of the Smalls Creek Reserve and associated footpath / bicycle path.
- The minor variation of 150mm will be imperceptible when viewed from Wrights Road and the surrounding area.
- The proposed setback complies with the objectives of the DCP relating to setbacks in particular providing an attractive streetscape and substantial areas for landscaping and screen plantings.
- The proposed setback provides sufficient area for landscaping within the proposed setback.

Comment:

As detailed in the history above, Development Approval has been granted for DA 212/2010/ZA (as amended) which allows the subdivision of the site into two lots. Proposed Lot 2, the subject of this DA, contains a 'battle-axe' handle which extends along the eastern property boundary with a width of 5.85m. This handle sits between the subject site and the eastern boundary of the property and the landscaping of this handle is subject to the current Development Application. This will allow for consistent landscape works to be undertaken along the eastern boundary for the full length of the Coles redevelopment site.

The proposed encroachment is a minor variation of 150mm. The proposal is considered consistent with the relevant objectives of the DCP in that adequate area remains for landscaping and screen planting of the setback and there will be no unreasonable impact to persons utilising the Smalls Creek bike path.

In this regard, the variation to the setback control is considered satisfactory.

b) Wrights Road Town Centre – Precinct Map – Building Height

The DCP Precinct map for the subject site requires a 5m building height for a portion of the northern part of the site (refer Attachment 4). A portion of the proposed service lane structure (up to approximately 2.0 metres) encroaches within the 5 m height plane.

The relevant objectives of this clause of the DCP are:

- (ii) To ensure building heights respond to the existing landform of the neighbourhood including ridgelines and drainage depressions; and*
- (ii) To protect privacy and amenity of surrounding allotments and residential development in accordance with Council's ESD objective 7;.*

The applicant in justifying the proposed variation to the Development Standards states that:-

The non-compliance is considered a minor variation from the DCP controls and will have minimal environmental and visual impacts on the adjoining properties to the north and public open space to the east of the site. The proposal will not result in any adverse overshadowing impacts and will not obstruct any important views.

Views of the non-compliant portion of acoustic fence will be partially screened by the proposed 6m wide vegetated setback along the rear boundary. The proposed non-compliance is of minimal consequence and will not be visually dominant or perceptible when viewed from adjoining properties or the adjoining open space of Smalls Creek Reserve. In the context of the site and overall scale of the development the minor non-compliance is deemed an acceptable variation from the site specific controls under the DCP.

Comment:

The proposed encroachment is a minor variation of up to 2.0m with an overall height of 7.0m. The proposal is considered consistent with the relevant objectives of the DCP in that adequate area remains for landscaping and screen planting.

In this regard, the variation to the height control is considered satisfactory.

4. Compliance with THDCP Part C Section 1 - Parking

The proposal has been assessed against the provisions of THDCP Part C Section 1 - Parking. The proposed development complies with the relevant development controls of the DCP with the exception of the number of carspaces required and landscaped strips within the proposed carpark.

DEVELOPMENT STANDARD	DCP REQUIREMENTS	PROPOSED DEVELOPMENT	COMPLIANCE
Clause 2.1.1(a) – Table 1 – Parking Provision	<p>1 space per 18.5m² of Gross Leasable Floor Area (GLFA)</p> <p>Required: The proposed development will have a GLFA of 10,518m² which requires the provision of 568.5 car spaces.</p> <p>Tyre service/retail outlets require the greater of three spaces per 100m² or three spaces per work bay.</p> <p>Required: 3 bays are proposed and 358m² of GFA is proposed therefore 9</p>	<p>Total Proposed: 540 car spaces proposed for the entire complex.</p>	<p>No, Under the DCP, 587 spaces are required. The development proposes the provision of 540 spaces, a shortfall of 47 car spaces. Refer to further discussion below.</p>

	car spaces are required. Total Required: 577.5 (578) spaces		
Landscaped strips within carpark	A 2m wide landscape strip is to be provided within the carpark every 10 spaces.	Consecutive car spaces (exceeding 10 spaces) without landscaping is provided.	No. The variation is considered minor and adequate site landscaping is provided.

a) Parking

The proposed development seeks to vary Clause 2.1. of THDCP Part D, Section 1 – Parking. The DCP requires parking to be provided at the rate of 1 space per 18.5m² of GLFA and Tyre service/retail outlets require the greater of three spaces per 100m² of GFA or three spaces per work bay. Under the DCP, 578 spaces are required. The development proposes the provision of 540 spaces, a shortfall of 38 car spaces

Clause 2.1 of BHDCCP Part D, Section 1 – Parking also provides the following objectives:-

- (i) *To provide sufficient parking that is convenient for the use of residents, employees and visitors of the development.*

The applicant has provided the following justification for the variation.

The RMS "Guide to Traffic Generating Developments", which is based on extensive surveys, includes the following peak parking demands for shopping centres:

Peak parking demand = 24 A(S) + 40 A(F) + 42 A(SM) + 45 A(SS) + 9 A(OM) (per 1,000m²), where:

A(S): slow trade GLFA, includes major department stores such as David Jones and Myer, furniture, electrical and utility goods stores;

A(F): faster trade GLFA, includes discount department stores such as K-Mart and Target, together with larger specialist stores such as Fosseys;

A(SM): supermarket GLFA, includes stores such as Franklins and large fruit markets;

A(SS): specialty shops and secondary retail GLFA, includes specialty shops and take-away stores such as McDonalds. These stores are grouped since they tend not to be primary attractors to the centre; and

A(OM): offices, medical GLFA.

The RMS formula is considered more appropriate than the Council DCP rate as it is based on extensive surveys.

The proposed development includes the following areas:

- A(F): 395m²;*
- A(SM): 5,811m²;*
- A(SS): 4,652m²*

Note: In this instance the formula is calculated as:

Peak parking demand = (40 x 0.395) + (42 x 5.811) + (45 x 4.652)

On this basis, the proposed development would require some 469.20 parking spaces. The proposed provision of 540 spaces satisfies this requirement, and is considered appropriate.

Comment

The RTA Guide to Traffic Generating Developments suggests that surveys and comparisons with similar uses should be made to determine adequate carparking. The traffic and parking report lodged with the development application has estimated a parking demand of 469 spaces on site based on the applicable formula outlined above.– 540 spaces are proposed, being an excess of 71 spaces based on the RMS Rate. Observations made during site inspections including at busier times identified that parking remained available on site.

The proposed variation to the parking requirement within the DCP of 38 spaces is considered satisfactory as although the proposal does not strictly comply with the rates within the DCP, the parking provided will cater for the actual demand when parking across the development site.

b) Landscaped Screening

The DCP requires that 2m landscape strips be provided every 10 spaces and between rows served by different aisles. There are banks of consecutive carspaces (greater than 10) without landscaping strips.

The relevant objectives of this clause of the DCP are:

- (i) To provide appropriate landscaping for external and uncovered car parks so that they do not detract from the surrounding area; and*
- (ii) To provide shade and improve amenity of loading, service and parking areas and to provide a buffer to neighbouring properties; and*
- (iii) To utilise landscaping to provide amenity to neighbouring properties in accordance with Council's ESD objective 7.*

The applicant in justifying the proposed variation to the Development Standards states that:-

The provision of landscaping in this row of parking has not been provided to ensure aisle widths, access, visibility and sightlines immediately adjoining the high pedestrian traffic area of the site are maintained.

Comment:

The proposal varies the required landscape strip requirements throughout the open carpark. Two banks of carpark are to be covered with shade structures making it unfeasible to provide landscaping. A bank of parking adjacent to existing roundabout also provides landscaping that is less than the required 2 m depth, however this is consistent with existing parking on the site. The landscaping provided for the site when viewed from Wrights Road is considered satisfactory. As such the proposal satisfies the objectives of the DCP in that the proposal will not unreasonably detract from views from adjoining properties or from the street.

In this regard the variation to the landscaping control is considered satisfactory.

5. Compliance with THDCP Part D Section 2 - Signage

The proposed signage components have been assessed against the relevant standards of THDCP Part C Section 2 and it has been demonstrated that the business identification signage for the development complies with the relevant requirements. The signage proposed is compatible with the visual character of the area, provides effective communication in suitable locations and is of a high quality design.

6. Issues Raised in Submissions

The proposal was exhibited and notified on two occasions. The issues raised in the submissions are summarised below.

ISSUE/OBJECTION	COMMENT	OUTCOME
Potential social impacts of the proposed 1st Choice Liquor store use.	<p>A Social Impact Assessment (SIA) was submitted with the Development Application which provides an assessment of the proposed 1st Choice Liquor Store and its potential impacts on the local community as well as outlining the management measures that will be implemented as part of the 1st Choice Liquor Store operation.</p> <p>The SIA report concludes that the proposed 1st Choice Liquor Store will not result in any significant adverse social impacts on the local residents or the broader locality. Kellyville is characterised as a population with higher incomes, skilled residents and educated population above the state average. The social and economic data for the area does not indicate that the proposed 1st Choice Liquor Store will result in adverse social impacts.</p>	Issue addressed
The proposed site was clearly exhibited in the prior Local Plans as a proposed recreational reserve and not zoned permitting retail use. This enabled us to purchase our land based on the land being incapable of retail use. Hills Shire Council conducted a transaction of dubious merits which exchanged other land on Wrights Rd for the recreation reserve. The former site was then sold to Aldi. This matter now intends to see our land affected by significant increased noise through the actions of Council.	<p>The rezoning of the area at the time from Special Uses 5(a)(Existing and Proposed) and Open Space 6(a)(Existing and Proposed Public Recreation) to Business 3(a)(Retail) under Council LEP 2005 was in accordance with Council's resolutions of 19 June 2007 and 18 December 2007. Also, as a consequence of the rezoning, development standards have been prepared for the site and incorporated as an amendment to Council's Development Control Plan.</p> <p>The rezoning has facilitated this form of development, which anticipates a certain level of increased vehicular movements, noise and lighting</p>	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
	<p>impacts. Council's Traffic and Health & Environment Protection Sections raised no objection to the proposal subject to conditions addressing these particular issues.</p> <p>The rezoning of the land, together with site specific development controls facilitate this proposed development and will contribute to the development of a town centre at Wrights Road.</p>	
<p>Despite claims by the existing site operators that non compliance instances relating to use of the loading dock are infrequent, vehicles continually breach curfew waking us and affecting sleep. A recent example is a complaint against Woolworths Ltd which was made to Hills Shire Council regarding Woolworths Ltd breaching curfew on 23 December 2012 at 2:00am-2:30am. This was a wilful and deliberate breach of existing consents and evidences failure by the site owner and its users named in the complaint to adhere to law and maintain the comfort and amenity of neighbours. Such action is a crime yet due to inherent weakness in state law there, again, is no enforcement action upon the landowner, and its users, to abide by law for future instances. Despite continued reports relating to the site, Council has never once acted to enforce any penalty whatsoever which is deplorable. Noise law and previous Council "consents" have failed us and will fail us in the future.</p>	<p>The subject application has been assessed by Council's Health & Environmental Protection Section including the submitted acoustic report which was considered to be satisfactory. The acoustic report provided recommendations for noise attenuation and noise management and these recommendations have been incorporated into conditions of consent.</p> <p>Previous complaints have been investigated by Council staff and action taken to rectify breaches.</p>	<p>Issue addressed, Refer Condition Nos. 12, 17, 32, 50, 55, 69, 70, 71, 72, and 74.</p>
<p>The sole remedy is that new suitable access controls must be permanently deployed as a part of the consent. The place for deployment is at the pavement at York Road so that no vehicle access outside of permitted hours is permitted. Timed / automatic security access controls should be used and are</p>	<p>There is no scope as part of the subject application which is lodged on Nos. 90 and 92 Wrights Road to impose a requirement for secure controls on No. 88 Wrights Road. Any restrictions are limited to the subject application.</p> <p>A condition is recommended to restrict the access way to the loading</p>	<p>Issue addressed. Refer Condition No. 71.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>extensively used on commercial premises across Australia to limit access. The type of access control we consider would work is a large steel gate of the type used at other shopping centres such as Stockland Mall Baulkham Hills, Rouse Hill Town Centre and at Castle Towers, Castle Hill. This gate must stop all site access by vehicles outside permitted hours and pedestrians at the rear who may also pose a noise nuisance.</p>	<p>dock by way of a boom gate, steel gate, chain or bollards, outside of these hours to ensure that vehicles cannot access the dock outside of the approved hours.</p>	
<p>Trucks departing the site may attempt to turn right at the proposed road extension to York Road. This is a residential area and would affect resident amenity. The proposed road is too narrow and likely to be affected by parked vehicles. Trucks should only be permitted to turn left onto York Road when departing the site. This should apply to all vehicles regardless of tonnage through use of physical controls. Roadway control to direct traffic left and prevent vehicles turning right together with signage should be installed. A light vehicle traffic route should be signposted for York Road beyond the site limiting access to a suggested three tonne limit.</p>	<p>Installation of "No Right Turn" signage is a matter that could be considered at Local Traffic Committee meetings once the subject development and residential development to the north are completed.</p>	<p>Issue addressed.</p>
<p>Trucks arriving during curfew will obstruct York Road (ie 5:30am etc). This cannot be permitted for unhindered resident access and for expected noise affecting residents in existing and proposed York Rd residences. I recommend that York Rd be signposted and signed with no stopping for the entire length in both directions in proximity to the Woolworths store and "No Truck Stopping prior to 6am" signs installed on both sides of the roadway. There is also a present concern that trucks cannot reverse on this section of</p>	<p>Installation of signage will be considered by the Local Traffic Committee meeting. This matter will be forwarded to Council's Traffic Section for review once York Road has been dedicated.</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
<p>York Road to depart at this time if they were to arrive early. Improved signage on Wrights Road to caution truck entry before 6am may assist.</p>		
<p>The proposed DA plans do not indicate modification to existing lighting or specifics of new lighting which may affect us. While present lighting is not obtrusive it appears excessive and is often commented by visitors to our home as a waste of energy. We would welcome environmentally friendly lighting solutions which minimise lighting use outside trading hours to unused dock areas especially if the area is gated. The use of enhanced access controls may assist the site owner to reduce exterior light pollution and costs and enhance security from vandalism, which we note has been minor in the past.</p> <p>Council may consider recommending a secured "fenced" rear section of the site which minimises lighting. While vandalism remains a constant concern minimisation of lighting and energy use should be a desired outcome.</p>	<p>No objection is raised to the current situation being maintained. To ensure no adverse impact on the amenity of the surrounding area by light overspill, a condition is recommended requiring that "All lighting shall comply with the <i>Australian Standard AS 4282:1997 The Control of Obtrusive Effects of Outdoor Lighting.</i>"</p>	<p>Issue addressed, Refer Condition No. 73.</p>
<p>At present a continued noise issue affects neighbouring properties with trucks waiting to access loading docks on frequent occasions. The significant size change of the Coles store will increase this concern and the larger apron area will increase potential noise reverberation and impact on Alessandra Drive residents.</p>	<p>The acoustic report provided details recommendations for noise attenuation and noise management and these recommendations have been incorporated into conditions of consent.</p>	<p>Issue addressed, Refer Condition Nos. 12, 17, 32, 50, 55, 69, 70, 71, 72, and 74.</p>
<p>Concerns have been raised reading waste collection methods in particular the collection of recycled steel and waste management at the site in relation to odour impacts.</p>	<p>The applicant has advised that Coles waste and recycling pickups are completed within the approved hours of 6am to 10pm. Generally all waste collections are completed well before the 10pm curfew. Restricting the waste collection hours further will have the adverse impact of increased potential noise and traffic</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
	<p>management issues as drivers may 'compete' for limited delivery window times.</p> <p>The bins that will be located within the proposed bin storage location along the east building elevation within the new truck dock will include heavy duty lids that will prevent the escape of odour and are positioned on the eastern side of the site to minimise direct solar access in this area.</p>	
<p>At present Coles has a grease trap located along its northern facade.</p> <p>The pump is a mechanically noisy pump that is not attenuated. The smell is offensive and smells like sewerage and permeates inside our home although we are located up to 150metres from the source.</p>	<p>The applicant has advised that Coles Supermarket grease traps are pumped out 10 times a year (approximately every 5 weeks) as per the existing Sydney Water Trade Waste Agreement. Grease trap "pump-outs" occur between 6am and 10pm. Restricting grease trap pump-outs (as suggested by a submission to 8am to 5pm) could create conflict with other delivery vehicle movements and could potentially increase odour due to servicing being restricted to the hotter hours of the day. On this basis, a restriction on the hours of grease trap extraction is not supported.</p>	<p>Issue addressed.</p>
<p>Concern is raised regarding the disposal of oils and chemicals associated with Kmart Auto and Tyre Service.</p>	<p>The applicant has advised that all oil waste produced by the Kmart Auto will be stored within a waste oil tank in a bunded waste enclosure within the Kmart tenancy, accessible only by Kmart Auto staff and specialist waste contractors. A separate chemical storage enclosure will also be provided within the tenancy. All oils, chemicals and other waste materials in the Kmart Auto tenancy will be stored in sealed storage containers and protected from discharge into stormwater. Details of the Kmart Auto waste management processes will be included in the Construction Certificate stage.</p> <p>In addition to the waste management measures of the proposed Kmart Auto, the proposed development will include a Gross Pollutant Trap (GPT) located in the undercroft car park level to trap any oil and silt and other waste that may enter the stormwater</p>	<p>Issue addressed.</p>

ISSUE/OBJECTION	COMMENT	OUTCOME
	drainage system during operation of the site.	
A submission was received regarding the use of the existing right of carriageway that burdens the rear of the adjoining Woolworths Supermarket site (88 Wrights Road, Kellyville – Lot 2 DP 502655) for the benefit of the Kellyville Plaza/Coles the site (90 Wrights Road, Kellyville – Lot 7 DP 28985) for service vehicle access. Concerns relate to the unlawful use of the right of carriageway.	This matter is addressed in Section 7 of this report.	Refer Section 7 of this report.
Car parking associated with the existing shopping developments at Wrights Road are at capacity and insufficient during peak hours.	The applicant has provided car parking survey data for the Kellyville Plaza site (90 Wrights Road) on a Thursday and Saturday which are the busiest days for retail development. The parking survey concludes the current car parking use by customers is well below the available number of car parking spaces on the site which accords with Council staff observations. The statement also concludes that the proposed parking provision satisfies the Roads and Maritime Services recommended provision and is considered appropriate for the site.	Issue addressed.
The development application did not include an independent economic impact assessment that considered the potential impact the proposed development may have on existing retail outlets and centres, including the Rouse Hill Town Centre and adjoining development including the Coles and Woolworths supermarkets.	<p>The DCP identifies Wrights Road Kellyville as a “Local Centre” within the retail hierarchy and as such is intended to serve primarily a retail function providing shopping facilities at a level suitable for the weekly shopping needs of residents in the surrounding area. The proposed development will assist the Wrights Road Town Centre in achieving this objective. Furthermore, the adopted Centres Direction includes the findings and recommendations of a Retail Demand Analysis and confirms that the Wrights Road Town Centre will satisfy a legitimate economic, population and market demand as a Town Centre.</p> <p>The subject site is zoned B2 Local Centre and the proposed development</p>	Issue addressed.

ISSUE/OBJECTION	COMMENT	OUTCOME
	is permissible in this zone; hence submission of an independent economic impact assessment to support the subject development application was not required.	
Clarification is sought as to whether the existing Coles loading dock signage is to be removed.	The existing Coles business identification wall sign located on the building's north elevation is proposed to be removed as part of the DA. The existing sign was omitted from the plans. The revised architectural plans includes a wall sign with an annotation that the existing sign is proposed to be removed.	Issue addressed.
Impacts of construction noise.	The Noise Report submitted with the DA assesses the potential impact of noise generated during the construction phase of the proposed development. The Noise Report concludes that construction during the noisiest phases should be limited to the Environmental Protection Authority's recommended standard hours of 7.00am-6.00pm, Monday to Friday and 8.00am-1.00pm Saturday, with no audible work on Sunday or Public Holidays and the use of the quietest available plant, which is regularly maintained and fitted with appropriate noise mufflers.	Issue addressed, Refer Condition Nos. 49 and 52.
A solar panel system should be installed.	Council's development controls do not require the installation of solar panels on new retail developments. Notwithstanding the proposed development achieves compliance in respect to the DCP 2012 controls relating to Building Design and Materials and Energy Efficiency. It is noted that the proposal includes high efficiency lighting and high performance glazing.	Issue addressed.
A landscaping maintenance plan should be included as part of the DA approval. The current complex is in a poor state due to the lack of landscape maintenance.	The landscaping within the site is required to be implemented and maintained in accordance with the Landscape Plan Specification Notes submitted with the DA and a condition of consent has been recommended to this effect.	Issue addressed. Refer Condition No. 8.
Restrictions on Loading Dock Access	The applicant has provided details of the operational and management measures for the Coles Supermarket	Issue addressed, Refer Condition

ISSUE/OBJECTION	COMMENT	OUTCOME
	<p>loading dock. The existing measures currently in place will be maintained including, but not limited to, timed access loading dock shutters and the locked bollard system to prevent unauthorised loading dock access between 10pm – 6am. It is noted that the existing approved loading dock operating hours for the Coles Supermarket/Kellyville Plaza are not proposed to be altered by the current DA.</p> <p>The loading dock operation will be undertaken in strict accordance with the existing management and operational measures and the Loading Dock Management Plan that will be submitted to Council prior to an Occupation Certificate being issued for the development. Any non-compliances relating to the use of the existing loading dock are the subject of a separate compliance process and are not directly related to the proposed development.</p>	Nos. 12, 17, 32, 50, 55, 69, 70, 71, 72, and 74.
Inappropriate selection of angophora floribunda for the residential buffer zone along the northern boundary. It is requested that a more appropriate species such as <i>Glochidion ferdinandi</i> as used on the Aldi site be used.	The proposed species are considered appropriate and will create an affective screen to 20m between the development and residents. The species chosen also reflect remnant vegetation communities.	Issue addressed.
<p>Concerns previously raised regarding existing noise leakage from plant have not been addressed. The expansion of the store footprint and use of the existing dock will mean greater internal noise has greater potential for leakage unless attenuation / sealing noise sources is addressed.</p> <p>We recommend Council impose upon the DA a requirement to acoustically seal all existing ventilation louvres located within 50 metres of the existing Coles dock which face Alessandra Dr (North).</p>	Conditions are recommended to ensure all acoustic requirements are met. Should the louvres be deemed to be contributing to excessive noise levels they will need to be attenuated.	Issue addressed, Refer Condition Nos. 12, 17, 32, 50, 55, 69, 70, 71, 72, and 74.

