



BUSINESS PAPER
EXTRA ORDINARY MEETING
OF COUNCIL

To be held on

Wednesday, 8 March 2017
5:30pm

at

Walcha Council Chambers

Members:

Mayor – Councillor Eric Noakes
Deputy Mayor – Councillor Clint Lyon
Councillor Peter Blomfield
Councillor Kevin Ferrier
Councillor William Heazlett
Councillor Jennifer Kealey
Councillor Scott Kermode
Councillor Rachael Wellings

Quorum – 5 Members to be Present
WO/2017/00351

Submitted to Council: 8 March 2017

..... General Manager Mayor

AGENDA



Dear Mayor & Councillors

You are requested to attend the Extra Ordinary Meeting of the Walcha Council to be held in the Council Chambers, Hamilton Street, Walcha on **Wednesday, 8 March 2017** commencing at **5:30pm**.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jack O'Hara'.

Jack O'Hara
GENERAL MANAGER

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 - 2.2 Development Application 10.2016.17 – Demolish three sheds and part of building, and construct new supermarket and liquor outlet – 36W – 40W Fitzroy Street, Walcha – Jeremy Allen Planning & Design D2017/00080

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Present:

Apologies:

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Item: 2.1 **Ref:** WO/2017/00350
Title: Affix Common Seal to Transfer of Lands from Council to JE Gowen & VF Beauchamp – Re-alignment of Moona Road
Author: General Manager
Previous Items: Not Applicable
Attachment: Yes

Introduction:

The report seeks Council approval to affix the Common Seal to legal documents.

Report:

Council approval is sought to affix Council’s Common Seal to all legal documentation relating to the Moona Road re-alignment between Council and JE Gowen & VF Beauchamp.

RECOMMENDATION:

That Council approve the affixing of the Common Seal to all documentation relating to the Moona Road re-alignment between Council and JE Gowen & VF Beauchamp FURTHER THAT the affixing of the Common Seal be attested to by the Mayor and the General Manager.

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Item: 2.2 **Ref:** D2017/00080
Title: Development Application 10.2016.17 Demolish three sheds and part of building, and construct new supermarket & liquor outlet- 36W-40W Fitzroy Street, Walcha - Jeremy Allen Planning and Design
Author: Environmental Services Manager
Previous Items: Nil
Attachment: Development Assessment Report, Development Application Plans and Associated Documents (Statement of Environmental Effects)

Introduction:

A Development Application has been submitted to Council as the consent authority for development of a 1,997m² supermarket & liquor outlet and ancillary development to be constructed at 36W-40W Fitzroy Street, Walcha.

Details:

Applicant: Jeremy Allen Planning & Design
Owner: Walcha Property Pty Ltd
Land: Lot: 2 in DP: 779495 and Lot: 1 in DP: 158212, being 36W-40W Fitzroy Street, Walcha; having an area of 5,176m²
Development Value: \$1,600,000

Description of Proposal:

The development proposal is for the construction of a single storey (with mezzanine) retail outlet having a gross floor area of 1,997 square metres, incorporating a supermarket and liquor outlet and car park.

The proposed carparking area is to be hard surfaced concrete finished and is to contain two points of ingress / egress. It is proposed to provide a total of 47 carparking spaces including two accessible carparking spaces. A third driveway is strictly for goods deliveries (loading dock).

The building is proposed to be constructed with a mixture of materials, mainly from precast concrete slab construction, fibre cement wall sheeting, colorbond wall sheeting, zincalume roof sheeting and a concrete floor. The windows and automatic sliding doors to the development will be manufactured from powdercoated aluminium frames.

The proposed development has building setbacks of 36.46m to the southern street boundary, a 4.987m setback to the western street boundary, a 0.2m setback to the northern boundary and a 0.1m setback to the eastern boundary. The maximum height of new building work is at 8.2m from the highest part of the proposed roof to the natural ground level.

The applicant has included an increase to the landscaping areas, the area is located along South Street between the boundary and the building. This has been included to attempt to soften the vast hard surfaced carparking area and to enhance the streetscape.

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There are three existing sheds and part of a commercial building which will require demolition. The development is over two lots and these will require consolidation as part of the development consent.

The proposed hours of operation are from 8.00am to 8.00pm Monday to Sunday

The site is zoned B2 Local Centre under the Walcha Local Environmental Plan 2012 (WLEP). This type of development is permissible with consent under the WLEP. Notification was carried out as per Council's Notification Policy.

A development assessment is attached along with the statement of environmental effects and plans submitted with the application. The development assessment contains a full discussion on all issues and considerations.

Key issues:

This proposed development:

- ◆ Is permitted with consent under the Walcha Local Environmental Plan 2012.
- ◆ Has appropriate conditions applied in regards to the infrastructure of water, sewer, drainage provisions, kerb and gutter, access provision, traffic management, amenity and operation.

Conclusion:

The purpose of this report is the public interest in a development application of this size and scale.

This proposed development is a fair development. This development will result in an increase in density for this area, but one that is not unreasonable.

It is subjective to assume the increased density is out of character for Walcha and that there is no demand for this type of development. Council is not able to determine this, as this is the responsibility of the developer, as they take the financial risk of this nature. The developer determines their market and takes responsibility for the uptake of any such opportunity. Council responsibility is to provide the policy (Walcha LEP & DCP) to enable this to occur.

There is no reason this development can be refused as all issues are able to be appropriately conditioned as part of the development approval.

RECOMMENDATION:

That Council approve Development Application 10.2016.17, being for demolition of three existing sheds and part of a commercial building, consolidation of lots, and construction of a supermarket & liquor outlet with 47 car parks On land known as 36W-40W Fitzroy Street, Walcha, being Lot: 2 in DP 779495 and Lot: 1 in DP 158212 under the ownership of Walcha Property Pty Ltd subject to the conditions in the Development Assessment Report.

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DEVELOPMENT ASSESSMENT REPORT

SECTION 79C EVALUATION

Under the Environmental Planning and Assessment Act 1979



DA NUMBER: 10.2016.17
LOCATION: 36W-40W Fitzroy Street, WALCHA NSW 2354
TITLE DETAILS: Lot: 2 in DP: 779495 and Lot: 1 in DP: 158212
DEVELOPMENT DESCRIPTION: Demolish three sheds and construct new supermarket
COUNCIL: Walcha Council

Proposal Overview

The proposed development is for the construction of a supermarket with 47 car parks. There are three existing sheds and part of a commercial building which will require demolition. The development is over two lots, and these will require consolidation as part of the development approval.

Property Details/History

	Checked	Comments
Title Plan	Yes	No issue.
Check Ownership	Yes	No issue.

Is there any other issue that requires notation? No

Application Type

Is this application an Integrated Development Application? No
 Is this application a Designated Development Application? No
 Is this application for State Significant Development? No
 Is this application submitted by/on behalf of a Public Authority? No
 Is this application a staged Development? No
 Is this application a section 96 amendment? No

Concurrence/Referral Section 79b – EP & A Act

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Does this application require concurrence referral? No

Does this application require courtesy comment from other organisation? No

Does this application require referral for decision by Council? Yes

Comment: Public interest and submissions received as a result of notification of the application

Local Environmental Plan
Section 79c(1)(a)(i) – EP & A Act

This land is zoned: B2 Local Centre

<u>List the relevant clause/clauses applicable under the LEP</u>		
Clause	Compliance	Comment
Zone Table	Yes	Objectives of Zone are: <ul style="list-style-type: none"> ▪ 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. ▪ To encourage development in existing town centres that reflects or enhances their character.
4.3 Height of Buildings	Yes	No maximum height specified for the land as per the Walcha LEP 2012 Height of Buildings Map, development does not exceed 8.2m height.
6.2 Flood Planning	Yes	The minimum floor level will need to be 500mm above the 1% flood height. This will need to be confirmed by survey prior to the release of a Construction Certificate.
6.3 Essential Services	Yes	Council is satisfied that the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required: <ol style="list-style-type: none"> (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable vehicular access
Dictionary – Commercial premises & retail premises	Yes	<p><i>Commercial premises</i> means any of the following:</p> <ol style="list-style-type: none"> (a) business premises, (b) office premises, (c) retail premises. <p><i>Retail premises</i> means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of</p>