7. Service Lane and Right of Carriageway

Concerns have been raised from the representatives of Lot 2 DP 502655 (Woolworths Supermarket) in relation to the access restrictions on the right of carriageway particularly that Lot 7 DP 28985 has no legal entitlement to utilise the right of way. The restriction is identified within a plan of easements (Refer Attachment 12).

Currently the right of way over Lot 2 DP 502655 only benefits Lot 7 DP 28985, the existing Coles Supermarket. Although the terms of the right of way are maintained through the consolidation process, a condition (Condition No. 1) is recommended to restrict access and to ensure that the right of way is not being utilised for a lot not entitled to its use. This is to be achieved by way of a gate. The gate is to be locked but contain locks able to be opened by the NSW Fire and Rescue.

The applicant has objected to the imposition of such a condition in the applicants' opinion is not reasonable nor justifiable on planning grounds having regard to the anticipated amenity impacts of the proposed development. The applicant has provided the following response to the recommended condition:

"Truck and Service Access for the Proposed Development

We confirm that there is no intention by Coles to use the Existing ROW benefitting Lot 7 for truck or service access to the proposed (Lot 70). As is evident from the current application, Coles has applied considerable design effort (and has expended significant costs) in order to completely resolve the concerns raised by Woolworths regarding possible intensification of use of the Existing ROW, by developing and proposing an additional access route for trucks and service vehicles. This additional access route via Wrights Road and through the Applicant's car park is depicted in the architectural plans lodged with Council (Wrights Road Access Route).

It is anticipated that the Wrights Road Access Route will be used by:

- i. trucks and service vehicles seeking to access Lot 70;*
- ii. those trucks and service vehicles wishing to access both Lot 70 and Lot 7 – for example, independent bread suppliers and waste disposal trucks; and*
- iii. some trucks and service vehicles seeking to access Lot 7, which currently access Lot 7 via the Existing ROW, but which may in future access Lot 7 from Lot 70.*

Woolworths' concerns about trucks and service vehicles impermissibly using the Existing ROW are unfounded. The proposed development has a number of design features which will operate effectively to dissuade trucks and service vehicles from exiting the Property via the Existing ROW. In particular:

- i. the service lane between the new loading dock and the existing Coles Supermarket loading dock has been significantly reduced and is intended to provide an egress point for smaller vehicles servicing Lot 7 (being vehicles less than 19m in size);*
- ii. vehicles utilising the Wrights Road Access Route will be able to both enter and exit the Property in a forward direction from Wrights Road, and the Proposed Development has been designed to ensure adequate turning circles for this purpose; and*
- iii. egress via the Wrights Road Access Route is more convenient for drivers of vehicles utilising the new unloading/taxi/bus bay near the entrance to the proposed building extension, as this will be the most direct route to exit the property.*

Our assessment is that the creation of the Wrights Road Access Route will not increase the number of trucks and service vehicles presently utilising the Existing ROW. Without limiting the rights and entitlements under the Existing ROW, there is potential that the number of trucks and service vehicles utilising the Existing ROW may be reduced, including as a result of internal efficiencies in Coles' distribution chain. Accordingly, there

is no foundation whatsoever for the suggestion that the Proposed Development on Lot 70 will result in an intensification of use of the Existing ROW.

Given the access arrangements which are proposed by Coles as part of the Proposed Development as outlined above, a physical barrier between Lot 7 and Lot 70 would be both unnecessary and unjustified having regard to the anticipated impacts of the Proposed Development.

Imposition of a physical barrier considered unsafe, inappropriate and unreasonable

As well as being unnecessary, we also consider that a requirement to construct a physical barrier between Lot 7 and Lot 70 would be unsafe, inappropriate and unreasonable.

Coles has obtained technical specialist advice from its fire safety engineer and private certifier about the possible implications of erecting such a physical barrier.

Both experts express concern in relation to the safety aspects of installing a physical barrier between Lot 7 and Lot 70. The fire safety engineer has advised:

"Blocking this access path will have implications on the perimeter access available to Fire and Rescue New South Wales and thus, their ability to respond to an emergency situation.

...

Currently the proposed amendment to the rear access route (behind both the Woolworths and Coles tenancy) in which the access to the Coles tenancy would not be available from York Road will not meet sub-clause b(i) of BCA Clause C2.4 as the access pathway shall be discontinuous..."

Coles also considers that the imposition of a physical barrier would subvert one of the key objectives of the proposed development, which is to integrate the current use of the property so that it operates as one retail offering. Council also has indicated its desire to see Lot 7 and Lot 70 consolidated in due course.

There will be a significant community and public benefit in integrating the use and operation of the property.

It would therefore be inappropriate and unreasonable to require the installation of a physical barrier within the land owned by our client which would effectively require our client's land to operate as two separate sites across an arbitrary boundary. There is no proper planning rationale for the imposition of the suggested condition which would have the practical effect of hindering the efficient servicing of our client's land.

In addition to the design features that have been incorporated within the Proposed Development to deter vehicles exiting the Property via the Existing ROW, Coles will also maintain existing and implement new management measures in this regard. This reflects Coles' desire to continue to act consistently with the terms of the Existing ROW.

These management measures include:

- i. the existing measures currently in place will be maintained by the proposed development, including but not limited to timed access loading dock shutters and the locked bollard system to prevent unauthorised loading dock access; and*
- ii. the loading dock operation will be undertaken in strict accordance with the existing management and operational measures and the Loading Dock Management Plan that will be submitted to Council prior to an Occupation Certificate being issued for the proposed development.*

History of deliveries on site

Coles has operated at the property for almost 10 years and during that time very few written complaints have been received regarding alleged breaches of delivery hours via the Existing ROW. In fact, one of the resident submissions received by Council in relation

to the proposed development dated 15 February 2013 refers to an example of Woolworths breaching the curfew on 23 December 2012 at 2:00am – 2:30am.

It is neither reasonable nor appropriate for a consent authority to impose a condition of development consent with the sole purpose of preventing an anticipated breach of an instrument under the Conveyancing Act 1919 (NSW). The Land and Environment Court has clearly established the principle that any actual or threatened breach of such an instrument should be restrained in the usual manner, without the added layer of restriction through the imposition of a condition of development consent.

The current, lawful use of the property should not be unnecessarily constrained in anticipation of a breach of the terms of the Existing ROW, and we consider that any attempt to do so by way of a condition of consent would therefore be unreasonable and not for a proper planning purpose."

In response to the applicant's concerns regarding fire safety the matter was reviewed by Council's Fire Safety Officer who has advised:

"I have reviewed the information sent with respect to restricting vehicular access around the premises. I note the comments from RAWFIRE and Blakett Maguire & Goldsmith (fire safety engineer and BCA consultant) and advise the perimeter access is already performance based, with a number of alternative solutions already being in place for non compliances with NSWFR access (less than 6m on the eastern and western sides).

I have inspected the site and have found there are areas of the perimeter access that already have removable bollards approved as part of additions to the centre under D/A 2593/2005/HA. Arrangements will change with new building works, however, the point is that physical barriers have been used in the past, so there is no reason why they couldn't be used on future development.

I have reviewed the requirements under C2.4 of the BCA and would agree that the DTS require continuous access around the perimeter. I have also reviewed the NSWFR document with respect to emergency access

"Guidelines for emergency vehicle access – policy No.4

5.3 Ensuring Clear Access

Site managers should ensure carriageways are not fully or partially obstructed in a manner which prevents unhindered access by appliances, at any time.

Note: Carriageways can be obstructed by parked vehicles, shipping containers, pallets, stored goods, industrial bins etc.

Perimeter security points (e.g. sliding/swinging gates, boom gates, bollards, vehicle security barriers) must not unnecessarily impede appliances from gaining access. A minimum width of 3.2m should be provided at security points to allow appliances passage without the need for manoeuvring."

Contact was made with the NSWFR building compliance unit and spoke to the duty officer regarding this issue. She confirmed the NSWFR policy No.4 and advised that it would be acceptable for a gate to be used to restrict access providing a fire brigade "003" type lock is used so that it could be unlocked quickly in the event of an emergency, as this would not "unnecessarily impede appliances from gaining perimeter access".

In summary, it is not unreasonable to impose a condition restricting access for vehicular movements providing NSWFR can still manoeuvre their vehicles around the site by opening gates with padlocks to suit their needs. The applicant may still need to obtain an

alternative solution for perimeter access, however, there will not be an issue with respect emergency vehicles gaining emergency access."

Further to the above, Council's Environmental Health and Protection Team have raised concerns in relation to the ROW becoming a "short cut" for delivery vehicles accessing the new loading dock. The projected Noise levels as outlined in the Acoustic report submitted with the application do not take into consideration additional vehicles. The design as is could potentially permit delivery trucks entering from Wrights Road and going to the Woolworths side of the site. Restriction access between the loading dock is considered appropriate in this instance given the potential for impact associated with additional vehicle movement to create a detrimental impact on neighbours.

It is considered that the imposition of a condition to restrict access between the loading docks is reasonable given the unique access restrictions and potential impacts should the use of the ROW be abused.

ENGINEERING COMMENTS

No objection raised to the proposal. Relevant conditions of consent are included in the recommendation.

TRAFFIC COMMENTS

Existing Traffic Environment

A traffic report has been prepared by Colston and Budd and submitted in support of both this and the approved Aldi application (DA501/2013/HC).

Wrights Road is classified as a collector road within Council's road hierarchy and is constructed to a two lane 9.5m wide undivided carriageway configuration over its full length from Windsor Rd. However the pavement is widened to provide four lanes on the approach to the traffic signals at Green Road. From surveys conducted by the traffic consultant this section of Wrights Road currently sustains approximately 1035 two-way peak hour vehicle movements on a Thursday afternoon and around 990 on Saturday midday.

The consultant has also carried out a SIDRA analysis of the existing intersections in the vicinity to determine existing service levels. The signalized intersection of Wrights Road and Green Road currently operates at a satisfactory Level of Service C with average delays of less than 35 seconds per vehicle during the afternoon peak. Similarly the roundabout controlled intersection of Wrights Road and Harrington Avenue and the uncontrolled Wrights Road and York Road both operate at a good Level of Service B with average delays of less than 20 seconds per vehicle.

Proposed Development - Traffic Generation

The Roads and Traffic Authority Guide to Traffic Generating Developments nominates a specific traffic generation rates for the various types of retail developments. Application of these rates to this development equates to **480** vehicles per hour (vph) during the Thursday afternoon peak hour and **650** vehicles per hour during Saturday midday peak hour.

The consultant has reanalysed the effect the additional traffic will have on the operational performance of the nearby intersections including the additional traffic (**220-230 vph**) expected to be generated by the ALDI development and determined that the existing service levels will result in an overall increase in the delay to 50 seconds per vehicle at the signalized Green Rd and Wrights Rd intersection.

Traffic egress/ingress to arterial/sub-arterial roads

As indicated above Wrights Road is a collector road and provides a direct link between the arterial road network of Windsor Road to the west and Green Road to the east.

Sight distance and other safety issues

The driveway created as the northern approach fourth leg of the roundabout is located to provide suitable sight distance to comply with the recommended minimum Safe Intersection Sight Distance requirement of 80m for a 50km/h road as required under Austroads Guidelines.

A number of requirements for the construction of the roundabout and associated infrastructure were included on development consent 501/2013/HC for Aldi at the front of the site. This development has commenced. No further improvement works are required as part of the subject application.

TREE MANAGEMENT COMMENTS

No objection is raised to the proposal subject to conditions.

HEALTH AND ENVIRONMENTAL PROTECTION COMMENTS

The subject application has been assessed by Council's Health and Environmental Protection Section including the submitted acoustic report which was considered to be satisfactory. The acoustic report provided recommendations for noise attenuation and noise management and these recommendations have been incorporated into conditions of consent. No objection is raised to the proposal subject to conditions.

OFFICE OF WATER COMMENTS

No objection is raised to the proposal subject to the Department's General Terms of Approval (see Condition 4 and Attachment 13).

ROAD AND MARITIME SERVICES COMMENTS

Below are RMS's comments on the subject application. Should Council approve the application, RMS request that the following requirements be incorporated into the determination (see Condition 5):

1. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004 and AS 2890.2 - 2002 for heavy vehicle usage.
2. RMS advises Council consider installing "No Right Turn" signage (AM/PM peaks - Mon-Fri and all day Saturday) for the right turn movement out of Wrights Road onto Windsor Road.

Reason: Heavy delays are expected for vehicles turning right out of Wrights Road onto Windsor Road.

Council's Traffic Projects Officer has advised that with respect to the RMS's recommendation regarding installation of "No Right Turn" signage from Wrights Road into Windsor Road during peak periods it will be considered at the Local Traffic Committee meeting at which an RMS representative will provide input into the determination of this matter.

CONCLUSION

The proposed development has been assessed against the relevant heads of consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, the provisions of THDCP Part B Section 6 – Business, Part C Section 1 Parking, Part C Section 2 - Signage and Part C Section 3 Landscaping and is considered satisfactory.

A number of submissions were received to the proposal relating to access, acoustic impacts, social impact, landscaping, parking and servicing. This matters are addressed in the report and do not warrant refusal of the application.

Approval is recommended subject to conditions.

RECOMMENDATION

The Development Application be approved subject to the following conditions of consent.

GENERAL MATTERS

1. Development in Accordance with Submitted Plans (as amended)

The development being carried out in accordance with the approved plans and details submitted to Council, as amended in red, stamped and returned with this consent. No work (including excavation, land fill or earth reshaping) shall be undertaken prior to the issue of the Construction Certificate, where a Construction Certificate is required

The amendments in red include: -

- Decorative treatments are to be provided to screen lower level parking areas and under vehicular ramps. Details are to be provided prior to issue of Construction Certificate;
- An inward swinging gate is to be erected prior to the occupation and use of the premises, fitted with a lock that can be opened by NSW Fire & Rescue to allow perimeter access around the premises in an emergency;
- The Liquor Store loading dock driveway is to be reduced in width to comply with Figure 3.1 "Minimum design for an access driveway on a minor road catering for HRV's and AV's of AS 2890.2-2002." Details are to be submitted with the Engineering Construction Certificate.

REFERENCED PLANS

DRAWING NO	DESCRIPTION	REVISION	DATE
DA 10	Proposed Site Plan and Roof Plan	B	27/03/2013
DA 12	Proposed Lower Level Carpark (North)	F	08/04/2013
DA 13	Proposed Lower Level Carpark (South)	F	08/04/2013
DA 14	Proposed Ground Floor Level (North)	D	08/04/2013
DA 15	Proposed Ground Floor Level (South)	A	13/12/2012
DA 16	Mall and Coles Elevations	C	27/03/2013
DA 17	First Choice Liquor and Kmart Auto Elevations	A	13/12/2013

DA 18	Sections	C	27/03/2013
DA 22	Signage Schedule	A	13/12/2013
101	Landscape Plan	G	12/12/2013
102	Landscape Plan	I	12/12/2013
501	Landscape Details	G	12/12/2013

2. External Finishes

External finishes and colours shall be in accordance with the details submitted with the development application and approved with this consent.

3. Provision of Parking Spaces

The development is required to be provided with 540 off-street car parking spaces. These car parking spaces shall be available for off street parking at all times.

4. Compliance with Office of Water Requirements

Compliance with the requirements of the Office of Water attached as Appendix (A) to this consent and dated 06 February 2013.

5. Compliance with NSW Roads and Maritime Services Requirements

Compliance with the following requirement of the Roads and Maritime Services

- i The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) shall be in accordance with AS 2890.1- 2004 and AS 2890.2 - 2002 for heavy vehicle usage.

6. Separate Development Application for Occupations (Non Retail)

A separate development application is required for the occupation of any non retail uses of the approved tenancies. This application is required to provide assessment against:

- Local Environmental Plan 2012; and
- Baulkham Hills Development Control Plan 2012

The above assessment should specifically address the following:

- Proposed use and its Permissibility
- Hours of Operation
- Delivery Details
- Staff Numbers
- Signage, and
- Parking Provision

7. Tree Removal

Approval is granted for the removal of trees shown on the landscape plan prepared by Site Image.

All other trees are to remain and are to be protected during all works. Suitable replacement trees are to be planted upon completion of construction.

8. Planting Requirements

All trees planted as part of the approved landscape plan are to be minimum 75 litre pot size. All shrubs planted as part of the approved landscape plan are to be minimum 200mm pot size. Groundcovers are to be planted at 5/m².

9. Separate Application for Strata Subdivision

A separate application must be submitted for any proposed strata titled subdivision of the approved development.

10. Supervision of Works

All work in the road reserve must be supervised by a suitably qualified and experienced person. The supervisors name, address and contact phone number must be submitted to Council prior to works commencing in the road reserve. A construction programme and anticipated duration of works must be submitted to Council prior to works commencing in the road reserve.

11. Public Liability Insurance

All contractors working in the road reserve must have a current public liability insurance policy with an indemnity limit of not less than \$10,000,000.00. A copy of this insurance must be submitted to Council prior to works commencing in the road reserve.

12. Acoustic Requirements

The recommendations of the Acoustic Assessment and Report prepared by Wilkinson and Murray Pty Ltd, referenced as Report No. 12225, dated December 2012 and submitted as part of the Development Application are to be implemented as part of this approval. In particular:

- 5.1.1 – Fixed Mechanical Plant and Equipment – The installation of a 2 metre high acoustic wall on the northern side of condenser deck for Coles AC-PAC 1.
- 5.1.2 Acoustic Walls
 - Figure 5.-1 Car park Acoustic Wall 3m high
 - Figure 5 – 2 loading dock Noise Barrier – The height of this wall is to be 2.6 metres not 1.8 metres as stated in the report.

13. Stormwater Treatment - Car Parks

The car parking area(s) must drain to a stormwater treatment device capable of removing litter, oil, grease and sediment prior to discharge to the stormwater system.

Details of the stormwater treatment device are to be submitted to Council.

14. Imported 'Waste Derived' Fill Material

The only waste derived fill material that may be received at the development site is:

- virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act 1997*); or
- any other waste-derived material the subject of a resource recovery exemption under clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005* that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

NOTE: The application of waste-derived material to land is an activity that may require a licence under the *Protection of the Environment Operations Act 1997* (POEO Act). However, a licence is not required by the occupier of the land if the only material applied to land is virgin excavated natural material or waste-derived material that is the subject of a **resource recovery exemption** under clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005*.

Resource recovery exemptions are available on Department of Environment and Climate Change's website at: <http://www.environment.nsw.gov.au/waste/>

Definition of 'virgin excavated natural material' within the meaning of the POEO Act:

Natural material (such as clay, gravel, sand, soil or rock fines) that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues (as a result of industrial, commercial, mining or agricultural activities), and that does not contain any sulfidic ores or any other waste.

Definition of 'waste' within the meaning of the POEO (Waste) Regulation:

In relation to substances that are applied to land, the application to land by:

- (a) spraying, spreading or depositing on the land, or
 - (i) ploughing, injecting or mixing into the land, or
 - (ii) filling, raising, reclaiming or contouring the land,
- (b) in relation to substances that are used as fuel, all circumstances.

See Clause 3B of the Regulation for exemptions.

15. Stockpiles

Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by water, to be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or roadside.

16. Litter Control

A sufficient number of litter bins must be provided on the premises for litter disposal.

17. Noise to Surrounding Area

There shall be no amplified music or speakers external to the building.

18. Waste Storage and Separation – Demolition and Construction

The reuse and recycling of waste materials must be maximised during demolition and construction. The separation and recycling of the following waste materials is required:

- (1) Masonry products (bricks, concrete, concrete roof tiles) to be sent for crushing/recycling;
- (2) Timber waste to be separated and sent for recycling;
- (3) Metals to be separated and sent for recycling;
- (4) Clean waste plasterboard to be returned to the supplier for recycling (excluding plasterboard from demolition); and
- (5) Mixed waste (plastic wrapping, cardboard etc) to be sent to a licenced recycling or disposal facility.

This can be achieved by constructing a minimum of five trade waste compounds onsite. Each waste compound must be adequately sized to enclose the waste. Alternatively, mixed waste may be stored in one or more adequately sized waste compounds and sent to a waste contractor/waste facility that will sort the waste on their site for recycling. Waste must be adequately secured and contained within designated waste areas and must not leave the site onto neighbouring public or private properties. Personal waste must not litter the site. Copies of actual weighbridge receipts verifying recycling/disposal must be kept and presented to Council when required.

19. Surplus Excavated Material

The disposal/landfill of surplus excavated material, other than to a DECC licensed facility, is not permitted without formal approval from Council prior to the commencement of works. Any unauthorised disposal of waste, which includes excavated material, is a breach of the *Protection of the Environment Operations Act 1997* and subject to substantial penalties. Unless Council approves an alternate site, then all surplus excavated material must be disposed of at a licensed waste facility. Copies of actual receipts verifying recycling/disposal must be kept and presented to Council when required.

20. Garbage Collection

Collection of waste and recycling material, generated by the premises, must not cause nuisance or interference with the amenity of the surrounding area.

21. Waste Collection

Waste and recycling material, generated by the premises, must only be collected between the hours of 6am and 10pm except for Sundays and public holidays, where collection shall be between 8am and 10pm.

22. Waste Management

To ensure the adequate storage and collection of waste from the occupation or use of the premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. Arrangement must be in place in all areas of the development for the separation of recyclable materials from general waste and for the movement of recyclable materials and general waste to the main waste/recycling storage room/area.

The waste storage area must be:

- i) provided with a hose tap connected to the water supply;
- ii) paved with impervious floor materials;
- iii) graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water);
- iv) adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997;
- v) fitted with appropriate interventions to meet fire safety standards in accordance with the Building Code of Australia.

23. Protection of Public Infrastructure

Council must be notified of any damage to public infrastructure caused by the development. Adequate protection must be provided prior to work commencing and maintained during building operations. Any damage caused must be made good, to the satisfaction of Council, before an Occupation Certificate can be issued. Public infrastructure includes the road pavement, kerb and gutter, concrete footpaths, drainage structures, utilities and landscaping fronting the site.

24. Vehicular Access and Parking

The formation, surfacing and drainage of all driveways, parking modules, circulation roadways and ramps is required, with their design and construction complying with:

- a) AS/ NZS 2890.1:2004
- b) AS/ NZS 2890.6:2009
- c) AS 2890.2:2002
- d) DCP Part C Section 1 – Parking
- e) Council's Driveway Specifications

Where conflict exists the Australian Standard must be used.

The following must be provided:

- i. All driveways and car parking areas must be prominently and permanently line marked, signposted and maintained to ensure entry and exit is in a forward direction at all times and that parking and traffic circulation is appropriately controlled.
- ii. All driveways and car parking areas must be separated from landscaped areas by a low level concrete kerb or wall.
- iii. All driveways and car parking areas must be concrete or bitumen. The pavement design must consider the largest design service vehicle expected to enter the site.
- iv. All driveways and car parking areas must be graded, collected and drained by pits and pipes to a suitable point of legal discharge.

25. Construction Certificate

Prior to construction of the approved development, it is necessary to obtain a Construction Certificate. A Construction Certificate may be issued by Council or an Accredited Certifier. Plans submitted with the Construction Certificate are to be amended to incorporate the conditions of the Development Consent.

26. Building Work to be in Accordance with BCA

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

27. Clause 94 Upgrading

Under clause 94 of the Environmental Planning & Assessment Regulation, the following fire safety works are to be undertaken with the construction certificate works and prior to the issue of the occupation certificate:

Recommended upgrade works as detailed in correspondence by Blackett Maguire + Goldsmith, dated 9/4/13, this being :

- Upgrade all hydrant landing valves to ensure that they are fitted with Storz aluminium delivery couplings as required by AS 2419.1 – 2005
- Upgrade all exit signage to pictogram signage as required by AS 2419.1 – 2005
- Ensure all hydrant and hose reel cupboards are maintained clear of storage
- Ensure all egress routes are maintained clear of storage

In addition to this, the following existing fire safety measures are to be upgraded to the current BCA :

Automatic fire detection and alarm system – AS 1670.1 – 2005

Emergency lighting & Exit signs – AS 2293.1 - 2005

Fire Hydrant system – AS 2419 - 2005

PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE

28. Sediment and Erosion Control Plan

A sediment and erosion control plan prepared in accordance with Council's Works Specification Subdivision/ Developments must be submitted. The plan must include:

- a) Allotment boundaries;
- b) Adjoining roads;
- c) Contours;
- d) Existing vegetation;
- e) Existing site drainage;
- f) Critical natural areas;
- g) Location of stockpiles;
- h) Erosion control practices;
- i) Sediment control practices; and
- j) A maintenance program for the erosion and sediment controls.

29. Registration of Drainage Easement

A suitable easement to drain water must be created over the downstream properties of Lot 35 DP 1081956 (Council) and Lot 31 DP 1016001 (Sydney Water) prior to a Construction Certificate being issued in accordance with the letter of authority from the downstream property owner. The width of the drainage easement must comply with Council's Design Guidelines Subdivisions/ Developments and the terms must nominate each lot burdened and benefited. A copy of the registered easement plan and associated 88B Instrument must be submitted to Council.

30. Security Bond – External Works

In accordance with Section 80A(6)(b) of the Environmental Planning and Assessment Act 1979, a security bond is required to be submitted to Council to guarantee the construction, completion and performance of all works external to the site. The bonded

amount must be based on 150% of the tendered value of providing all such works. The minimum bond amount is \$10,000.00.

The bond must be lodged with Council prior to the issue of any Construction Certificate.

The value of this bond shall be confirmed with Council prior to submission and may be in the form of cash or an unconditional bank guarantee. The bond is refundable upon written application to Council along with payment of the applicable bond release fee, and is subject to all work being completed to Council's satisfaction.

31. Engineering Works and Design

The design and construction of the engineering works listed below must be provided for in accordance with the following documents and requirements:

- a) Council's Design Guidelines Subdivisions/ Developments
- b) Council's Works Specifications Subdivisions/ Developments

Variation from these documents can only be approved by Council's Manager – Subdivision and Development Certification.

Engineering works can be classified as either "subdivision works" or "building works" as categorised below:

1. Works within an existing or proposed public road, or works within an existing or proposed public reserve. These works can only be approved, inspected and certified by Council in accordance with the Roads Act 1993 and the Local Government Act 1993 respectively. For Council to issue this approval the following must be provided:
 - a) A completed application form.
 - b) Four copies of the design plans and specifications.
 - c) Payment of the applicable application and inspection fees.
 - d) Payment of any required security bonds.
2. Works within the development site, or an adjoining private property, that relates to existing or proposed Council infrastructure assets, such as the laying of a stormwater pipeline or the formation of an overland flowpath within a public drainage easement. These works can only be approved, inspected and certified by Council because Council will have an ongoing risk exposure and management/maintenance liability with respect to these assets once completed.

A "compliance certificate" as per Section 109(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 can be issued certifying that the detailed design for these works complies with the requirements listed and the above documents. This "compliance certificate" can be issued by Council's Manager – Subdivision and Development Certification and not a private certifier, as discussed. Once approved, the works must be carried out under the supervision of Council's Construction Engineer in accordance with the terms attached to the issued "compliance certificate". Post construction, a further "compliance certificate" as per Section 109(1)(a)(i) of the Environmental Planning and Assessment Act 1979 can be issued certifying that the as-built infrastructure and associated works have been carried out to the satisfaction of Council's Construction Engineer. Alternatively, these works can be incorporated into any construction approval granted under category (1) above.
3. Works within the development site, or adjoining private properties, that do not relate to existing or proposed Council infrastructure assets, such as water sensitive urban design elements or inter-allotment drainage pipelines. Such works can be approved, inspected and certified by either Council or a private certifier, so long as the private certifier is accredited to do so.

This certification must be included with the documentation approved as part of any Construction Certificate. The designer of the engineering works must be qualified, experienced and have speciality knowledge in the relevant field of work.

The following engineering works are required:

i. Roundabout Construction (Wrights Road)

The roundabout on Wrights Road fronting the development site must be constructed generally as shown on the concept engineering plans prepared by Mott MacDonald Drawing No: MMD-290718-C-DR-KV-DA-0001, 0002, 0003 Revision 'A' dated 4/10/2012.

These engineering plans are for DA purposes only and are not to be used for construction. The detailed roundabout construction plans must reflect the approved concept plans and the following requirements:

- a) The design must comply with the above documents.
- b) The location of the roundabout must align with the driveway opposite as per the plans referenced above.
- c) Any road widening necessary to provide for the roundabout construction (including approaches) must be provided for from the development site as per the plans referenced above.
- d) All necessary kerb and gutter realignment must be provided including those on the southern side of Wrights Road as shown on the approved plans.
- e) Any and all adjustments required to be made to the existing entrance to Council's reserve on the southern leg of the proposed roundabout.
- f) The relocation and/ or adjustment of all services and stormwater drainage affected by the proposed works. This includes the upgrading of the existing street lighting.
- g) The reconstruction/ realignment of the existing concrete footpath paving fronting the development site. This includes the provision of access (pram) ramps.
- h) Restoration of all landscaped and/ or turfed areas affected by the works.
- i) All adjustments to the existing road pavement in order to comply with the above documents.
- j) All necessary line-marking and signposting.
- k) A 3.5m wide footpath verge must be maintained.
- l) Bends approaching ninety degrees in pipelines to be dedicated to Council are to be avoided wherever possible.

NOTE: All works associated with the construction of the proposed roundabout are to be at no cost to The Hills Shire Council.

ii. Concrete Footpath Paving

A 1.5m wide concrete footpath, including access ramps at all intersections, must be provided in accordance with the DCP and the above documents.

iii. Footpath Verge Formation

The grading, trimming, topsoiling and turfing of the footpath verge fronting the development site is required to ensure a gradient between 2% and 4% falling from the boundary to the top of kerb is provided. This work must include the construction of any retaining walls necessary to ensure complying grades within the footpath verge area. All retaining walls and associated footings must be contained wholly within the subject site. Any necessary adjustment or relocation of services is also required, to the requirements of the relevant service authority. All service pits and lids must match the finished surface level.

iv. Inter-allotment Stormwater Drainage

Piped inter-allotment drainage designed for a 1 in 10 year ARI storm event catering for the entire area of each lot must be provided, with an assumed impervious surface of 80%. Each lot must be uniformly graded to its lowest point where a grated surface inlet pit must be provided. All collected inter-allotment stormwater is to be piped to an approved constructed public drainage system.

Where OSD is required to be provided on each lot within the subdivision, a minimum level difference of 1m measured to the invert must be provided in the stormwater pit on each lot.

v. Stormwater Drainage – Gross Pollutant Traps

Gross Pollutant Traps are required at the end of all stormwater drainage outlets within the site. All traps are to be CDS or similar units and appropriately sized for the design discharge. The engineering drawings must include the location and detail of all traps.

32. Construction Noise Management Plan

Prior to the issue of the construction certificate a site specific construction noise management plan is to be submitted to Council. The construction noise management plan is to be kept on site at all times during construction.

33. Waste Management Plan

Prior to work to issue of construction certificate the Waste Management Plan in relation to the construction stage of the development must be submitted to and approved by Council. The Plan shall address the following;

1. The type of waste materials;
2. The estimated volume (m³) or area (m²) of waste materials;
3. The proposed reuse or recycling methods
4. Waste contractor information;
5. Address of recycling outlet(s) and/or landfill site(s).

The Western Sydney Recycling Directory is available to assist the applicant in selecting appropriate contractors and facilities. The Directory may be obtained from Council's website www.thehills.nsw.gov.au.

34. Works on Adjoining Land

Where the engineering works included in the scope of this approval extend into adjoining land, written consent from all affected adjoining property owners must be obtained and submitted to Council before a Construction Certificate is issued.

35. Stormwater Discharge Acceptance

Where the engineering works included in the scope of this approval necessitate the discharge of stormwater onto adjoining land, written consent from all affected adjoining property owners must be obtained and submitted to Council before a Construction Certificate is issued.

36. Stormwater Drainage to Natural Watercourse

Stormwater connections to a natural watercourse must be approved by the NSW Office of Water.

37. Security Bond – Pavement and Public Asset Protection

In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, a security bond of \$51,200.00 is required to be submitted to Council to guarantee the protection of the adjacent road pavement and public assets during construction works.

The bond must be lodged with Council prior to the issue of a Construction Certificate.

The value of this bond shall be confirmed with Council prior to submission and may be in the form of cash or an unconditional bank guarantee. The bond is refundable upon written application to Council along with payment of the applicable bond release fee, and is subject to all work being restored to Council's satisfaction. Should the cost of restoring

any damage exceed the value of the bond, Council will undertake the works and issue an invoice for the recovery of these remaining costs.

38. Bank Guarantee Requirements

Should a bank guarantee be the proposed method of submitting a security bond it must:

- a) Have no expiry date;
- b) Be forwarded direct from the issuing bank with a cover letter that refers to Development Consent DA 709/2013/JP.
- c) Specifically reference the items and amounts being guaranteed. If a single bank guarantee is submitted for multiple items it must be itemised.

Should it become necessary for Council to uplift the bank guarantee, notice in writing will be forwarded to the applicant fourteen days prior to such action being taken. No bank guarantee will be accepted that has been issued directly by the applicant.

39. Prior or Concurrent Registration of Preceding Subdivision

A Construction Certificate cannot be issued for this development before a Subdivision Certificate has been registered with the NSW Land and Property Information for the preceding subdivision pursuant to Development Consent DA 212/2010/ZA/A.

40. Construction Management Plan

Prior to the Issue of a Construction Certificate, a Construction Management Plan is to be submitted to Council's Manager Development Assessment for approval addressing the provision of on-site parking and access arrangements during construction.

PRIOR TO WORK COMMENCING ON THE SITE

41. Controlled Activity Authority – NSW Office of Water

A copy of the Controlled Activity Authority required to be obtained from the NSW Office of Water must be submitted to Council prior to work commencing on site.

42. Stormwater Management

All existing stormwater pits to the site will be covered with geofabric sediment fencing to prevent sediment runoff into the stormwater system. To prevent sediment contamination the filters will be regularly inspected and replaced during the duration of the works.

43. Traffic Control Plan

A Traffic Control Plan is required to be prepared in strict compliance with the requirements of AS 1742.3 and the current RMS Traffic Control and Work Sites Manual and submitted to Council for approval. The person preparing the plan must have the relevant RMS accreditation to do so. Where amendments to the approved plan are required, they must be submitted to Council for approval prior to being implemented.

44. Erection of Signage – Supervision of Work

In accordance with Clause 98A(2) of the Environmental Planning and Assessment Regulations 2000, a sign is to be erected in a prominent position displaying the following information:

- a) The name, address and telephone number of the Principal Certifying Authority (PCA). Where Council is the nominated PCA for the development, the following is to be displayed:

The Hills Shire Council
PO Box 75
CASTLE HILL NSW 1765
Phone (02) 9843 0555
- b) The name of the person responsible for carrying out the works;
- c) A telephone number on which the person responsible for carrying out the works can be contacted after hours;

d) That unauthorised entry to the work site is prohibited.

This signage must be maintained while the subdivision work is being carried out and must be removed upon completion.

45. Protection of Existing Trees

The trees that are to be retained are to be protected during all works strictly in accordance with AS4970- 2009 Protection of Trees on Development Sites.

The Tree Management team shall be advised in writing of the engagement of project arborist prior to issue of construction certificate.

At a minimum a 1.8m high chain-wire fence is to be erected at least three (3) metres from the base of each tree and is to be in place prior to works commencing to restrict the following occurring:

- Stockpiling of materials within the root protection zone,
- Placement of fill within the root protection zone,
- Parking of vehicles within the root protection zone,
- Compaction of soil within the root protection zone.

All areas within the root protection zone are to be mulched with composted leaf mulch to a depth of not less than 100mm.

A sign is to be erected indicating the trees are protected.

The installation of services within the root protection zone is not to be undertaken without prior consent from Council.

46. Pre-Construction Public Infrastructure Dilapidation Report

A public infrastructure inventory report must be prepared and submitted to Council recording the condition of all public assets in the direct vicinity of the development site. The report shall include:

- a) Designated construction access and delivery routes; and
- b) Photographic evidence of the condition of all public assets. The report shall clearly identify the date of recording.

47. Contractors Details

In accordance with Section 109E(3) of the Environmental Planning and Assessment Act 1979, the contractor carrying out the subdivision works must have a current public liability insurance policy with an indemnity limit of not less than \$10,000,000.00. The policy must indemnify Council from all claims arising from the execution of the works. A copy of this insurance must be submitted to Council prior to works commencing.

DURING CONSTRUCTION

48. Rock Breaking Noise

Upon receipt of a justified complaint in relation to noise pollution emanating from rock breaking as part of the excavation and construction processes, rock breaking will be restricted to between the hours of 9am to 3pm, Monday to Friday.

Details of noise mitigation measures and likely duration of the activity will also be required to be submitted to Council seven (7) days of receiving notice from Council.

49. Construction Noise

The emission of noise from the construction of the development shall comply with the *Interim Construction Noise Guideline* published by the Department of Environment and Climate Change (July 2009).

50. Loading Dock Acoustic Wall Height

The Acoustic Wall located at the loading dock is to be constructed to a barrier height of 2.6m and be built out of materials with an Acoustic rating of Rw greater than 25.

51. Stormwater Management

All existing stormwater pits to the site will be covered with geofabric sediment fencing to prevent sediment runoff into the stormwater system. To prevent sediment contamination the filters will be regularly inspected and replaced during the duration of the works.

52. Construction Noise

If construction noise exceeds the Noise Objectives outlined in Table 7.2 of the Acoustic Report prepared by Wilkinson and Murray, dated December 2012, and submitted with the application and Council receives complaints regarding this then the rear 3 metre Acoustic Wall will be required to be constructed.

53. Hours of Work

Work on the project to be limited to the following hours: -

Monday to Saturday - 7.00am to 5.00pm;

No work to be carried out on Sunday or Public Holidays.

The builder/contractor shall be responsible to instruct and control sub-contractors regarding the hours of work. Council will exercise its powers under the Protection of the Environment Operations Act, in the event that the building operations cause noise to emanate from the property on Sunday or Public Holidays or otherwise than between the hours detailed above.

54. Engineering Construction Inspections

Construction inspections are required for the engineering works included in this consent at the completion of the following inspection stages:

- a) Prior to commencement of work;
- b) Traffic control to AS 1742-3;
- c) Bedding of pipes in trenches;
- d) Trench backfill within roads;
- e) Formwork for concrete structures;
- f) Sub-grade proof roller test;
- g) Proof roller test for kerb;
- h) Sub-base course proof roller test;
- i) Base course proof roller test;
- j) Prior to placing of fill;
- k) Road crossing;
- l) Final inspection; and
- m) Asphaltic concrete surfacing.

The inspection of works approved by Council can only be carried out by Council. An initial site inspection is required prior to commencement of works. 24 hours notice must be given for all inspections.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

55. Acoustic Compliance Report

The acoustic consultant shall progressively inspect the installation of the required noise suppressant components as recommended in report titled Report No 1225 prepared by Wilkinson and Murray dated December 2012.

Certification is to be provided to Council as to the correct installation of components and that the required criteria's have been met.

56. Works as Executed Plans

Works as Executed (WAE) plans prepared by a suitably qualified engineer or registered surveyor must be submitted to Council when the engineering works are complete. The WAE plans must be prepared in accordance with Council's Design Guidelines Subdivisions/ Developments on a copy of the approved engineering plans. An electronic copy of the WAE plans, in ".dwg" or ".pdf" format, must also be submitted.

Where applicable, the plans must be accompanied by pavement density results, pavement certification, concrete core test results and site fill results.

57. Performance/ Maintenance Security Bond

A performance/ maintenance bond of 5% of the total cost of the engineering works is required to be submitted to Council. The bond will be held for a minimum defect liability period of one year and may be extended to allow for the completion of necessary maintenance or in the case of outstanding works. The minimum bond amount is \$5,000.00. The bond is refundable upon written application to Council along with payment of the applicable bond release fee, and is subject to a final inspection.

58. Confirmation of Pipe Locations

A letter from a registered surveyor must be provided certifying that all pipes and drainage structures are located within the proposed drainage easements.

59. Public Asset Creation Summary

A completed public asset creation summary form must be submitted with the WAE plans. A blank form can be found on Council's website.

60. Completion of Engineering Works

An Occupation Certificate must not be issued prior to the completion of all engineering works covered by this consent, in accordance with this consent.

61. Consolidation of Allotments

All allotments included in this consent must be consolidated into a single allotment before an Occupation Certificate is issued. A copy of the registered plan must be submitted to Council.

62. Post Construction Public Infrastructure Dilapidation Report

Before an Occupation Certificate is issued, an updated public infrastructure inventory report must be prepared and submitted to Council. The updated report must identify any damage to public assets in the direct vicinity of the development site and the means of rectification for the approval of Council.

63. Landscaping Prior to Issue of Occupation Certificate

The landscaping of the site shall be carried out prior to issue of the Final Occupation Certificate (within each stage if applicable) in accordance with the approved plan. All landscaping is to be maintained at all times in accordance with BHDGP Part D, Section 3 – Landscaping and the approved landscape plan.

64. Section 73 Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Development and Plumbing section of the web site www.sydneywater.com.au and then refer to Water Servicing Co-ordinator under "Developing Your Land" or telephone 13 20 92 for assistance.

65. Provision of Electricity Services

Submission of a compliance certificate from the relevant service provider confirming satisfactory arrangements have been made for the provision of electricity services. This includes undergrounding of existing and proposed services where directed by Council or the relevant service provider.

66. Provision of Telecommunications Services

The submission of a compliance certificate from the relevant telecommunications provider, authorised under the Telecommunications Act confirming satisfactory arrangements have been made for the provision of, or relocation of, telecommunication services including

telecommunications cables and associated infrastructure. This includes undergrounding of aerial telecommunications lines and cables where required by the relevant telecommunications carrier.

THE USE OF THE SITE

67. Signage for stormwater drains

Signs shall be displayed and maintained adjacent to all stormwater drains within the loading dock, clearly indicating "Clean Water Only – NO wastewater or rubbish."

68. Maintenance of Car Park Stormwater Treatment Device

All wastewater and stormwater treatment devices (including drainage systems, sumps and traps), shall be regularly maintained in order to remain effective.

All solid and liquid waste is to be collected and removed by a licenced contractor.

69. Acoustic Wall Construction

The rear 3 metre Acoustic wall is to be constructed in such a way as to ensure continuity with the current Coles acoustic wall at the rear of the site. If the Acoustic compliance testing reveals that the operational noise levels for the development are not being met, then the rear Acoustic Wall is to be increased from 3 metres to 4 metres in height or another form of mitigation agreed to by Council.