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		<p>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:</p> <ul style="list-style-type: none"> (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, <p>but does not include highway service centres, service stations, industrial retail outlets or restricted premises.</p>
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Is there a draft LEP or draft LEP amendment which may affect this proposal? No

Is there any other issue/feature that requires notation? No

Do 'existing use' provisions apply to this development? No

Development Control Plan
Section 79c(1)(a)(iii) – EP & A Act

Is there a DCP which applies to this land/proposal? Yes

Comment: DCP No. 2 Guidelines for the Erection of Advertisements & Advertising Structures; clause 2.0(a) applies,

Is there a draft DCP which may affect this proposal? No

Is there any other issue that requires notation? No

Regional Environmental Plan

There is no REP applicable to this area.

State Environmental Planning Policy

Is this proposal affected by a SEPP? Yes

Comment: SEPP No. 55 - Remediation of Land; introduces state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected, and requires councils to be notified of all remediation proposals. To assist councils and developers, the Department, in conjunction with the Environment Protection Authority, has

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prepared Managing Land Contamination: Planning Guidelines.

SEPP (Infrastructure) 2007 - Provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process. The SEPP supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency. In accordance with Clause 104 of the Infrastructure SEPP 2007, the application is to be referred to RMS, and Council must take into consideration any response given by RMS.

Planning Agreement
Section 93F (10) – EP & A Act

Is there a Planning Agreement in force under section 93F of the EP&A Act? No
Has a Planning Agreement been offered under this development? No

Regulations
Section 79c(1)(a)(iv) – EP & A Act

Environmental Planning and Assessment Regulation 2000

CI.92 The provisions of AS 2601 – 1991: *The Demolition of Structures* Yes
CI.93 Fire safety and other considerations Yes
CI.94 Consent authority may require existing buildings to be upgraded to be brought into total or partial conformity with the BCA No
CI.94A Fire safety and other considerations applying to erection of temporary structures No
CI.95 Deferred commencement consent No
CI.96 Imposition of conditions—ancillary aspects of development No
CI.97 Modification or surrender of development consent or existing use right No
CI.97A Fulfilment of BASIX commitments No

Planning Strategies/Local Policy
Section 79c(1)(b) – EP & A Act

Is there a Planning Strategy or Local Policy that requires notation? No
Has the applicant submitted any supporting planning assessments? No
Is there any other issue / feature that requires notation? No

Subdivision

Is this application for subdivision? No

Comment: The application has not included subdivision by way of consolidating the two lots. This needs to be a condition of development approval.

Environmental Impacts
Section 79c(1)(b) – EP & A Act

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Does this proposal have any potential impact on?

	Impact	Comment
Social	Yes	The proposed development has the potential to have a positive social impact in that it is proposing to create a number of new jobs that will generate additional income into the community through both the construction and operational phases of the development.
Economic	Yes	<p>Section 5 of the EP&A Act sets out the objectives of the legislation and these include the proper management of land for the purpose of promoting the social and economic welfare of the community, the orderly and economic use and development of land, and the protection of the environment.</p> <p>The proposal to construct a new supermarket may raise concerns within the community of its economic impact on existing traders within Walcha. Council as the consent authority for the application is required by s79(c) to consider the "likely impacts of the development".</p> <p>Therefore the economic result or outcome of the proposed development is a matter which may be relevant in determining a development application.</p> <p>Economic impact in itself involves, as do many considerations relevant under s79C (1), an estimation of likelihood or possibility, because actual impact may not be discernible until the development is completed.</p> <p>There has been many cases before the Land and Environment Court on the issue of economic impact and a review of decisions will provide a clear understanding of the courts position A review of relevant cases has been conducted and detail below:</p> <p><i>Cartier Holdings Ply Ltd v Newcastle City Council (2001 NSWLEC 170</i></p> <p>This matter raised the issue of whether s79C (1) (b) of the EP&A Act should be construed differently to the former s90(1)(d).</p> <p>The court decided that s79C (1) (b) does not require a different approach. This had the consequence in that case that the economic impact of the proposed development upon private individual traders was confirmed by the court that not to be a planning consideration.</p> <p><i>Fabcot Ply Ltd v Hawkesbury Council (1997) 93 LGERA 373</i></p> <p>A case where a Council had refused development consent for a Woolworths supermarket be located outside the town centre of Windsor. One of the issues was whether the proposed supermarket would have had an economic impact upon existing and planned retail supermarkets in the Hawkesbury city local government area.</p>