70. Operational Noise Level Limits

The Operational Noise Limits for the Development shall be in accordance with the following noise limits.

Location	Day – 6.00am to 6.00pm – Monday to Saturday 8.00am to 6.00pm Sunday and Public Holidays	Evening - 6.00pm to 10.00pm – 7 days	Night – Remaining Periods
The rear boundaries of the abutting Alessandra Drive properties	49dB(A)	44dB(A)	35dB(A)

71. Rear loading dock hours of operation and conditions of use

The hours of operation of the rear loading dock are as follows;

Deliveries to the loading docks are restricted to between 6.00am to 10.00pm, daily, seven days per week.

The access way to the loading dock is to be blocked by way of a boom gate, steel gate, chain or bollards, outside of these hours to ensure that vehicles cannot access the dock outside of the approved hours.

Any alteration to the approved hours of operation or use of the loading dock shall require a separate approval by Council.

72. Loading Dock Signage

Signage is to be provided at the loading dock stating the approved hours of operation for standard truck deliveries as well as the hours of operation for waste vehicles. This sign must also state a contact number for the afterhours security and statement for customers that they should call the number should there be a delivery outside of the approved hours.

73. Lighting

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the *Australian Standard AS 4282: 1997 The Control of Obtrusive Effects of Outdoor Lighting*.

74. Final Acoustic Report

Within three months from the issue of an Occupation Certificate, an acoustical compliance assessment is to be carried out by an appropriately qualified person, in accordance with the EPA's (DECCW) - *Industrial Noise Policy* and submitted to Council for consideration.

This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report submitted with the application are effective in attenuating noise to an acceptable noise level and that the operational noise levels as outlined in this consent have been met.

75. Garbage Storage – Odour Control

A waste contractor shall be engaged to remove all waste from the garbage storage area on a regular basis so that no overflow of rubbish will occur. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour.

76. 24 hour loading dock operation / delivery vehicle type

The maximum design vehicle permitted to use the 24 hour small delivery vehicle loading/unloading bay at the front of the premises is the Medium Rigid Vehicle as specified in the Australian Standard AS 2890.2 – 2002 Part 2: Off-street commercial vehicle facilities.

77. Waste Storage and Collection

To ensure the adequate storage and collection of waste from the occupation or use of the premises, all garbage and recyclables emanating from the premises must be stored in the designated waste storage area. Arrangement must be in place in all areas of the development for the separation of recyclable materials from general waste.

78. Shopping Trolley Management

A Shopping Trolley Management Plan shall be implemented to ensure the effective management of shopping trolley collection. The supermarket retailer shall:-

- Install a geospatial fenced trolley containment plan. All new trolleys are to be fitted with a wheel lock that is enabled before leaving a geospatial area. Details are to be submitted and approved by Council's Manager Development Assessment.
- Provide to The Hills Shire Council a list of contacts for the store;
- Ensure that all trolleys are easily identifiable by Council staff;
- Ensure that trolley collection services are sufficiently resourced to enable collection within agreed timeframes and at all times, including after hours;
- Ensure that trolleys reported as posing risk or nuisance are collected immediately on notification;
- Ensure that all trolleys reported are collected within the time frame agreed by Council;
- Inform customers (through clearly visible signage and other means) that trolleys should not be removed from the premises or abandoned, and that penalties apply for the dumping of trolleys outside the retail outlet/complex;

- Provide suitable, well signed trolley bays at exit points; and
- Provide to Council, on request, an up to date map showing usual trolley collection routes and schedules.

79. Hours of Operation

The hours of operation being restricted to the following: -

Coles Superstore

6am to Midnight, 7 days a week

Specialty Stores

Monday to Saturday – 7.00am to Midnight

Sunday – 8.00am to 10.00pm

Liquor Store

Monday to Saturday – 8.00am to 10.00pm

Sunday – 10.00am to 10.00pm

Tyre and Auto Service

Monday to Friday – 8.00am to 5.30pm

Saturday and Sunday – 8.00am to 3.00pm

Low noise activities such as cleaning and stacking of shelves are permitted outside of the hours above.

Any alteration to the above hours of operation will require the further approval of Council.

ATTACHMENTS

1. Locality Plan
2. Aerial Photograph
3. LEP 2012 Zoning Map
4. DCP Wrights Road Precinct Plan
5. Approved Subdivision DA 212/2010/ZA/A
6. Site Plan
7. Part Site Plans
8. Elevations
9. Sections
10. Signage Details
11. Photomontages
12. Plan of Easements DP 1050440 and 88B
13. Office of Water – General Terms of Approval
14. DCP Compliance Tables

ATTACHMENT 1 – LOCALITY PLAN



SUBJECT SITE



PROPERTIES NOTIFIED



**SUBMISSIONS RECEIVED
(1ST NOTIFICATION)**



**SUBMISSIONS RECEIVED
(2ND NOTIFICATION)**

**NOTE: TWO SUBMISSIONS RECEIVED
OFF THE SCOPE OF THIS MAP**

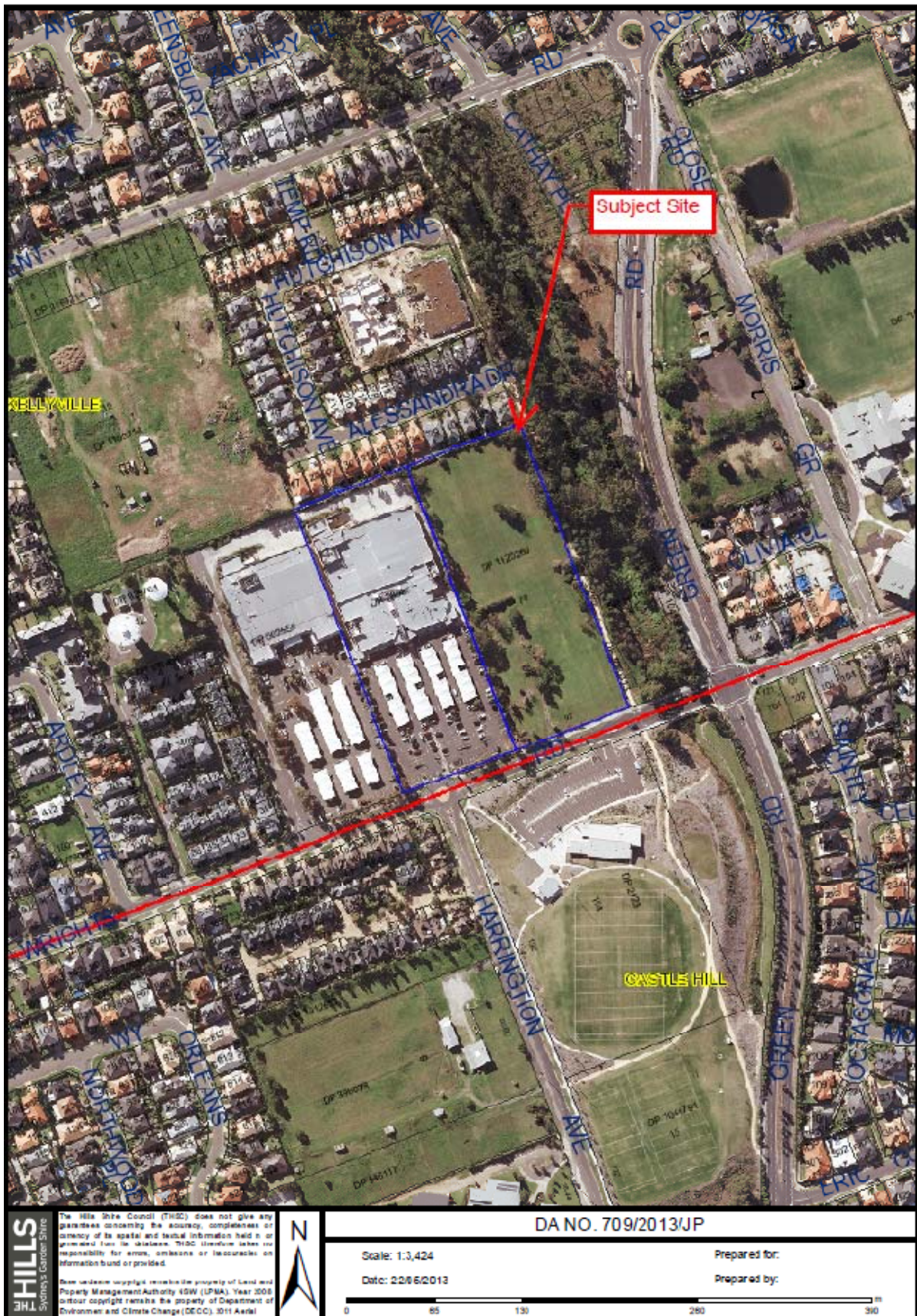
THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL

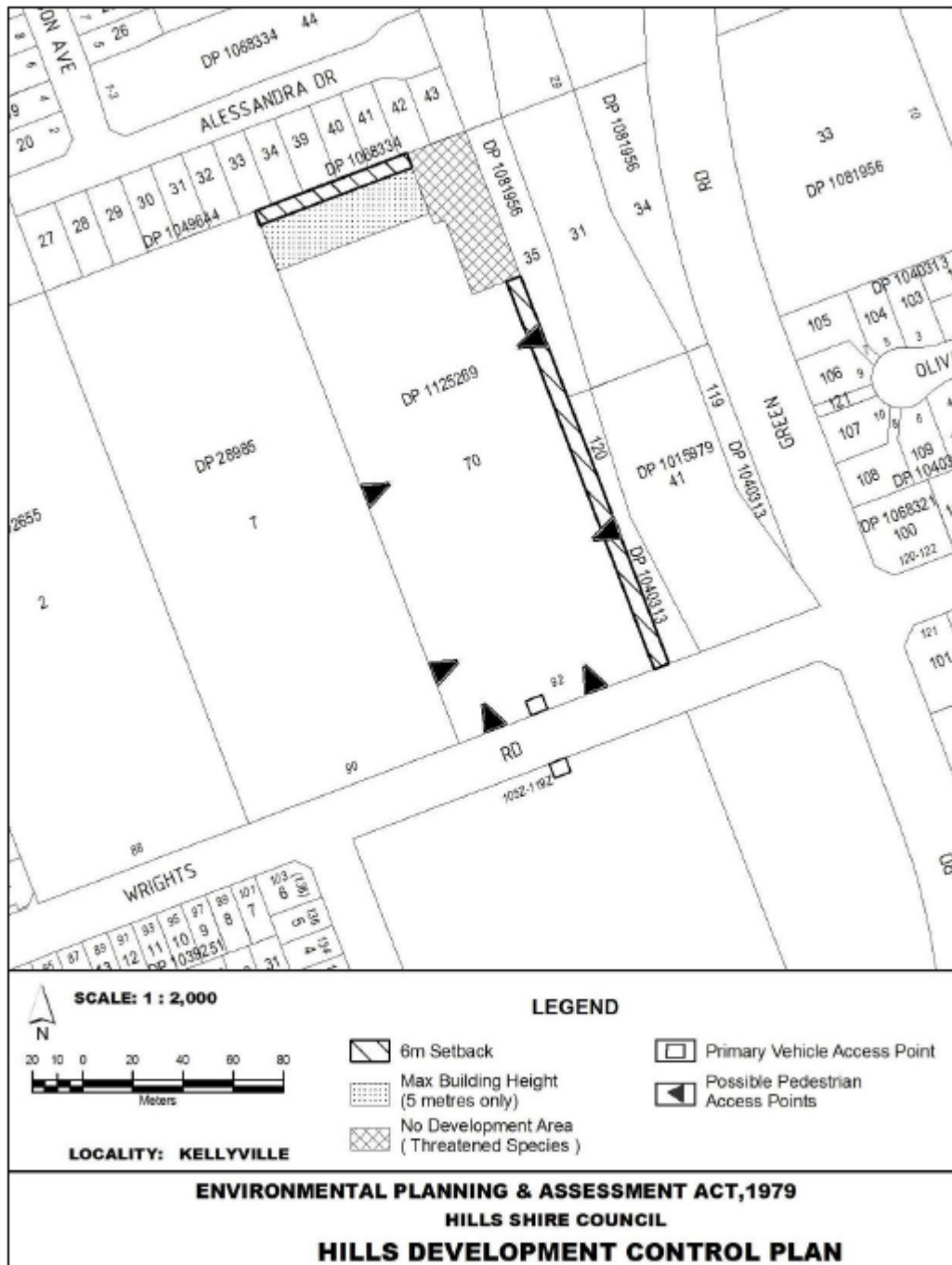
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ATTACHMENT 2 – AERIAL PHOTOGRAPH

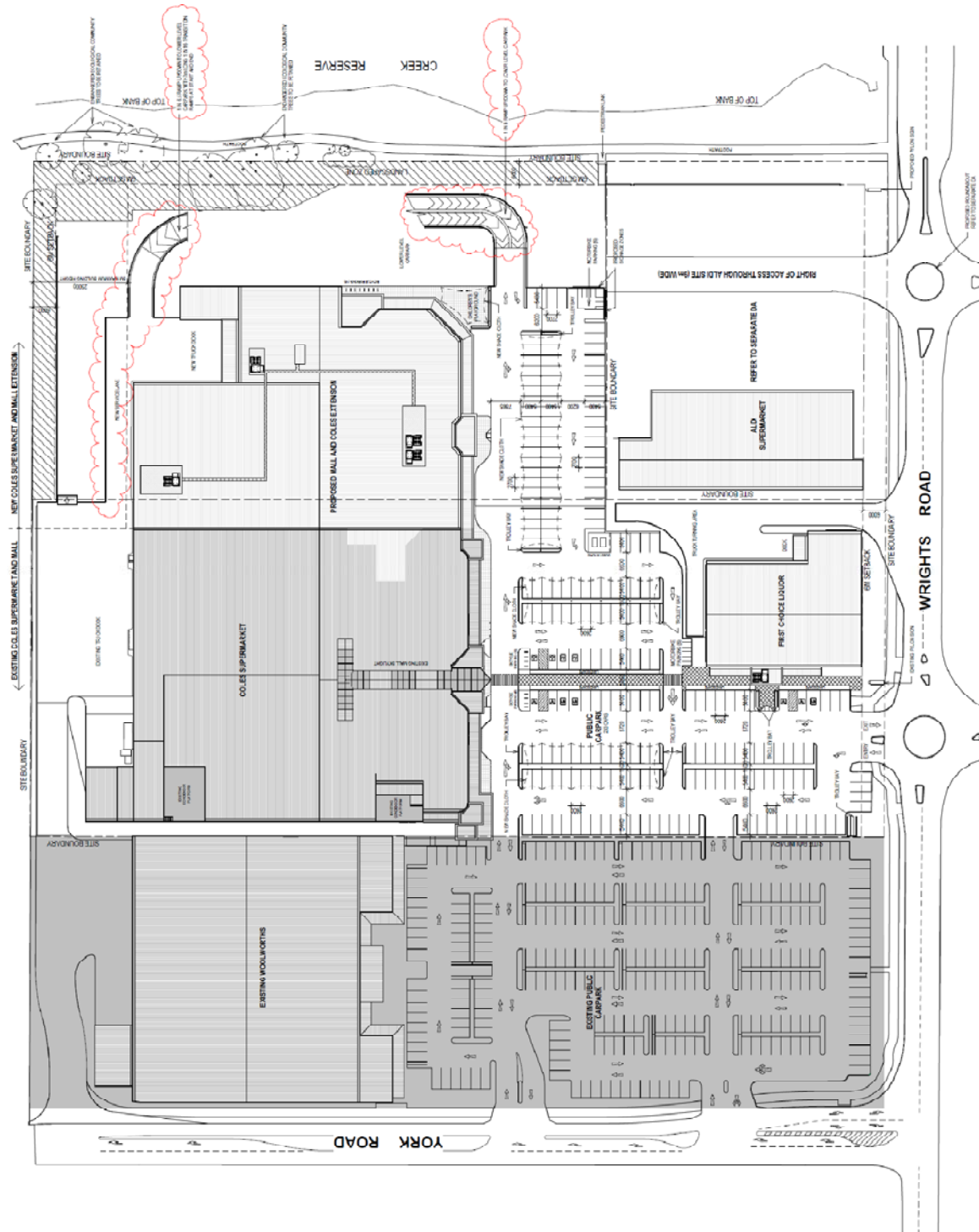


ATTACHMENT 4 – DCP WRIGHTS ROAD PRECINCT PLAN MAP

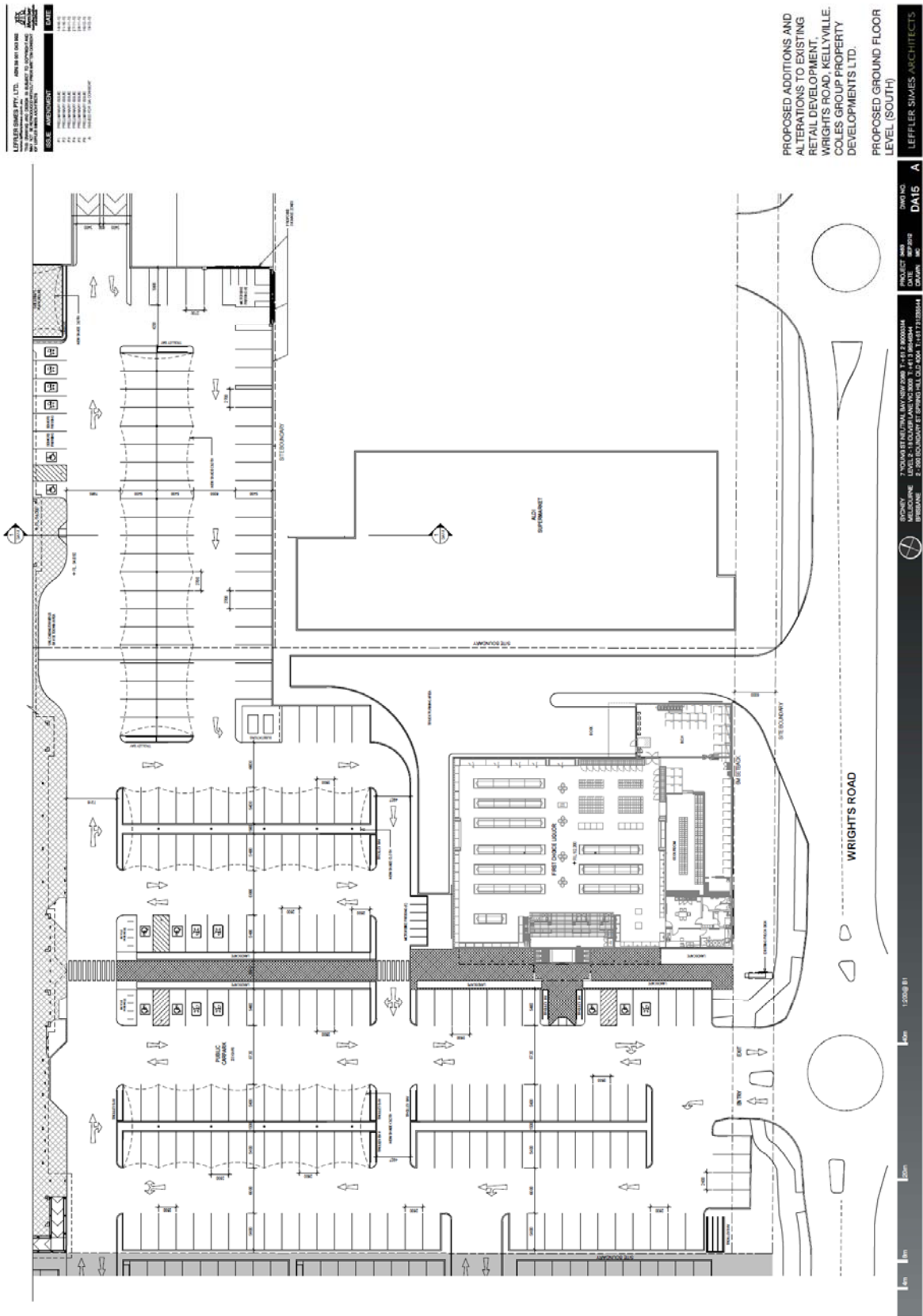


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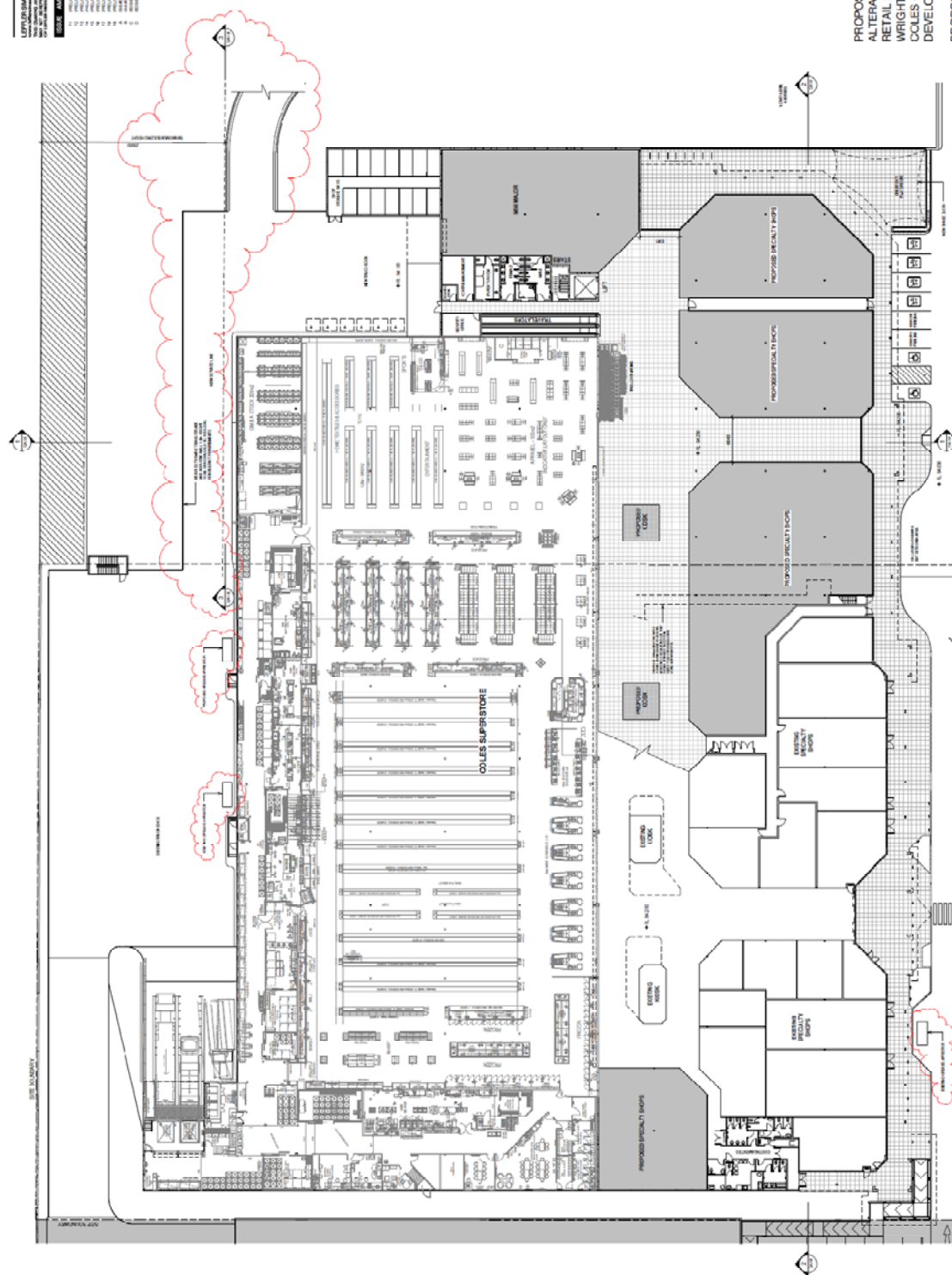
ATTACHMENT 6 – SITE PLAN



ATTACHMENT 7 – PART SITE PLANS



DATE	AMOUNT
10-16-02	100.00
11-16-02	100.00
12-16-02	100.00
1-16-03	100.00
2-16-03	100.00
3-16-03	100.00
4-16-03	100.00
5-16-03	100.00
6-16-03	100.00
7-16-03	100.00
8-16-03	100.00
9-16-03	100.00
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PROPOSED ADDITIONS AND
ALTERATIONS TO EXISTING
RETAIL DEVELOPMENT
WRIGHTS ROAD, KELLYVILLE.
COLES GROUP PROPERTY
DEVELOPMENTS LTD.