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		<p>Lloyd J that the issue did not raise a planning or environmental consideration because the economic impact of a proposed development upon private individual traders was not of itself a planning consideration, and what was instead required by the former s90(1)(d) was a wider and more general consideration of economic impact in the locality.</p> <p>His Honour decided that the only relevance of the economic impact of a development was its effect "<i>in the locality</i>".</p> <p>The courts conclusions have been reinforced by having regard to the objects of the EP&A Act as set out in s5 which indicates that the phrase "<i>economic impacts in the locality</i>" is to be understood in an environmental and planning sense. The economic impact of a proposed development upon private individual traders is not per se a proper environmental or planning consideration. The section does not require the consideration of economic impact upon individual competitors, except to the extent that any impact upon individuals competitors, or competition generally, demonstrates economic impact in the locality as an environmental planning matter.</p> <p>What Council must direct itself to consider in this instance is if the facilities enjoyed by the community would be put at jeopardy by the impacts of the development and the resultant detriment would not be made good by the development itself.</p> <p>Large supermarkets can and do impact upon individual traders through competition. However, fear of competition is not a valid planning consideration.</p> <p>Competition is about choice; that is the freedom of customers to choose between products and choose between suppliers. It is up to individual traders to respond to competition and this can lead to increased performance, particularly when customers can choose between businesses offering similar products. The result is that prices tend to fall and this can lead to significant economic benefits to the wider community.</p>
<p>Siting & Configuration</p>	<p>Yes</p>	<p>The site is currently occupied by Brady's Saddlery in one building, and by a craft shop in another (to be retained and beautified in keeping with their heritage feel); to the rear of the property, several unused and vacant sheds are situated, to be demolished.</p> <p>The proposed supermarket is set to the rear of the block, the building is to be constructed of a mixture of materials, mainly from precast concrete slab construction, fibre cement wall sheeting, colorbond wall sheeting, zincalume roof sheeting and a concrete floor, The windows and automatic sliding doors to the development will be manufactured from powdercoated aluminium frames.</p> <p>The streetscape in this area onto Fitzroy Street is dominated by construction built to the street frontage, the proposed building</p>

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		<p>because of its location of the block will not dominate the streetscape, and the provision of suitable landscaping to the South Street frontage and the car park area will further reduce its impact.</p> <p>The siting of the supermarket and configuration fits the block and the siting of the building and carpark takes into account fully the development potential of the site. Given that the development adjoins land to the north that have erected upon them residential units, Council must address the issue of off-site impacts.</p> <p>These have been identified as being potentially:</p> <ol style="list-style-type: none"> 1. Noise from the plant and equipment, deliveries, and patrons, 2. Light emissions, 3. Boundary treatments, 4. Excavation of the site and impact to structural integrity of structures, and 5. Construction of the complex. <p>It is believed that all of the above issues can be addressed by the imposition of appropriate conditions of consent.</p>
Setbacks	Yes	<p>The proposed development has building setbacks of 36.46m to the southern street boundary (Fitzroy Street), a 4.987m setback to the western street boundary (South Street), a 0.2m setback to the northern boundary and a 0.1m setback to the eastern boundary.</p> <p>There are no listed setbacks to check back against other than the National Building Code. There are no constraints affecting or created by this development.</p>
Privacy	Yes	<p>This will increase the density in this area, hence neighbouring properties will be affected, but it is not considered to be detrimental in planning terms. There are no privacy constraints affecting or created by this development.</p>
Overshadowing	No	<p>Height limits assist in shaping the character of an area, the B2 Local Centre zone does not have a maximum building height restriction, as a variety of building densities is expected, and to encourage more liveable buildings in our town centre by allowing greater floor to ceiling heights and better noise insulation.</p> <p>The proposed building from the highest part of the roof to the natural ground level is 8.2m, an approximate guide is the equivalent of no more than 2 storeys.</p> <p>If any, overshadowing created will be minor on any adjoining premises. There are no overshadowing constraints affecting this development.</p>