PROPOSED GROUND FLOOR
LEVEL (NORTH)

LEFFLER SIMES ARCHITECTS

DA14 DONG INO.

PROJECT	3449
DATE	SEP 2012
DATE	1/12

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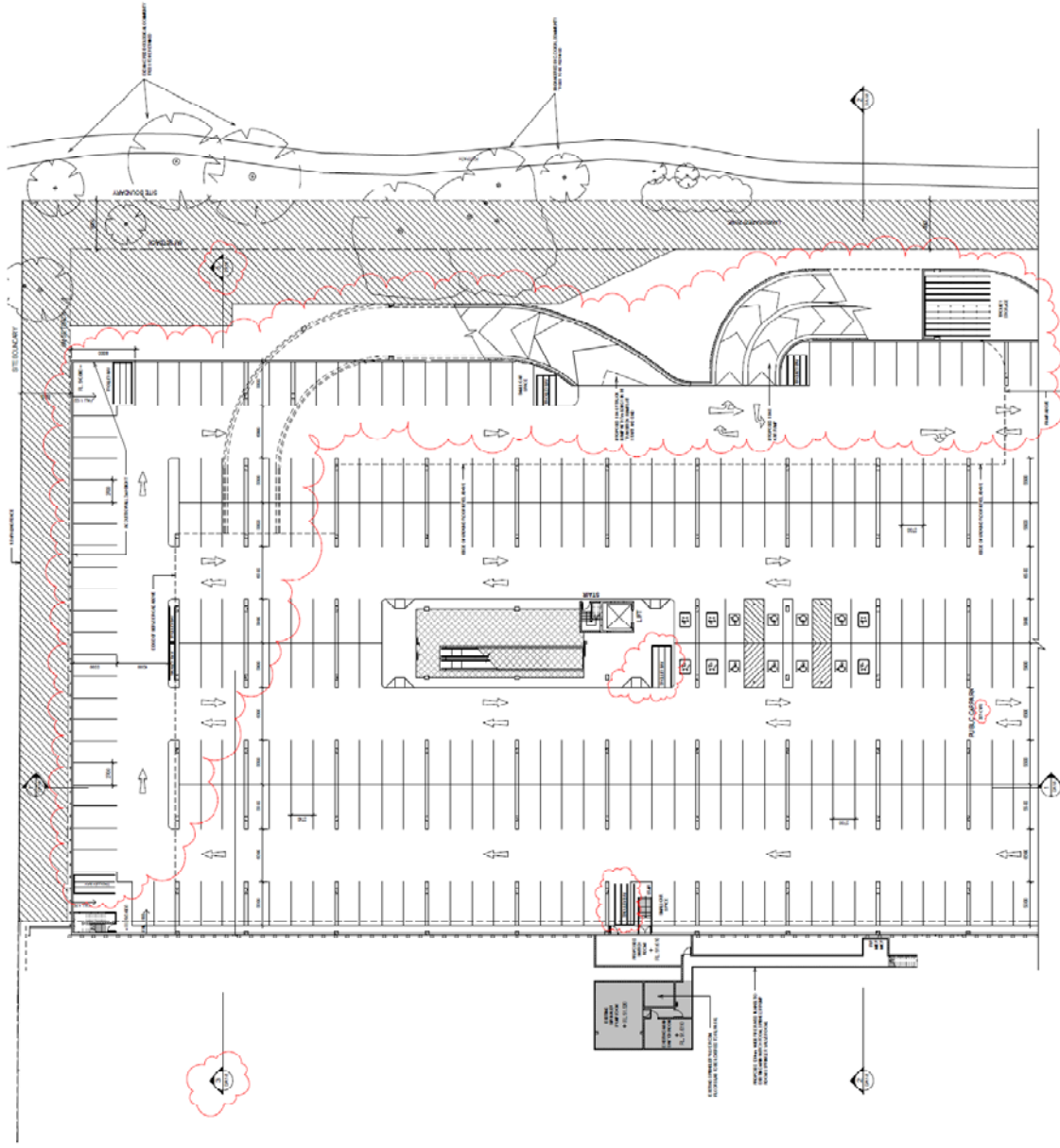
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2	ISSUED FOR PERMIT	08/10/20
3	ISSUED FOR PERMIT	08/10/20
4	ISSUED FOR PERMIT	08/10/20
5	ISSUED FOR PERMIT	08/10/20
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8	ISSUED FOR PERMIT	08/10/20
9	ISSUED FOR PERMIT	08/10/20
10	ISSUED FOR PERMIT	08/10/20



PROPOSED ADDITIONS AND
ALTERATIONS TO EXISTING
RETAIL DEVELOPMENT
WRIGHTS ROAD, KELLYVILLE,
COLES GROUP PROPERTY
DEVELOPMENTS LTD.

PROPOSED LOWER LEVEL
CARPARK (NORTH)

LEFFLER SKALES ARCHITECTS

DM12

PROJECT NO. 2019/00000000

1. VISION OF INITIAL DEVELOPMENT

2. SITE BOUNDARY OF SPRING HILL QLD 4004

3. 2019/00000000

4. 2019/00000000

5. 2019/00000000

6. 2019/00000000

7. 2019/00000000

8. 2019/00000000

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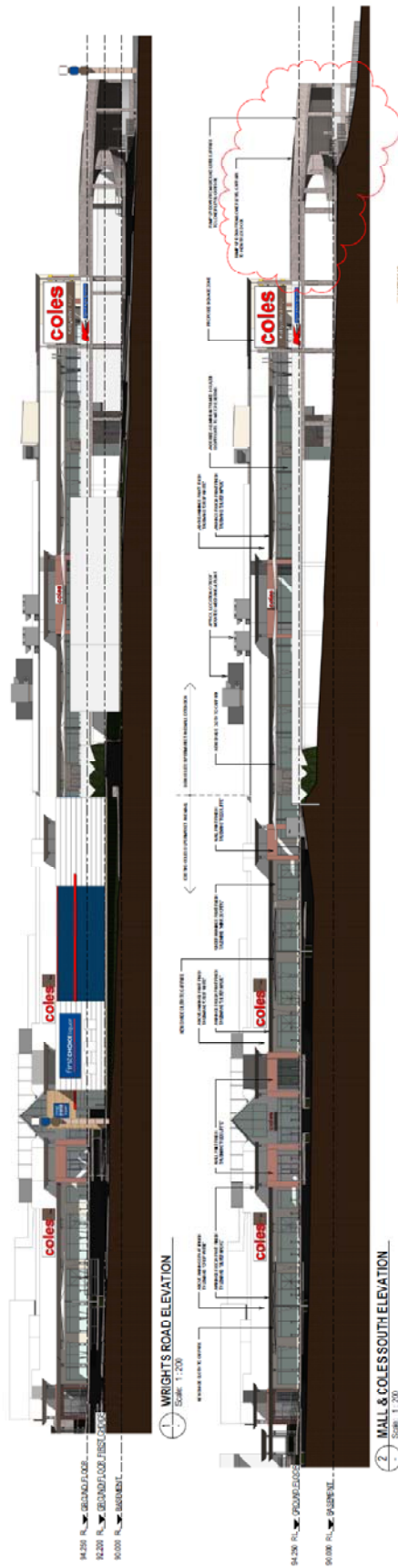
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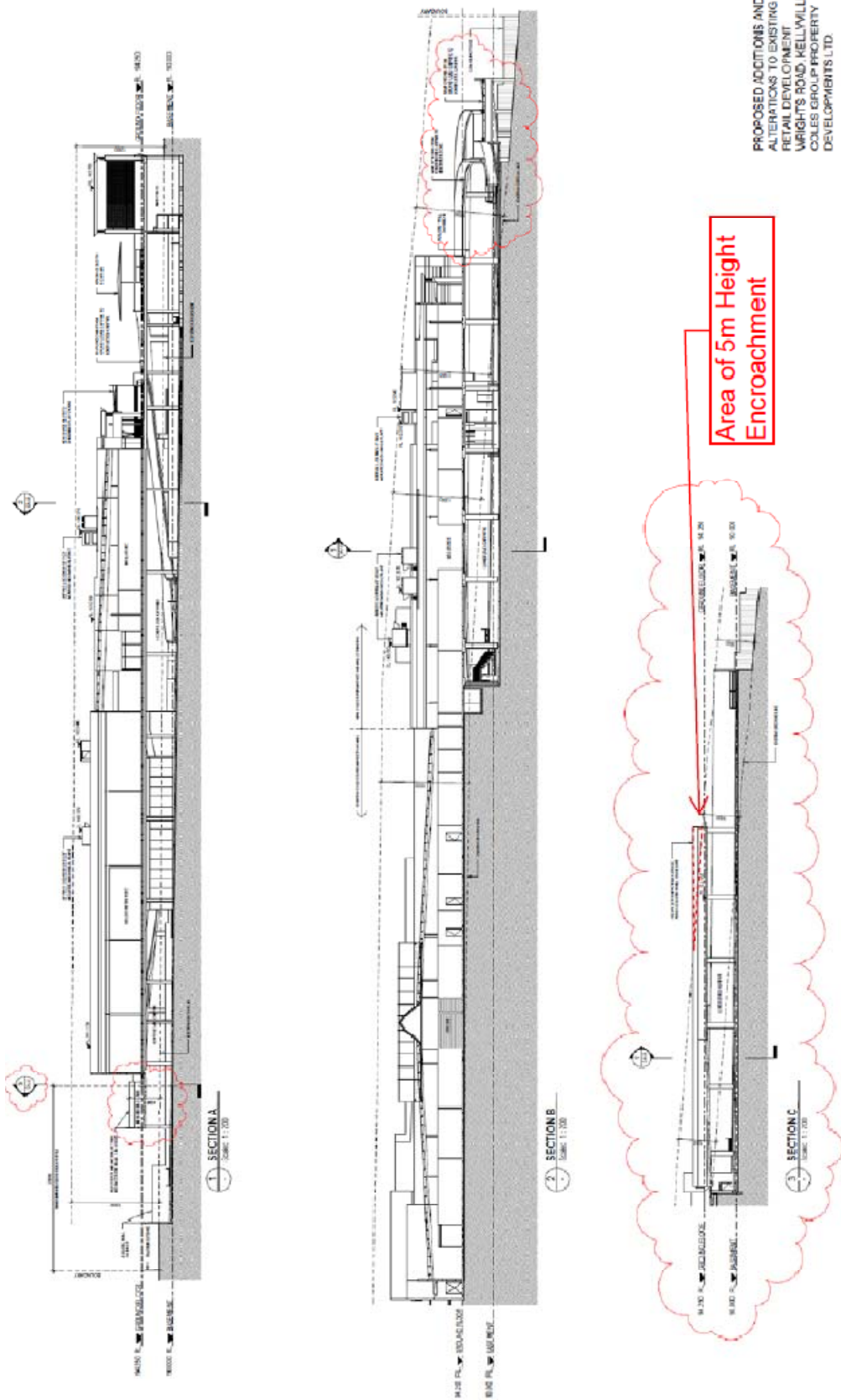
17. 2019/00000000

18. 2019/00000000

ATTACHMENT 8 – ELEVATIONS



ATTACHMENT 9 – SECTIONS



ATTACHMENT 11 – PHOTOMONTAGES



VIEW FROM SOUTH WEST ONWIGHTS ROAD



VIEW FROM SOUTH EAST ONWIGHTS ROAD

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BOX:0-103 / DOC:0-1030440 / HW:24-MAT-2003 / SCS:SC:ON / PIC:26-MAT-2003 12:54 / EJS:WMP / SEQ:1 OF 2

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE
USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTIONS
88RA & 88B OF THE CONVEYANCING ACT, 1919

DP1050440

Full name and address of Registered
Proprietors of the Land:

(Sheet 1 of 13 sheets)
Deposited Plan in the Parish of
Castle Hill and County of Cumberland
~~CCC. 9621, 17-2-2003~~

Fabcot Pty Limited
Level 5
540 George Street
SYDNEY NSW 2000

Coles Myer Property Developments Pty Limited
800 Toorak Road
TOORANGA VIC 3146

PART 1

1. Identity of easement firstly referred to in the abovementioned plan Right of access variable width

Schedule of Lots, etc. affected

Lots burdened	Lots, name of road or authority benefited
Lot 2 in DP502655	Lot 7 in DP28985

2. Identity of easement secondly referred to in the abovementioned plan Right of carriageway 4.5 wide

Schedule of Lots, etc. affected

Lots burdened	Lots, name of road or authority benefited
Lot 2 in DP502655	Lot 7 in DP28985
Lot 7 in DP28985	Lot 2 in DP502655

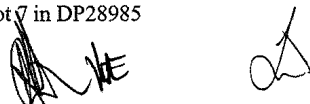
3. Identity of easement thirdly referred to in the abovementioned plan Right of footway 2.1 wide

Schedule of Lots, etc. affected

Lots burdened	Lots, name of road or authority benefited
Lot 2 in DP502655	Lot 7 in DP28985

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE
USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTIONS
88BA & 88B OF THE CONVEYANCING ACT, 1919

Plan: (Sheet 2 of 13 sheets)
Deposited Plan in the Parish of
Castle Hill and County of Cumberland
~~CCC 9821, 17.2.2003~~

Full name and address of Registered
Proprietors of the Land: Fabcot Pty Limited
Level 5
540 George Street
SYDNEY NSW 2000

DP1050440

Coles Myer Property Developments Pty Limited
800 Toorak Road
TOORANGA VIC 3146

Lot 7 in DP28985

Lot 2 in DP502655

PART 2

Terms of easement firstly referred to in the abovementioned plan:

1.1 Terms of Easement

Full free and unimpeded right for the Proprietor of the Lot Benefited and its Authorised Users at all times to:

- (a) pass and repass across the Easement Site for the purposes of access to and egress from the Lot Benefited for the Permitted Purpose; and
- (b) enter and remain upon the Easement Site, together with all necessary Equipment, for the purpose of conducting Works and Repairs;

but upon and subject to the Conditions.

1.2 Conditions

Each of the Conditions shall constitute and be covenants and agreements by and between the Proprietor of the Lot Benefited and the Proprietor of the Lot Burdened for themselves and their respective successors, assigns and transferees with the intention and agreement that the benefit and burden of such covenants and agreements shall pass with the benefit and burden of this Easement.

1.3 Maintenance of the Easement Site and Surrounding Areas

- (a) The Proprietor of the Lot Burdened shall maintain and keep maintained the Easement Site:
 - (i) in good and useable repair and condition;
 - (ii) to permit access to and egress from the Lot Benefited for the Permitted Purpose.

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE
USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTIONS
88BA & 88B OF THE CONVEYANCING ACT, 1919

Plan: (Sheet 3 of 13 sheets)
Deposited Plan in the Parish of
Castle Hill and County of Cumberland
~~CCC 9821, 17.2.2003~~

Full name and address of Registered
Proprietors of the Land: Fabcot Pty Limited
Level 5
540 George Street
SYDNEY NSW 2000

DP1050440 Coles Myer Property Developments Pty Limited
800 Toorak Road
TOORANGA VIC 3146

- (b) If the Proprietor of the Lot Burdened fails or refuses to adequately maintain the Easement Site under **clause 1.3(a)**, the Proprietor of the Lot Benefited and /or its Authorised Users may, after giving not less than 21 days written notice to the Proprietor of the Lot Burdened, except in the case of an emergency when reasonable notice is required, having regard to the nature of the emergency, in accordance with **clause 1.1** enter the Easement Site for the purpose of conducting Works and Repairs in relation to the Easement Site.
- (c) Any notice given under this clause must:
- (i) indicate the proposed timing, duration, nature, extent and method of conducting such Works and Repairs; and
 - (ii) indicate the estimated cost of such Works and Repairs.

1.4 Cost of Works and Repairs

Whether the Works and Repairs are carried out by the Proprietor of the Lot Burdened or the Proprietor of the Lot Benefited (and despite the provisions of **clause 1.3(a)**), the cost of the Works and Repairs will be shared between the Parties as follows:

- (a) Proprietor of Lot Benefited 60%; and
- (b) Proprietor of Lot Burdened 40%.

Any such cost may be recovered by the Party entitled to it as a debt due and payable by the other Party.

1.5 Minimising Damage when Enjoying Rights

- (a) The Proprietor of the Lot Benefited shall and must procure that all Authorised Users shall:
 - (i) take all reasonable precautions to ensure as little damage as possible to the Lot Burdened and the Easement Site;
 - (ii) to the extent that the Proprietor of the Lot Burdened or the Authorised Users cause such damage, make good that damage in accordance with this Easement;

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE
USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTIONS
88BA & 88B OF THE CONVEYANCING ACT, 1919

Plan:	(Sheet 4 of 13 sheets) Deposited Plan in the Parish of Castle Hill and County of Cumberland CCC 9821 , 17.2.2003
Full name and address of Registered Proprietors of the Land:	Fabcot Pty Limited Level 5 540 George Street SYDNEY NSW 2000
DP1050440	Coles Myer Property Developments Pty Limited 800 Toorak Road TOORANGA VIC 3146

- (iii) take all reasonable precautions at all times to ensure that no delay or disruption is caused to vehicles or persons entering or leaving the Easement Site or the Lot Burdened; and
- (iv) comply with signage regulating or directing vehicles within the Easement Site erected in accordance with **clause 1.7(b)**.
- (b) In the event that the Proprietor of the Lot Benefited defaults in its obligations under **clause 1.5 (a)**, the Proprietor of the Lot Burdened may serve upon the Proprietor of the Lot Benefited a notice in writing requiring the Proprietor of the Lot Benefited to comply with its obligations under **clause 1.5 (a)** within a reasonable time.
- (c) If the Proprietor of the Lot Benefited fails to comply with the notice referred to in **clause 1.5 (b)**, the Proprietor of the Lot Burdened may rectify the default and the cost of such rectification may be recouped by the Proprietor of the Lot Burdened as a debt due and payable from the Proprietor of the Lot Benefited and the provisions of **clause 1.4** do not apply to those costs.

1.6 Conduct of the Works and Repairs

In conducting any Works and Repairs, the Party carrying out those Works and Repairs shall:

- (a) as soon as possible after carrying out the Works and Repairs, restore the Easement Site as nearly as practicable to such condition as existed prior to the carrying out of those Works and Repairs;
- (b) ensure that the Works and Repairs are conducted in a proper and workmanlike manner and in accordance with the requirements of all Authorities and Laws;
- (c) take all reasonable precautions to ensure as little damage as possible to the Lot Burdened;
- (d) immediately make good any damage caused to the Lot Burdened in carrying out those Works and Repairs;
- (e) take all reasonable precautions to ensure that access to the Easement Site by the Proprietor of the Lot Burdened and those authorised by it is not interrupted;

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE
USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTIONS
88BA & 88B OF THE CONVEYANCING ACT, 1919

Plan: (Sheet 5 of 13 sheets)
Deposited Plan in the Parish of
Castle Hill and County of Cumberland
CCC 4821, 17.2.2003

Full name and address of Registered
Proprietors of the Land: Fabcot Pty Limited
Level 5
540 George Street
SYDNEY NSW 2000

DP1050440 Coles Myer Property Developments Pty Limited
800 Toorak Road
TOORANGA VIC 3146

- (f) take all reasonable precautions to ensure that the access of the Proprietor of the Lot Benefited and its Authorised Users under this Easement is not interrupted; and
- (g) take all reasonable steps to ensure the cost incurred in conducting the Works and Repairs are reasonable.

1.7 No Parking and Following Directions

- (a) Nothing in this Easement entitles the Proprietor of the Lot Benefited or any Authorised Users to park or turn any Vehicles or any other vehicle on the Easement Site or on the Lot Burdened (other than in accordance with the proper and usual use of the Easement Site).
- (b) The Proprietor of the Lot Burdened shall be entitled to impose reasonable directions and erect signage consistent with the rights and obligations created by this Easement describing directions controlling movements of Vehicles on the Easement Site so as to control traffic on the easement Site and to avoid traffic conflict and, in particular, delays or disruptions to deliveries to and from the Lot Burdened and Lot Benefited and the Proprietor of the Lot Benefited shall itself, and use its best endeavours to ensure that any Authorised Users, comply with those directions and signage.

1.8 Termination

- (a) Except with the written consent of the Proprietor of the Lot Burdened, this Easement shall operate and have force and effect only while the use of the Lot Benefited is a use permitted and approved under a planning law or policy of an Authority.
- (b) If the Proprietor of the Lot Benefited changes its use of the Lot Benefited in a way which results in a material increase in the number or size of Vehicles entering or leaving the Easement Site, the Proprietor of the Lot Burdened may by written notice request a review of the proportions of the costs of Works and Repairs as set out in **clause 1.4**.
- (c) If the Proprietor of the Lot Burdened and the Proprietor of the Lot Benefited cannot agree the proportions of the costs of Works and Repairs as set out in **clause 1.4**, within 14 days after notice is given under **clause 1.8(b)**, then those

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**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE
USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTIONS
88BA & 88B OF THE CONVEYANCING ACT, 1919**

Plan:	(Sheet 6 of 13 sheets) Deposited Plan in the Parish of Castle Hill and County of Cumberland CCC. 9821, 17.2.2003
Full name and address of Registered Proprietors of the Land:	Fabcot Pty Limited Level 5 540 George Street SYDNEY NSW 2000
DP1050440	Coles Myer Property Developments Pty Limited 800 Toorak Road TOORANGA VIC 3146

parties must submit the dispute to expert determination under the Australian Commercial Disputes Centre Alternative Dispute Resolution Guidelines for the Expert Determination of Commercial Disputes (applicable at the date a person is appointed as an expert under this clause 1.8) by:

- (i) agreeing on a person to appoint jointly as an expert to make a determination on the dispute and appointing that person on condition that when accepting the appointment, that person undertakes to comply with those guidelines; or
- (ii) (if the parties cannot agree on a person to appoint as an expert within 21 days after the notice is given under clause 1.8) either party asking the Australian Commercial Disputes Centre to appoint a person as an expert to make a determination on the dispute on condition that when accepting the appointment that person undertakes to comply with those guidelines.

The parties must also comply with those guidelines.

1.9 Indemnity

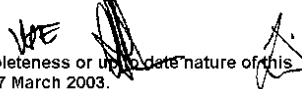
The Proprietor of the Lot Benefited shall indemnify and keep indemnified the Proprietor of the Lot Burdened from all actions (whether in tort or otherwise), suits, claims, demands, penalties, proceedings, losses, damages, compensation, costs (including but not limited to legal costs on a full indemnity basis), charges and expenses, other than to the extent caused or contributed to by the wilful or negligent act or omission of the Proprietor of the Lot Burdened, its contractors, representatives, officers, employees, assigns, licensees and lessees which are brought, claimed, issued or assessed against the Proprietor of the Lot Burdened or payable or suffered by the Proprietor of the Lot Burdened arising out of the rights granted to the Proprietor of the Lot Benefited by this Easement.

1.10 Goods and Services Tax

- (a) Expressions which are not defined in this clause 1.10 but which have a defined meaning in GST Law have the same meaning in this clause.
- (b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Easement are exclusive of GST.

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE
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88BA & 88B OF THE CONVEYANCING ACT, 1919

Plan:	(Sheet 7 of 13 sheets) Deposited Plan in the Parish of Castle Hill and County of Cumberland CCC 4821, 17.2.2003
Full name and address of Registered Proprietors of the Land:	Fabcot Pty Limited Level 5 540 George Street SYDNEY NSW 2000
DP1050440	Coles Myer Property Developments Pty Limited 800 Toorak Road TOORANGA VIC 3146

- (c) If GST is payable by the supplier on any supply made in respect of this Easement the recipient will pay to the supplier an amount equal to the GST payable on the supply. That amount will be paid:
- (i) at the same time that the consideration for the supply is to be provided under this Easement; and
 - (ii) will be provided in addition to the consideration expressed elsewhere in this Easement,
- within 14 days of the supplier providing to the recipient a tax invoice in respect of the supply.
- (d) If at any time an adjustment event arises in respect of any supply made by the supplier under this Easement, the supplier shall provide the recipient with an adjustment note immediately upon becoming aware of the adjustment event and a corresponding adjustment will be made between the supplier and the recipient in respect of any amount paid by the recipient to the supplier under **clause 1.10 (c)** and a payment will be made by the recipient to the supplier or by the supplier to the recipient as the case requires.
- (e) Where a party is required under this Easement to pay for or reimburse an expense or outgoing of the other Party, the amount to be paid by the first Party is the sum of:
- (i) The amount of the expense or outgoing less any input tax credits in respect of such expense or outgoing that the other Party is entitled to; and
 - (ii) If the payment of the expense or outgoing is consideration for a taxable supply, an amount equal to the GST payable by the other Party in respect of that payment.

1.11 Definitions

For the purposes of this Easement, unless the contrary intention appears, the following terms have the following meanings:

"Authorised User" means the contractors, subcontractors, representatives, employees, lessees, licensees and agents of the Proprietor of the Lot Benefited and all other persons

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE
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DP1050440	Coles Myer Property Developments Pty Limited 800 Toorak Road TOORANGA VIC 3146

authorised by the Proprietor of the Lot Benefited other than the customers of the Proprietor of the Lot Benefited or the customers of the occupiers of the Lot Benefited;

"Authority" means a government, semi-government, local government, statutory, public, ministerial, civil or other authority or body;

"Conditions" means the conditions contained in **clauses 1.2 to 1.12** (both inclusive);

"Easement" means this easement and includes the Conditions;

"Easement Site" means the part of the Lot Burdened shown on the abovementioned Deposited Plan;

"Equipment" means all necessary tools, implements, materials, machinery and vehicles required to effect the Works and Repairs;

"GST Law" has the meaning given to that expression in the A New Tax System (Goods and Services Tax) Act 1999.

"Laws" means:

- (a) acts, ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth of Australia and State of New South Wales; and
- (b) certificates, licences, consents, permits, approvals and requirements of organisations having jurisdiction in the relevant circumstances.

"Lot Benefited" means the land referred to in Part 1 of this Instrument as being the land benefited by this Easement;

"Lot Burdened" means the land referred to in part 1 of this Instrument as being the land burdened by this Easement;

"Party" means the Proprietor of the Lot Burdened and the Proprietor of the Lot Benefited;

"Permitted Purpose" means for:

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE
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88BA & 88B OF THE CONVEYANCING ACT, 1919

Plan:	(Sheet 9 of 13 sheets) Deposited Plan in the Parish of Castle Hill and County of Cumberland CCC 8821, 17.2.2003
Full name and address of Registered Proprietors of the Land:	Fabcot Pty Limited Level 5 540 George Street SYDNEY NSW 2000
DP1050440	Coles Myer Property Developments Pty Limited 800 Toorak Road TOORANGA VIC 3146

- (a) delivery in Vehicles or collection in Vehicles of goods, plant, equipment or furniture to the retail and commercial premises located on the Lot Benefited other than by or on behalf of customers, potential customers, clients or potential clients of the occupiers of the Lot Benefited;
- (b) collection in Vehicles of refuse, waste, garbage, recyclable materials from the retail and commercial premises located on the Lot Benefited; and
- (c) access by building, construction, repair and maintenance contractors and sub-contractors of the Proprietor of the Lot Benefited and/or the occupiers of the Lot Benefited;

"Proprietor of the Lot Benefited" means every person (which term includes a corporation) who is at any time entitled to an estate or interest in the Lot Benefited, including without limitation any freehold or leasehold estate or interest in possession in the Lot Benefited and each part of the Lot Benefited;

"Proprietor of the Lot Burdened" means every person (which term includes a corporation) who is at any time entitled to an estate or interest in the Lot Burdened, including without limitation any freehold or leasehold estate or interest in possession in the Lot Burdened and each part of the Lot Burdened;

"Vehicles" means such vehicles as are permitted by Law from time to time to access the Lot Benefited, the Lot Burdened and /or the Easement Site and which are being used at the time of that access for the Permitted Purpose but excluding vehicles being used for the purpose of conveying customers or potential customers, clients or potential clients of the retail or commercial business occupying or being conducted from the Lot Benefited; and

"Works and Repairs" means the carrying out of any construction works, repairs, maintenance, reinstatement or renewal of the Easement Site for the purpose of the Permitted Purpose.

1.12 Interpretation

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE
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88BA & 88B OF THE CONVEYANCING ACT, 1919

Plan:	(Sheet 10 of 13 sheets) Deposited Plan in the Parish of Castle Hill and County of Cumberland CCC 9821, 17.1.2003
Full name and address of Registered Proprietors of the Land:	Fabcot Pty Limited Level 5 540 George Street SYDNEY NSW 2000
DP1050440	Coles Myer Property Developments Pty Limited 800 Toorak Road TOORANGA VIC 3146

- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) "clause", "paragraph", "schedule" or "sub-clause" means a clause, paragraph, schedule or sub-clause, respectively, of this Easement.
- (e) Unless stated otherwise, one provision does not limit the effect of another.
- (f) A reference to any Law or to any provision of any Law includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.
- (g) A reference to conduct includes, without limitation, any omission, statement or undertaking, whether or not in writing.
- (h) Headings contained in this Easement and the summary section at the start of this Easement are for information purposes only and must not affect the interpretation of this Easement.

The name of the person empowered to release, vary or modify the easement firstly referred to in the abovementioned plan:

The Baulkham Hills Shire Council.

Terms of easement secondly referred to in the abovementioned plan:

2.1 Terms of Easement

Right of Carriageway within the meaning of Part 1 of Schedule 8 of the *Conveyancing Act 1919* (as amended).

2.2 Repair and Maintenance

- (a) Subject to **clause 2.2(b)**, the Proprietors of Lot 2 in DP502655 and Lot 7 in DP28985 will be jointly responsible for repairing and maintaining the surface of the Right of Carriageway in equal proportions.
- (b) If the Proprietor of the Lot Burdened by the Right of Carriageway does not contribute to the repair and maintenance of the area of the Right of

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USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTIONS
88BA & 88B OF THE CONVEYANCING ACT, 1919

Plan:	(Sheet 11 of 13 sheets) Deposited Plan in the Parish of Castle Hill and County of Cumberland CCC 4821, 17.2.2003
Full name and address of Registered Proprietors of the Land:	Fabcot Pty Limited Level 5 540 George Street SYDNEY NSW 2000
DP1050440	Coles Myer Property Developments Pty Limited 800 Toorak Road TOORANGA VIC 3146

Carriageway to the standard reasonably required by the Proprietor of the Lot Benefited within a reasonable time of receiving a written request to do so from the Proprietor of the Lot Benefited, then the Proprietor of the Lot Benefited may enter on the Lot Burdened, carry out the required work and recover the proportion of the costs payable by the Proprietor of the Lot Burdened for such works from the Proprietor of the Lot Burdened as a debt due and payable.

The name of the person empowered to release, vary or modify the easement secondly referred to in the abovementioned plan:

The Baulkham Hills Shire Council.

Terms of easement thirdly referred to in the abovementioned plan:

3.1 Terms of Easement

Right of Footway within the meaning of Part 2 of Schedule 8 of the *Conveyancing Act* 1919 (as amended).

3.2 Repair and Maintenance

- (a) Subject to **clause 3.2(b)**, the Proprietors of Lot 2 in DP502655 and Lot 7 in DP28985 will be jointly responsible for repairing and maintaining the surface of the Right of Footway in equal proportions.
- (b) If the Proprietor of the Lot Burdened by the Right of Footway does not contribute to the repair and maintenance of the area of the Right of Footway to the standard reasonably required by the Proprietor of the Lot Benefited within a reasonable time of receiving a written request to do so from the Proprietor of the Lot Benefited, then the Proprietor of the Lot Benefited may enter on the Lot Burdened, carry out the required work and recover the proportion of the costs payable by the Proprietor of the Lot Burdened for such works from the Proprietor of the Lot Burdened as a debt due and payable.

S/1558162/3SYD4_383986_6 (W97)

BHSC DISCLAIMER - BHSC does not give any guarantees concerning the accuracy, completeness or up to date nature of this document. For verification of this document contact Land & Property Information NSW. 17 March 2003.

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE
USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTIONS
88BA & 88B OF THE CONVEYANCING ACT, 1919

Plan:

(Sheet 12 of 13 sheets)
Deposited Plan in the Parish of
Castle Hill and County of Cumberland
CCC. 4821, 17.2.2003

Full name and address of Registered
Proprietors of the Land:

Fabcot Pty Limited
Level 5
540 George Street
SYDNEY NSW 2000

DP1050440

Coles Myer Property Developments Pty Limited
800 Toorak Road
TOORANGA VIC 3146

The name of the person empowered to release, vary or modify the easement thirdly
referred to in the abovementioned plan:

The Baulkham Hills Shire Council.

DATED this

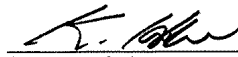
day of

2003

EXECUTED by **FABCOT PTY LIMITED**

ABN 88 002 960 983 by its attorney, pursuant
to power of attorney dated 18 June 2001 who
states that no notice of revocation of the power
of attorney has been received, in the presence
of

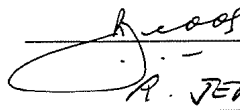
*ROHAN KENNETH STRETTON JEFFS
BOOK 4312 No 884



Signature of witness



Name of witness (print)



R. JEFFS

S/1558162/3SYD4_383986_6 (W97)

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON THE
USE OF LAND INTENDED TO BE CREATED PURSUANT TO SECTIONS
88BA & 88B OF THE CONVEYANCING ACT, 1919

Plan:

(Sheet 13 of 13 sheets)
Deposited Plan in the Parish of
Castle Hill and County of Cumberland
CCC. 9821, 17.2.2003

Full name and address of Registered
Proprietors of the Land:

Fabco Pty Limited
Level 5
540 George Street
SYDNEY NSW 2000

DP1050440

Coles Myer Property Developments Pty Limited
800 Toorak Road
TOORANGA VIC 3146

The common seal of COLES MYER
PROPERTY DEVELOPMENTS LIMITED
is fixed to this document in accordance with its
constitution



Signature of director

KEVIN JOHN ELKINGTON
DIRECTOR

Name of director (print)

Signature of ~~director~~/company secretary
(Please delete as applicable)

ANDREW JAMES ROBINSON
SECRETARY

Name of ~~director~~/company secretary (print)

Signed for BAULKHAM HILLS SHIRE
COUNCIL by an authorised officer in the presence
of

Signature of officer

Signature of witness

Name of witness (print)

Name of officer (print)

Office held

S/1558162/38YD4_383986_6 (W97)

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REGISTERED



24.3.2003

ATTACHMENT 13 – OFFICE OF WATER GENERAL TERMS OF APPROVAL



Department of
Primary Industries
Office of Water

Contact: Gina Potter
Phone: 02 8838 7566
Fax: 02 8838 7554
Email: gina.potter@water.nsw.gov.au
Our ref: 10 ERM2013/0011
Our file: 9051048
Your ref: DA2013/709JP

The General Manager
The Hills Shire Council
PO Box 75
Castle Hill NSW 1765

DOC. No.:
BOX No.:
08 FEB 2013
THE HILLS SHIRE COUNCIL

Attention: Robert Buckham

6 February 2013

Dear Sir/Madam

Re: Integrated Development Referral – General Terms of Approval
Dev Ref: DA2013/709JP

Description of proposed activity: Redevelopment of Kellville Plaza fitout out and extension to coles construction of liquor store kmart tyre services
Site location: 90-92 Wrights Road Kellyville

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the subject property. Attached, please find the Office of Water's General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the Office of Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- The Office of Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, the Office of Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.

www.water.nsw.gov.au

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- The Office of Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- The Office of Water requests notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, the Office of Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".

The attached GTA are not the controlled activity approval. The applicant must apply (to the Office of Water) for a controlled activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date the Office of Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office of Water) and proof of Council's development consent.

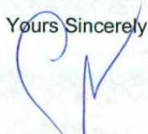
Application forms for the controlled activity approval are available from the undersigned or from the Office of Water's website:

www.water.nsw.gov.au [Water licensing](#) > [Approvals](#) > [Controlled activities](#)

The Office of Water requests that Council provide a copy of this letter to the applicant.

The Office of Water also requests that Council provides the Office of Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours Sincerely



Gina Potter
Licensing Officer (Controlled Activities)
Office of Water - Licensing South

General Terms of Approval

for work requiring a controlled activity approval
under s91 of the Water Management Act 2000

Our Reference: 10 ERM2013/0011 **File No:** 9051048
Site Address: 90-92 Wrights Road Kellyville
DA Number: DA2013/709JP
LGA: The Hills Shire Council

Number	Condition
Plans, standards and guidelines	
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA2013/709JP and provided by Council: (i) Site plan, map and/or surveys Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.
3	The consent holder must prepare or commission the preparation of: (i) Vegetation Management Plan (ii) Erosion and Sediment Control Plan (iii) Soil and Water Management Plan
4	All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx (i) Vegetation Management Plans (ii) Outlet structures
5	The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.
6	N/A
7	The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
Security deposits	

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 f + 61 2 8838 7554 | e information@water.nsw.gov.au | ABN 47 661 556 763
 170912

Our Reference: 10 ERM2013/0011

File No: 9051048

Site Address: 90-92 Wrights Road Kellyville

DA Number: DA2013/709JP

LGA: The Hills Shire Council

Number	Condition
9	The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to the NSW Office of Water as and when required.
10-13	N/A
14	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
15	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.
16	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
END OF CONDITIONS	

www.water.nsw.gov.au

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ATTACHMENT 14 – DCP COMPLIANCE TABLES

THE HILLS DEVELOPMENT CONTROL PLAN - PART B, SECTION 6 – BUSINESS

Development Controls	Proposal	Compliance
2.2 Site Analysis		
(a) Development should be designed to respect constraints such as topography, drainage, soil landscapes, flora, fauna and bushfire hazard.	Complies.	Complies.
(b) Disturbance to existing landforms, creeks, wetlands and overland flow paths should be minimised.	Complies.	Complies.
(c) Development on land adjoining bushland reserves should incorporate measures (such as setbacks and buffers) to prevent any impact on these reserves.	Refer to the Fauna and Flora Impact Assessment and Vegetation Management Plan	Complies.
(d) Development should be sited away from steep slopes (particularly those containing natural vegetation) so that, where possible, these features can be kept in a natural state.	Complies.	Complies.
(e) Land with a slope greater than 20% is not suitable for development.	Complies.	Complies.
(f) Development applications for proposals on land with a slope of between 15-20% must be accompanied by a geotechnical report.	Complies.	Complies.
2.3 Development Sites		
<i>(a) Repealed.</i>	<i>Not applicable.</i>	Not applicable.
(b) The minimum site frontage requirement is 18 metres.	Existing development site. Complies.	Complies.
(c) Development should ensure that adequate provision has been made for water, sewerage, energy supply, telecommunications and stormwater drainage to the satisfaction of the relevant authorities.	Complies.	Complies.
(d) Development consent will not be granted until arrangements satisfactory to the relevant authorities are made for the provision of services.	Complies.	Complies.

(e) All services shall be underground and the installation of services should occur in a co-operative manner for efficiency and to minimise ground disturbance.	Complies.	Complies.
(f) Consent may not be granted to an application that isolates an area of land that does not meet the minimum site area requirements.	Development of the site will occur on the site via alternative access arrangements through the right of access easement over the ALDI site (Lot 1) on 92 Wrights Road, Kellyville as per Development Consent No. 212/2010/ZA/A.	Complies
2.4 Floor Space Ratio		
(a) Refer to Clauses 4.4 and 4.5 of The Hills Local Environmental Plan 2010 written instrument and Floor Space Ratio Maps.	Complies.	Complies.
(b) Not applicable.	Not applicable.	Not applicable.
2.5 Setbacks		
(a) For all business zoned land except Norwest Business Park: (b) All single and two storey retail/commercial development located along a public road may utilize a zero setback, other than in those site specific areas specified on the precinct plan maps contained in Appendix 1 of this Section.	Refer to the assessment of the Wrights Road Precinct Controls.	Complies.
(c) For buildings greater than two storeys or 8 metres in height, the remaining storeys are to be setback within a building height plane of 45 degrees starting from a height of 8 metres.	No protrusion	Complies.

(d) Where any proposed development is opposite or adjacent to Residential, Special Uses or Open Space zones, the building shall be setback a minimum of 6 metres, or as specified on the precinct plan maps contained in Appendix 1 to this Section. This area is to be used exclusively for landscaping and screening purposes or for the protection of endangered ecological communities present on a site.	<p>The proposed landscaping along the eastern boundary on the southern end of the site abutting the ALDI site (approved Lot 1) is 5.85m wide. This width of the landscaped area is 150mm less than the minimum 6m setback. A variation to the minimum 6m setback DCP 2011 requirement is sought as part of the ALDI DA (501/2013/HC).</p> <p>The proposed landscaping within this area of the site will satisfy the intent of the clause by providing landscaping that will screen the development from open spaces</p>	Does not Comply.
(e) Redevelopment of any commercial/retail development, operating under existing use rights in a residential zone, will be required to comply with the residential setback applying to the locality.	Not applicable.	Not applicable.
(f) Council will require written concurrence from Integral Energy for developments proposed with an electrical easement.	Able to comply.	Able to comply.
(g) The setback to a creek is to be no less than 40 metres from the top of the bank of the creek or otherwise to the requirements of the Office of Environment and Heritage.	The proposed development includes works within 40m of the top of the bank of Smalls Creek to the east of the site. GTA's provided by Office of Water.	Complies
(h) Where a development site is affected by a road widening proposal the minimum setback will be measured from the proposed new alignment of the road.	Not applicable.	Not applicable.
2.6 Building Height		
(a) Refer to Clause 4.3, Clause 5.6 and Height of Buildings Maps in the Hills Local Environmental Plan 2012.	Complies.	Complies.
(b) The maximum height of buildings within the B2 Local Centre zone shall be 3 storeys or as specified on the precinct plan maps contained in Appendix 1 to this Section of the DCP.	Part site affected by 5m Building Height. Minor protrusion of loading dock within 5m height limit of 1.2m	Does not Comply.

(d) – (h) Not applicable.	Not applicable.	Not applicable.
(i) Where a building creates overshadowing of an adjoining property the roof shall be designed so as to minimise shadow effects	Satisfactory.	Complies.
2.7 Building Design and Materials		
(a) All building construction must comply with the Environmental Planning & Assessment Act 1979 (EP & A Act) and the Building Code of Australia.	Complies.	Complies.
(b) All external walls of buildings shall be constructed of brick, glass, pre-cast exposed aggregate panels of similar material. However, use of new materials that generate lower environmental cost will be considered on their merits. Under no circumstances will masonry block work be permitted on external walls.	Complies.	Complies.
(c) Design of buildings shall give consideration to the privacy of adjoining residential development.	Complies.	Complies.
(d) Balconies/terraced areas adjacent to residential zones shall be suitably screened to prevent overlooking and privacy impact properties.	Not applicable.	Not applicable.
(e) Natural ventilation is preferred, however where mechanical ventilation is necessary any roof ventilators exhaust towers, hoppers and the like should not be located so as not to be visible from any public place or residential area. Where feasible, the design of such items should be complementary to the design and appearance of the building as a whole.	Mechanical Plant proposed, satisfactory.	Complies.
(f) Consideration should be given to use of low reflectivity building materials on building facades.	Complies.	Complies.
(g) Avoid materials that are likely to contribute to poor internal air quality such as those generating formaldehyde (new carpets) or those that may create a breathing hazard in the case of fire (eg polyurethane).	Able to comply.	Able to comply.
(h) Select materials that will minimise the long-term environmental impact over the whole life of the development.	Able to comply.	Able to comply.
(i) Preference should be given to materials derived from renewable sustainable and generate a lower environmental cost, recycled material or	Able to comply.	Able to comply.

materials with low embodied energy, better lifecycle costs and durability. For example, use plantation rather than old growth timbers.		
(j) Choice of materials should be based on consideration of both their environmental and economic costs.	Able to comply.	Able to comply.
(k) In accordance with the "Designing Safer Communities Guidelines" buildings should be designed with visible entrances, no entrapment spaces and utilise anti-graffiti surfaces.	Crime Prevention Through Environmental Design criteria reviewed by NSW Police.	Complies.
2.8 Signage		
(a) Refer to Part C Section 2 – Signage of The Hills DCP 2011.	Refer to the compliance table below for an assessment against Part C Section 2 – Signage of The Hills DCP 2011.	
2.9 Hours of Operation		
(a) Repealed.		
(b) Proposed hours of operation must take into account the operation of loading docks, waste collection services and the use of cleaning/maintenance vehicles, out of hours.	Details provided within SEE	Complies. Conditions imposed
(b) Justification is required to be submitted or the hours of operation and which address noise or	Refer to the Noise Report and Noise Management Plan prepared by Wilkinson	Complies.
2.10 Energy Efficiency		
(a) The design of all buildings shall demonstrate passive solar design principles i.e., <ul style="list-style-type: none">• window placement;• building orientation• shading;• insulation;• thermal mass;• ventilation; and• incorporation of suitable landscaping.	Complies.	Complies.
(b) All buildings shall achieve as a minimum a 4 star Building Greenhouse rating with respect to energy efficiency. Details of the rating for each building are to provided with the development application.	Able to comply.	Able to comply.
2.11 Biodiversity		
Refer to Clause 7.4 Biodiversity (Terrestrial) of the Hills LEP 2012.	Refer to the Fauna Impact Assessment and Vegetation Management Plan.	Complies.

2.12 Erosion and Sediment Control

(a) Applications for all development, including subdivision, are to be accompanied by an Erosion and Sediment Control Plan (ESCP) that will describe the measures to be undertaken at development sites to minimise land disturbance and erosion, and to control sediment pollution of creeks. ESCPs are to clearly identify the erosion and sediment control measures to be used.	Refer Sediment and Erosion Control Plan.	Complies.
(b) Erosion and Sediment Control Plans shall be prepared in accordance with "Managing Urban Stormwater – Soils and Construction".	Complies.	Complies.

2.13 Fencing, Landscaping and Tree Preservation

(a) Existing trees and surrounding shrubs, groundcovers and grasses should be preserved.	Complies.	Complies.
(b) All setback and car parking areas are to be regenerated and maintained to a high standard utilising endemic species.	Complies.	Complies.
(c) Native species are to be used to maintain a strong natural theme for the neighbourhood, owing to their low maintenance characteristics, relative fast growth and suitability to the natural habitat.	Complies.	Complies.
(d) Landscape treatments are to harmonise with building designs and should consist of trees, shrubs, groundcovers and grass (Kikuyu is prohibited in any landscaping or lawn area).	Complies.	Complies.
(e) Landscaping is to be provided in accordance with the provisions set out in Part C Section 3 – Landscaping.	Refer to the compliance table below for an assessment against Part C Section 3 – Landscaping.	Complies.
(f) Grassed embankments are not to exceed a 1:6 slope.	Able to comply.	Able to comply.
(g) All landscaped areas are to have a minimum width of 2 metres.	The proposed development provides landscaped aisles 1.5m wide within modified areas of the car park. These landscaped areas incorporate tree planting and lower level ground covers and grasses. Additionally the proposal includes substantial 6m wide landscaping along the	Does not comply.

	<p>Wrights Road frontage near the 1st Choice Liquor Store, along the 1st Choice Liquor Store west building elevation, and along the rear of the 1st Choice Liquor Store loading dock and nearby substation.</p> <p>The landscaping strips that connect the Wrights Road frontage with the Kellyville Plaza entrance include 2 x 1.5m wide landscaped aisles and associated tree planting and paving which will provide a high quality landscaped treatment.</p> <p>The proposed landscaping is of a high quality and will significantly enhance the appearance of the site.</p>	
(h) In accordance with the "Designing Safer Communities Guidelines" landscaping should incorporate natural surveillance... and active use of open space.	Complies.	Complies.
i) Endangered ecological communities are to be preserved and maintained in accordance with a Vegetation Management Plan.	Refer to the Flora and Fauna Impact Assessment and Vegetation Management Plan.	Complies.
2.14 Road widening – Old Northern Road, Baulkham Hills – NOT APPLICABLE		
2.15 Terminus Street Car Park – NOT APPLICABLE		
2.16 Vehicular Access		
(a) Vehicular access to main roads shall not be permitted where alternative access is available or can be acquired.	Complies.	Complies.
(b) Adequate vehicular entry and exit from the development is to be provided and shall be designed to provide a safe environment for both pedestrians and vehicles using the site and surrounding road network.	Complies.	Complies.
(c) Vehicular ingress and egress to the site must be in a forward direction at all times.	Complies.	Complies.
(d) All internal driveways, circulation and parking areas are to be sealed with a hard-stand, all-weather material that complies with Council's "Work Specification Subdivision/Development" policy.	Complies.	Complies.

(e) All roads intended to be dedicated to Council's public roads shall be constructed to Council's requirements.	Not applicable.	Not applicable.
(f) Driveways from public roads will be: <ul style="list-style-type: none"> perpendicular to the road within the building setback; separated or divided at the property boundary for ingress and egress movements; sight distances are to be in accordance with Part C Section 1 – Parking of this DCP and Council's Design Guideline for Subdivisions/Developments. 	Complies.	Complies.
2.17 Car Parking		
An assessment against the controls contained in Part C Section 1 – Parking of DCP 2011.		
2.18 Bicycle Parking		
(a) Bicycle parking facilities are required for all new and redeveloping commercial/business centres. For all land zoned business (except Norwest Business Park), bicycle facilities are required to be provided for:- <ul style="list-style-type: none"> any new commercial/retail development, which exceeds 5,000m² in floor area; and any extensions to existing commercial/retail developments which will have the effect of increasing the size of the total development to greater than 5,000m². 	Complies.	Complies.
(b) Not applicable.	Not applicable.	Not applicable.
(c) Bicycle parking spaces for the above developments are to be provided at a minimum rate of 2 spaces plus 5% of the total number of car parking spaces required for the development. Consideration should be given to the provision of undercover facilities.	The proposed development provides 32 bicycle spaces.	Complies.
(d) Bicycle parking should be located in close proximity to the building's entrance and clustered in lots not exceeding 16 spaces.	Complies.	Complies.
(e) Each bicycle parking space shall be not less than 1.8 metres in length and 600mm in width and shall have a bicycle rack system.	Complies.	Complies.
(f) Bicycle parking facilities shall support bicycles in	Complies.	Complies.
(g) Bicycle parking facilities should be located in highly visible, illuminated areas to minimise theft and vandalism.	Complies.	Complies.

(h) Bicycle parking facilities shall be securely anchored to the site surface so they cannot easily be removed and shall be of sufficient strength to resist vandalism and theft.	Complies.	Complies.
(i) Bicycle parking facilities shall not impede pedestrian or vehicular circulation and should be in harmony with their environment and design. Parking facilities should be incorporated wherever possible into building or street furniture.	Complies.	Complies.
(j) Racks must not be placed so close to any wall or other obstruction so as to make use difficult.	Complies.	Complies.
(k) Bicycle parking facilities within car parking areas shall be separated by a physical barrier to protect bicycles from damage by cars, such as curbs, wheel stops or other similar features.	Complies.	Complies.
(l) Consideration should be given to providing staff change rooms and washing facilities.	Complies.	Complies.
2.19 Loading Facilities		
(a) Loading docks shall be located so they are not visible from adjoining residential areas and do not transmit excessive noise to adjoining residential areas.	Complies.	Complies.
(b) Provision of loading docks is to be commensurate with the size and nature of the proposed development.	Complies.	Complies.
(c) The number of loading bays required for supermarkets, department stores, mixed small shops and offices is specified in DCP Part C Section 1 - Parking. For all other permissible development, there is to be a minimum one loading dock space, suitable to the size of the development.	The proposed development includes dedicated loading areas	Complies.
(d) Turning provisions are to be provided within the site for the manoeuvring of vehicles using the loading and unloading facilities in accordance with AUSTROADS Turning Templates.	Complies.	Complies.
2.20 Pedestrian Access and Movement		
(a) Car parking spaces and layout should be designed to accommodate the limited mobility needs of visitors in regard to prams, wheelchair access and room for loading and unloading of wheelchairs & prams beside and behind vehicles.	Complies.	Complies.

(b) All pathways and ramps should conform to the minimum dimensional requirements set out in AS1428.1 – 2001 Design for Access and Mobility.	Able to comply.	Able to comply.
(c) Street furniture and obstructions should be kept clear of pathways, while overhanging objects should not be lower than 2100mm above pathways.	Able to comply.	Able to comply.
(d) All surfaces should be stable, even and constructed of slip resistant materials.	Able to comply.	Able to comply.
(e) International Symbols of Access should be displayed where buildings, crossings, amenities, car parking, pathways and ramps are accessible, as detailed in the Baulkham Hills Shire Council policy entitled "Making Access for All 2002".	Able to comply.	Able to comply.
(f) In accordance with the "Designing Safer Communities Guidelines" pathways should be open to provide greater visibility and be well-lit at night.	Able to comply.	Able to comply.
2.21 Parenting Facilities		
(a) Parenting rooms are to be provided for:- All new retail developments which exceed 3,000m ² in floor area; Any extensions to existing retail developments which will have the effect of increasing the size of the total development to greater than 3,000m ² ; and	A parenting room is provided adjacent to the mini major tenancy.	Complies.
(b) Parenting rooms should provide users with the following services and facilities:- <ul style="list-style-type: none"> • A quiet convenient place for parents to feed children in privacy; • Comfortable seating, preferably armchair style and couches for twins; • An allocated area safe and clean to change nappies; • A curtained breastfeeding area to maintain privacy of breast feeding women so that male carers of infants can access the area without disturbing breast feeding mothers; • provision of warm and cold water and hand drying facilities; • bottle warming facilities; • waste containers with tight fitting lids; • a smoke free zone; easy pram/stroller access; • adequate clear signage to identify the room/facility and such signage is not to include symbols such as stylized baby's bottles; 	The proposed parenting room provides a quiet and convenient area for parents.	Able to comply.

<ul style="list-style-type: none"> directional signage to identify the location of the room/facility; entry doors which are light to push, and have the ability to be propped open for pram and wheelchair access, but not automatic as toddlers can escape; toddler toilet with low mirror and low wash basin with automatic cut off taps; hot water thermostat regulators to be installed on taps; comfortable lighting and ventilation or air conditioning; disposable cup dispenser; and separate male and female toilets with sufficient additional space within each cubicle for a pram or a stroller. 		
2.22 Stormwater Management		
(a) Water Sensitive Urban Design (WSUD) principles shall be employed in the management of the site's/development's stormwater in terms of water retention, reuse and cleansing.	WSUD measures have been implemented in the proposed development.	Complies.
<p>(b) In all development, two of the following water sensitive urban design measures must be implemented in the development:-</p> <p>M1 Low Impact Building Design M2 Low Impact Landscape Design M3 Porous Paving M4 Rainwater Utilisation – toilet, hot water M5 Grey Water Utilisation – toilet M6 On-site Infiltration System M7 Stormwater Treatment System M8 Infiltration or Retention Basin M9 Stormwater Utilisation – irrigation M10 Grey Water Utilisation – irrigation</p> <p>(c) For development in Norwest Business Park, two of the measures M1 to M8 inclusive must be implemented. Details on the actions required to implement each of these measures is included in Appendix B of The Hills DCP 2011.</p>	<p>The proposed development implements the following WSUD measures:</p> <ul style="list-style-type: none"> M2 Low Impact Landscape Design. M7 Stormwater Treatment System. 	Complies.
(d) No adverse effects are to be experienced by downstream landowners from discharges from site that slope down from the fronting street.	Complies.	Complies.
(e) Discharge points are to be accessible for water quality testing.	Complies.	Complies.
(f) Discharge points are to be controlled and treated to prevent soil erosion, and may require energy dissipating devices	Appropriate scour protection will be provided to the outlet structure along Smalls Creek.	Complies.

on steeper topography, to Council's requirements.	The final location will be selected to minimise any adverse impacts on existing vegetation within the reserve.	
(g) On-site detention may be required to Council's satisfaction to counteract an increase in stormwater runoff.	An on-site detention tank is proposed.	Complies.
(h) Where required, on-site detention (OSD) plans will be required to be submitted with the development application. OSD plans are to be prepared in accordance with the Upper Parramatta River Catchment Trust OSD Handbook, (which also includes controls for the Hawkesbury/Nepean Catchment) by a suitably qualified design consultant.	The drainage collection system will be designed in accordance with Council's Engineering standards.	Complies.
(i) Concentrated stormwater flows must be connected to Council's drainage system. In some cases this may require the creation of drainage easements over downstream properties. In this circumstance, a letter of consent from the owner(s) of the downstream properties is to be submitted with the development application. Development consent will be conditional upon registrations of the created easement.	Stormwater from 90 Wrights Road (Lot 7 DP28985) will be directed into the stormwater drainage system on Wrights Road as per the existing arrangements for this catchment.	Complies
(j) Reference should be made to the Restriction As to User on the title of the land, or the development consent to which the development is proposed in relation to requirements for on-site detention.	Able to comply.	Able to comply.
(k) The design of drainage systems is to be in accordance with Council's Design Guidelines for Subdivisions/Developments.	Refer to item 2.22(h) above.	Complies.
(l) Natural drainage lines and creeks should be retained.	Complies.	Complies.
(m) The piping of creeks is not encouraged.	Complies.	Complies.
(n) Development proposals should not result in the filling of flood liable land or the erection of buildings on flood liable land.	Complies.	Complies.
2.23 Waste Management – Storage and Facilities		
(a) Adequate storage for waste materials must be provided on site. Ideally waste storage containers should be kept inside units and under no circumstances should waste storage containers be stored in locations that restrict access to any of the car parking spaces provided on site.	All waste storage areas are located in the back of house and loading docks to provide convenient access for staff, cleaners, service vehicles and waste contractors.	Complies.

(b) All waste must be removed at regular intervals and not less frequently than once per week.	Complies.	Complies.
(c) All waste storage areas must be screened from view from any adjoining residential property or public place.	Complies.	Complies.
(d) Waste storage areas must be kept clean, tidy and free from offensive odours at all times.	Complies.	Complies.
2.24 Waste Management Planning		
<i>Refer to p17 of DCP 2011.</i>	The proposed development is able to comply with the Development Controls relating to demolition and construction. All works associated with the development will be undertaken in accordance Council's conditions of Development Consent, Work Cover Authority and NSW Office of Water requirements.	Able to comply.
2.25 Heritage – NOT APPLICABLE		
2.26 Developer Contributions – NOT APPLICABLE		
2.27 Site Investigation		
(a) A contamination assessment report is to be submitted with any development application for the Wrights Road precinct as referred to on Sheet 12 in Appendix 1.	Assessment undertaken.	Able to comply.
(b) A validation report will be required at the completion of works to ensure the remediation is sufficient to enable appropriate use of the site.	Not applicable.	Not applicable.
2.28 Pollution Control		
(a) The emission of air impurities, as defined under the Protection of the Environment Operations Act 1997, is to be controlled to the satisfaction of Council at all times.	Able to comply.	Able to comply.
(b) Certain uses may be required to be licensed under the Protection of the Environment Operations Act 1997.	Not applicable.	Not applicable.
(c) Any machinery or activity considered to create a noise nuisance must be adequately soundproofed in accordance with the provisions of the Protection of the Environment Operations Act 1997.	The on-going operation of the site including deliveries and mechanical ventilation equipment will be implemented in accordance with the recommendations in the Noise Report and Noise	Complies.

	Management Plan prepared by Wilkinson Murray Pty Limited submitted with this DA.	
(d) The use of mechanical plant and equipment may be restricted where sites are located near existing and proposed residential areas.	As above.	Complies.
(e) Incinerators are not permitted for waste disposal.	Not applicable.	Not applicable.
2.29 Wrights Road Town Centre		
(a) Development shall demonstrate high quality civic amenity and urban design that will promote a vibrant centre with a sense of identity.	The proposal provides an open seating area on the eastern side of the site adjacent for potential restaurants, cafes and incorporating a children's play area. High quality landscaping is provided throughout the development site. Connectivity with the adjacent Smalls Creek drainage reserve and Community Centre opposite is proposed and will promote increased activity on the site.	Complies.
The identity of the site shall be enhanced through 'gateway' architectural elements, feature tree plantings and high quality landscaping.	A new 1st Choice Liquor Store building along the Wrights Road frontage, new pylon signs, internally illuminated building signage, feature tree plantings and high quality landscaping will enhance the "gateway" entry to the site.	Complies.
(b) Where visible from a public place, elevations shall provide articulation, distinct architectural elements, openings and windows, avoiding large, unbroken lengths of solid materials.	Proposed architectural building elements avoid the use of blank unbroken walls and include patterned precast concrete walls, reinforced customer entrances with awnings and glazing that provide articulation, whilst the proposed outdoor seating and children's play areas activate the public domain.	Complies.
(c) Development shall capitalise on views to the open space and vegetation located along the eastern boundary, and provide passive surveillance.	The proposal will provide views to the open space and vegetation located along the eastern boundary and to Smalls Creek.	Complies.
(d) A central space should be incorporated into the design to encourage social interaction and form a link between, and through, the	The proposal provides an open seating area adjacent to potential restaurants, cafes and incorporating a children's	Complies.

development and the natural setting of the adjoining reserve and public areas.	play area. The proposal will increase activity on the site which will encourage social interaction and form a link between, and through, the development and the natural setting of the adjoining reserve and public areas.	
(e) Convenient and direct pedestrian linkages shall be provided without conflict with vehicles, enabling high levels of accessibility within the precinct and the surrounding area.	The proposal includes convenient and highly accessible direct pedestrian linkages within the retail precinct and the surrounding area including the walking and cycling paths to the east along Smalls Creek.	Complies.
(f) Pedestrian access is to be provided: <ul style="list-style-type: none"> • in at least one boundary from the adjoining cycle way; • in at least one location along the western boundary to facilitate ease of movement to/from existing retail development adjacent to the site; and • along the Wrights Road frontage, to provide convenient access to and from the Wrights Road Reserve and community facilities, pedestrian crossings and bus stops. Pedestrian access point(s) along the Wrights Road frontage shall be determined by Council in relation to the adjoining development on the opposite side of Wrights Rd. 	The proposed development provides the following pedestrian access points: <ul style="list-style-type: none"> • One pedestrian link within the proposed Kellyville Plaza building to connect with the existing specialty shops. • An enhanced pedestrian link from the Wrights Road footpath running along the 1st Choice Liquor Store to the Kellyville Plaza building entrance. 	Complies.
(g) Loading areas shall be located so as to minimise pedestrian and vehicular conflicts, and to minimise the impact on the streetscape and the ability of the site to engage with the adjoining land.	All loading docks are located at the rear of buildings and screened from residential properties. The location of the loading facilities will minimise access conflicts and not adversely impact the streetscape.	Complies.
(h) The bulk of parking should be provided in a basement car park. Some at-grade parking that provides convenient access for patrons and does not detract from the streetscape is acceptable.	<p>Parking is proposed in an extended at-grade car park on the eastern part of the site as well as in a new undercroft car park on 92 Wright Road.</p> <p>The proposal will provide well designed convenient access to car parking for customers that is integrated with the proposed development.</p>	Does not comply.
(i) The exact location of vehicle access to the site shall be determined by Council, in relation to the development	The proposed roundabout at the front of 92 Wrights Road is to be constructed at the	Complies.

on the opposite side of Wrights Road.

existing access to the Wrights
Road Reserve and
Community Centre opposite
the site.

TABLE B: PART C, SECTION 1 – PARKING

Development Controls	Proposal	Compliance
2.1.1 General		
(a) Number of required parking spaces and associated conditions must be provided in accordance with Table 1. Any part spaces must be rounded up to the nearest whole number.	Refer to report for variation Applicant utilising RMS rates.	Does not comply.
(b) All car parking spaces must be provided on-site.	All parking is provided on-site.	Complies.
(c) The minimum provision of spaces for restaurants as required in Table 1 applies to indoor and outdoor seating.	Not applicable.	Not applicable.
(d) The provision of boat trailer and boat wash down areas are required for caravan parks and/or holiday cabin developments in the vicinity of the Hawkesbury River.	Not applicable.	Not applicable.
(e) Car parking for child care centres must be situated in a convenient location, allowing for safe movement of children to and from the centre.	Not applicable.	Not applicable.
(f) Parking spaces for an exhibition home may be permitted to be located within the front setback, provided the parking area is reinstated to lawn upon the expiry of the exhibition home consent. In the case of exhibition home villages a centralised parking area should be provided.	Not applicable.	Not applicable.
(g) Any changes to parking provisions occurring after development consent or implementation of development consent must be subject to an application under Section 96 of the Environmental Planning and Assessment Act 1979.	Not applicable.	Not applicable.
(h) Where justified, a proportion of car parking may be subject to time restrictions upon application, consideration and approval by Council. All employees parking are to be provided on-site.	Not applicable.	Not applicable.
(i) Stack parking will not be included in the assessment of the number of car parking spaces for retail, commercial, medium density residential and industrial development and the like.	A total of 5 stacked car parking spaces are included in the parking for Kmart Auto and Tyre Serve	Does not comply.
(j) Access arrangements in bush fire prone areas shall be in accordance with Planning for Bushfire Protection 2006.	Not applicable.	Not applicable.

2.1.2. Mixed Use Parking – Not applicable.**2.1.3 Dual Use Parking – Not applicable.****2.2 Remodelling or Alterations to Existing Premises**

(n) If the development does not result in increased floor space and the use of the building is not significantly changed, then additional parking provisions may not be required.	Additional car parking is provided as part of the proposed development to cater for the increased GLFA.	Complies.
(o) If the remodelling results in increased floor area, then additional parking will be required for the increase.	As above.	Complies.
(p) If the use of the development is changed, this will be taken into account in assessing the parking requirement according to the new use as well as any increase in floor space.	As above.	Complies.

Table 1 – Required Minimum Car Parking Provisions

Shops (including shopping centres and general business retail): <input type="checkbox"/> 1 space per 18.5m ² GLFA	The proposed development will have a GLFA of 10,518m ² which requires the provision of 568.5 car spaces.	Does not comply.
Vehicle repair station: <input type="checkbox"/> 1 space per 100m ² of GFA or <input type="checkbox"/> 3 spaces per work bay, whichever is the greater	The development provides 10 car spaces for the proposed Kmart Auto use which complies with the minimum 9 spaces required based on 3 work bays.	Complies.

2.2 Parking For Disabled Persons And Parents With Prams

(a) A proportion of the total parking spaces required shall be provided for disabled persons in accordance with Table 2.	17 accessible spaces will be provided on the site.	Complies.
(b) A continuous, accessible path of travel in accordance with AS 1428.1 shall be provided between each parking space and an accessible entrance to the building or to a wheelchair accessible lift.	Able to comply.	Able to comply.
(c) A proportion of the total parking spaces required shall be provided for parents with prams at the rate of 1 space per 100 spaces at:- <ul style="list-style-type: none">• shopping centres;• transport terminals;• hospitals; and• other large public facilities.	15 parents with prams car spaces will be provided on the site.	Complies.
(d) Parking spaces for disabled persons and parents with prams should:- <ul style="list-style-type: none">• have minimum 3.2 metres x 5.4 metres dimensions for each designated parking space;	Assessed by Engineers	Complies.

<ul style="list-style-type: none"> • be provided adjacent to an accessible entrance or a wheelchair accessible lift; • be signposted and identified for the nominated parking use; • have a clearance height of 2.5 metres from floor level; and • provide a level area with a gradient less than 1:40. 		
(e) Directional signage to designated parking spaces should be provided from the entry of the parking facility.	Able to comply.	Able to comply.
(f) Set down areas should be level with a gradient less than 1:40, have adequate circulation space and be located away from traffic flow. Adjacent kerb ramps should be provided to allow access to a footpath, building entrance or a wheelchair accessible lift.	Able to comply.	Able to comply.
(g) Refer to Council's "Making Access for All: guidelines ensuring criteria for all public facilities" for further parking and access designs. This document is available at the Customer Service Centre at Council's Administration Building or at Council's Web Site.	Able to comply.	Able to comply.

Table 2 - Disabled Persons Parking Provisions

Land Use: Retail/Commercial Required Provision (percentage of total car parking): 2%	The proposed development provides 17 accessible/disabled car spaces.	Complies.
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2.3 Bicycle Parking

(a) The provision of bicycle parking must in accordance with Table 3.	Complies.	Complies.
(b) Bicycle parking should be located in close proximity to building entrances and clustered in lots not exceeding 16 spaces.	Complies..	Complies.
(c) Bicycle parking facilities should not impede pedestrian or vehicular circulation.	Complies.	Complies.
(d) Bicycle parking facilities should be located in highly visible, illuminated areas to minimise theft and vandalism.	Complies.	Complies.
(e) Provision of shower and change facilities for bicycle riders should be provided in accordance with Table 3.	Complies.	Complies.
(f) Installation and dimensions of bicycle parking facilities and storage should be in accordance with: <input type="checkbox"/> AS 2890.3-1993 – Parking Facilities – Bicycle parking facilities; and <input type="checkbox"/> Guide to Traffic Engineering Practice BICYCLES - Part 14 - AUSTRROADS (Standards Australia).	Complies.	Complies.

Table 3 - Provision Of Bicycle Parking According To Land Use

Land Use: Retail/Shops: 2 spaces plus 5% of the total number of car spaces required where – <ul style="list-style-type: none"> • New retail developments exceed GLFA of 5,000m² or • Additions to existing developments that increase the size of the total development to greater than 5,000m² GLFA. 	A total of 32 bicycle spaces will be provided. 32 required.	Complies.
Change and Shower Facilities: Yes		
2.4 Motorcycle Parking		
(a) Motorcycle parking is to be provided for all developments with on-site parking of more than 50 car parking spaces, at a rate of 1 motorcycle parking space for every 50 car parking spaces or part thereof.	12 motorcycle spaces will be provided on the site. 12 required.	Complies.
(b) Motorbike spaces should be 1.2 metres wide and 2.5 metres long when spaces are 90 degrees to the angle of parking. (See Figure 1 - Motorcycle Parking Dimensions).	Complies.	Complies.
2.5 Carwash Bays – Not applicable.		
2.6 Set Down Areas		
(a) Set down areas must not conflict with the movement of other traffic, pedestrians and other vehicle parking.	A dedicated set down area is provided on the south building elevation adjacent to the proposed new entrance to the Kellyville Plaza Shopping Centre extension.	Complies.
(b) There must be a safe continuous accessible path of travel from set down area/s to a wheelchair accessible entrance or lift.	Complies.	Complies.
(c) The following forms of development should provide set down areas for cars: <ul style="list-style-type: none"> • Educational establishments. • Shopping centres. • Community centres. • Libraries. • Entertainment facilities. • Child Care Centres. • Recreational facilities. • Transport terminals and interchanges. 	A set down area will be provided on the site.	Complies.
(d) The following forms of development should provide set down areas for coaches and community buses: <ul style="list-style-type: none"> • Hotel or Motel Accommodation. • Community Centres. • Registered Clubs. • Tourist Destinations and Centres. 	Not applicable.	Not applicable.

• Transport Terminals and Interchanges.		
(e) The number of set down areas must be in accordance to the developments needs.	Complies.	Complies.
(f) Set down areas for cars must be separate to set down areas used for coaches and community buses.	Able to comply.	Able to comply.
(g) Set down areas, except those used for coaches and community buses, must be used only to drop off passengers and must not be used for passenger collection.	Able to comply.	Able to comply.
(h) Set down areas must be signposted to indicate that their use is time limited.	Able to comply.	Able to comply.
2.7 Car Park Design and Layout		
(a) The layout of the car park should facilitate ease of access and egress of vehicles through the parking area at all times without congestion.	Satisfactory.	Complies.
(b) For all development other than single dwelling houses and dual occupancies, vehicles must enter and exit the site in a forward direction.	As above.	Complies.
(c) Adequate queuing distance should be provided where the parking area fronts an arterial road as justified by relevant data or a study carried out by a suitably qualified person.	Not applicable.	Not applicable.
(d) Any changes to parking layout and design occurring after development consent or implementation of a development consent must be subject to an application under Section 96 of the Environmental Planning and Assessment Act 1979.	Not applicable.	Not applicable.
(e) Provisions within this section are in accordance with AS 2590.1 –1993 Parking Facilities – Part 1 Off Street Car Parking. For further design requirements for car park design and layout please refer to the Australian Standard.	Satisfactory.	Complies.
2.7.2 Parking Dimensions – Complies.		
2.7.3 Pedestrian Circulation And Safety – Complies.		
2.7.4 Drainage – Complies.		
2.7.5 Lighting and Ventilation – Complies.		
2.7.6 Parking Directions – Complies.		
2.8 Landscaping		

<p>(a) Outdoor parking areas are to be provided with two metre wide landscaping strips:</p> <ul style="list-style-type: none"> • Between rows served by different aisles. • Between spaces at a rate of one in every ten car parking spaces. 	As addressed above	Does not comply.
<p>(b) Outdoor parking areas are to be screened by a minimum of two metre wide landscaping strips. Such landscaping is to be of a mature and dense nature and be designed according to Part C Section 3 – Landscaping of this DCP.</p>	Substantial planting greater than 2m wide is provided along the site's north, east and south boundaries. The proposed landscaping will provide visual screening and enhance the appearance of the development and car parking from adjoining properties, the adjacent open space and from Wrights Road.	Complies.
<p>(c) Driveways are to be screened by a minimum of two metre wide landscaping strip on either side.</p>	The proposed new service vehicle driveway to the 1st Choice Liquor Store is flanked by a 6m wide landscaping area along the Wrights Road frontage.	Complies.
<p>(d) Where soils permit infiltration the landscaping strips should be used to promote reuse of drainage water.</p>	Able to comply.	Able to comply.
<p>(e) Landscaping species selected should not:</p> <ul style="list-style-type: none"> • block signs; • impede entry and access points; • overgrow paths; • cause restrictions to pedestrian and vehicle movements; and • compromise safety aspects such as sight distances. 	Complies.	Complies.
<p>(f) Shade trees are to be provided within landscaping strips.</p>	Complies.	Complies.
<p>(g) Plant and tree species selected for the purpose of providing shade should not be of a kind that will cause damage to vehicles because of their nature of dropping fruit, cones or nuts.</p>	Able to comply.	Able to comply.
<p>(h) In addition reference should be made to Part C Section 3 - Landscaping of this DCP when selecting appropriate species.</p>	Refer to the Landscape Plan and Flora and Fauna Impact Assessment and Vegetation Management Plan.	Complies.

2.9. Loading And Delivery Requirements

(a) All loading and delivery areas are to be provided on-site.	Complies.	Complies.
(b) Loading and delivery facilities are to be designed in accordance with AS 2890.2-1989, Off Street Parking - Part 2: Commercial vehicles facilities.	Complies.	Complies.
(c) The use of loading and delivery areas must not conflict with the safe efficient circulation of pedestrians and other vehicles on-site.	Complies.	Complies.
(d) In larger developments loading and delivery areas should operate independently of other parking areas.	The proposed loading docks are located away from the customer car parking. The proposed loading bay adjacent to the new entrance to the Kellyville Plaza.	Complies.
(e) Service vehicles are to be able to efficiently manoeuvre to and from loading and delivery areas in accordance with AUSTROADS Design Vehicular and Turning Templates.	Refer to the truck swept path diagrams.	Complies.
(f) Loading and delivery areas must not affect the amenity of adjoining residential properties.	Refer to the Noise Report and Noise Management Plan.	Complies.
(g) Loading bays are not to be used for the storage of goods that may impede the use of the bay for the delivery or loading of goods.	Complies.	Complies.
(h) The number of loading bays for supermarkets, department stores, mixed small shops and offices are required in accordance with Table 5.	Refer to Table 5 assessment above below.	Does not comply.
(i) Council may consider variations to the standards required by Table 5 in circumstances where the applicant is able to demonstrate compliance with the objectives of this Section of the DCP by alternate means.	The number of loading docks provided is appropriate for the retail uses included in the proposed development. The proposed Kmart Auto and Tyre Service, 1st Choice Liquor and new specialty uses will have dedicated loading docks/bays. The proposed Coles Superstore will not generate additional deliveries and therefore the existing loading dock facilities are not required to be increased in size or capacity.	Complies.
(j) For those land uses not referred to in Table 5 the applicant will be required to demonstrate the development proposal satisfies the objectives of this Section of the DCP. In this regard the following information is to be submitted:		Complies.

<ul style="list-style-type: none"> • The types of vehicles expected to load and deliver on-site. • The frequency with which these vehicles will visit the site. • The largest vehicles expected to visit the site. These areas must be able to be utilised by all smaller loading and delivery vehicles also. 		
Table 5 – Minimum Number Of Loading Bays Required		
Supermarket (GLFA) Number of Loading Bays: <ul style="list-style-type: none"> • 2 for the first 930m2 • 2 for the next 930m2 • 1 for each extra 930m2 Mixed Small Shops (GLFA) <ul style="list-style-type: none"> • 2 for the first 465m2 • 2 for the next 465m2 • 1 for each extra 530m2 	Satisfactory	Satisfactory
2.10 Access Driveways		
(a) Access driveway widths are to comply with AS 2890.1-1993 Parking Facilities – Part 1: Off Street Car Parking.	Satisfactory.	Complies.
(b) Driveways are to be provided in locations that have adequate sight distance.	As above.	Complies.
(c) Driveways will be prohibited in the locations shown in Figures 5 and 6.	Complies.	Complies.
(d) Access driveways are to be constructed in accordance with Council's "Specification for the Construction of Footpath & Gutter Crossings" (2001).	Able to comply.	Able to comply.
(e) Access driveways are to be located a minimum of one metre from drainage structures and other service facilities located on the nature strip.	Able to comply.	Able to comply.
(f) Except for residential properties, driveway entrances and exits should be signposted appropriately.	Able to comply.	Able to comply.
(g) Access driveways should not be entered from or exited onto intersections where one or more of the intersecting roads are a collector, sub-arterial or arterial road.	Not applicable.	Not applicable.
(h) Indirect access must be sought in preference to direct access where the proposed development fronts a high-volume road. Where direct access is proposed, a study by a suitably qualified person must be conducted to indicate potential impacts. This study will also be assessed by the RTA.	The site does not front a high volume road.	Not applicable

(i) Driveways for multi dwelling housing, residential flat buildings and Seniors Living SEPP developments must be able to be accessed by service vehicles such as fire tankers, ambulances and bushfire tankers.	Not applicable.	Not applicable.
(j) In addition, application of controls for driveways in other applicable Sections of the DCP should be applied.	Not applicable.	Not applicable.

TABLE C: PART C, SECTION 2 – SIGNAGE

Development Controls	Proposal	Compliance
2.1 Design Considerations		
(a) Business and building identification signs shall not incorporate flashing lights or animated or movable components.	Satisfactory	Complies.
(b) Business and building identification signs shall be permanently fixed to the premises.	As above.	Complies.
(c) Business and building identification signs shall not be located or constructed in such a manner as to obstruct any other approved sign.	As above.	Complies.
(d) Permanent business and building identification signs shall not be located or constructed in such a manner as to obstruct the view of traffic lights or street signs, nor detrimentally obstruct motorists' or pedestrians' vision at an intersection or on any public road.	As above.	Complies.
(e) Business and building identification signs shall not be constructed of canvas, calico or any like material.	As above.	Complies.
(f) A free-standing pylon sign shall not exceed ten metres in height, measured from the existing ground level to the top of the structure, provided that the height of any pole sign shall have regard to the nature and height of development in the immediate vicinity.	As above.	Complies.
(g) Projecting wall business and building identification signs and flush wall signs shall not extend above the wall to which they are attached.	As above.	Complies.
(h) All proposed signage is to be consistent with the objectives of State Environmental Planning Policy No.64 – Advertising and Signage as specified in clause 3(1)(a) of the SEPP.	As above.	Complies.
(i) Applications for signage must demonstrate how the proposed signage satisfies the assessment criteria specified in Schedule 1 of SEPP No.64.	As above.	Complies.
(j) No structure will be erected within 3 metres of the kerb or carriageway. Any structure within 5 metres of the kerb or carriageway will be of frangible design.	As above.	Complies.
(k) All business and building identification signage should be designed in accordance with the Council's 'Designing Safer Communities Guidelines.' Signage should be legible and identify safe access routes.	Satisfactory.	Complies.

2.2 Signs in Rural Zones – Not applicable.

2.3 Signs in Residential Zones- Not applicable.

2.4 Signs in Business Zones Excluding B7 Business Park Zone

(a) The combined sign area of all business and building identification signs located on the frontage of a building or premises will be determined on the basis of 0.5m ² of sign per one metre lineal frontage of the building.	The proposed extended Kellyville Plaza Shopping Centre building is approximately 178m which equates to a maximum 89sqm of signage permitted along the south elevation building frontage. The proposed development includes a total of 75.81m ² of signage along the proposed extended Kellyville Plaza building frontage (south elevation) and complies.	Complies.
(b) Where the building has more than one frontage the maximum sign area for a sign on any side elevation (in addition to signage specified in clause (a) above), shall not exceed 0.25m ² of sign per one metre of lineal frontage of the building.	The proposed signage complies	Complies
(c) Only one under awning sign shall be permitted for each approved shop, office or suite situated on land within a business zone except in the case where a shop has a frontage to two streets. In this case only one under awning sign shall be permitted to each street frontage.	The proposal does not include under awning signage.	Not applicable.

(d) Under awning signs shall not exceed the dimensions of 2400mm x 500mm. Any signs extending over the footpath shall retain a minimum distance of 2600mm between the underside of the sign and the level of the footpath.	The proposal does not include under awning signage.	Not applicable.
(e) An above awning sign shall not exceed the dimensions of 2400mm x 750mm.	The proposal does not include above awning signage.	Not applicable.
(f) In the case of multiple occupancies, only one under awning sign for each occupancy shall be permitted subject to the distance between under awning signs being a minimum of three metres.	Details regarding the signage for the new individual tenancies will be the subject of a separate future DA.	Not applicable.
(g) Where a premises or building contains multiple occupancies, the maximum area of signage allowed on the façade of each occupancy shall be determined on the basis of 0.5m ² per one metre lineal frontage of the subject unit or suite.	As above.	Not applicable.
(h) Free-standing pylon signs will not be permitted in business/commercial zones on sites which utilize a zero setback. Free-standing pylon signs on all other sites in business/commercial zones will be assessed on merit taking into consideration the site locality and design.	Not applicable.	Not applicable.
2.5 Signs in Industrial and B7 Business Park Zones – Not Applicable 2.6 Signs In Other Zones – Not applicable. 2.7 Signs for Exhibition Homes – Not applicable. 2.8 Signs for Existing Uses – Not applicable. 2.9 Signs for Vehicle Sales or Hire Premises – Not applicable. 2.10 Temporary Advertisement Signage – Not applicable. 2.11 Illumination of Signs		
(a) Any illuminated signage shall not adversely impact upon adjoining properties and shall be designed to ensure that no light spills onto adjoining or adjacent properties.	Condition recommend.	Complies.
(b) Any illumination of signage shall be switched off upon the closure of business each day. Should the business operate during normal business hours only, illumination shall be switched off by 9pm daily.	Signage illumination will be switched off after trading ceases.	Complies.
(c) Illuminated signage is prohibited within residential zones other than an illuminated cube light to identify health consulting rooms.	Not applicable.	Not applicable.
(d) Illuminated business and building identification signs are not to be used on the land upon which a heritage item is located.	Not applicable.	Not applicable

2.12 Inappropriate Signs

(a) The following types of business and building identification signs shall not be erected or displayed:

- Roof-top signs;
- Air borne signs (blimps); and
- A-frame board signs or moveable placards.

The proposed development does not include inappropriate signs.

Complies