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Visual	Yes	<p>There will be a visual impact; the site will look very different. But with landscaping and the design of the building, it will be of a suitable nature; the Walcha LEP 2012 has made provision for this type of development.</p> <p>Additional outdoor lighting will be part of this development; this can be addressed by the imposition of appropriate conditions of consent that:</p> <ol style="list-style-type: none"> 1. All new external lighting must: <ol style="list-style-type: none"> (a) Comply with AS 11583.1 Pedestrian Area Lighting. (b) Comply with AS 4282–1997 Control of the obtrusive effects of outdoor lighting, and (c) Be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places. 2. Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set:2010 Lighting for roads and public spaces Set
Significant Views	No	There are no constraints affecting or created by this development on significant views.
Amenity	Yes	<p>The proposed development is likely to provide enhanced visual amenity of the surrounding area by using modern building techniques and finishes. Whilst the building design is proposed to be of a modern style, it is proposed to beautify the existing buildings on site to maintain the heritage feel of the site. The existing dilapidated shed structures will be removed.</p> <p>There are no constraints affecting or created due to amenity by this development.</p>
Safety, Security & Crime Prevention	Yes	<p>The construction work could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic.</p> <p>Council should impose a condition of consent to erect a temporary hoarding or temporary construction site fence between the work site and adjoining lands before the works begin and that it must be kept in place until after the completion of the works.</p> <p>Any demolition must be carried out in accordance with AS 2601—2001, The demolition of structures.</p> <p>The development of the car park is relatively open and its design means that it is highly visible from South and Fitzroy Streets, and subject to the provision of adequate lighting the risk of unacceptable night time behaviour will be reduced.</p>
Water	No	There are no constraints affecting or created by this development. All overland water flow will be drained in accordance with a site design to be approved by the Engineering Department prior to a

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		Construction Certificate being issued.
Air	No	There are no constraints affecting or created by this development.
Noise	Yes	<p>Typically developments of this type have the need for refrigeration and air conditioning units which have the capacity to generate noise.</p> <p>The applicant has specified in the SEE that the refrigeration compressors are proposed to run 24 hours a day, 7 days a week, and are located on the north western corner of the building; a solid wall with an acoustic rating is proposed to be constructed, predominately to protect the neighbouring residences.</p> <p>The loading dock is proposed at the north western corner of the block, delivery and waste removal trucks have the potential to generate noise and impact negatively on neighbouring residential properties to the north.</p> <p>These issues can be addressed by the imposition of appropriate conditions of consent.</p>
Land Degradation	No	There are no constraints affecting or created by this development.
Tree Loss	Yes	A number of internal trees will be required to be removed in place of car parking spaces, an existing mature tree towards the south western corner of the site is proposed to remain.
Flora	No	An assessment was not deemed necessary in this instance as there is little likelihood of flora constraints affecting or created by this development.
Fauna	No	An assessment was not deemed necessary in this instance as there is little likelihood of fauna constraints affecting or created by this development.
Soils	No	The proposed development will not adversely impact the soil in terms of conservation, quality, stability, movement or erosion. Sediment and erosion control measures during construction will be controlled and required to be in place through the imposition of appropriate conditions of consent.

Environmental Impacts – Threatened Species
Section 79c(1)(b) – EP & A Act

- Has a Threatened Species Impact Assessment been prepared?** No
- Are there any species/communities listed under the TSC Act?** No
- Does the proposed development require approval under the EPBC Act?** No
- Is a Species Impact Statement required?** No

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Environmental Impacts – Heritage
Section 79c(1)(b) – EP & A Act

Does this proposal have any potential impact on?

Heritage	Impact	Comment
European	No	This land is classified as not containing an item of environmental heritage under the Walcha Local Environmental Plan, nor is it adjoining or in close vicinity to an item of environmental or conservation area.
Aboriginal	No	An Aboriginal Heritage Information Management System (AHIMS) search was carried out with no items being listed within the property.

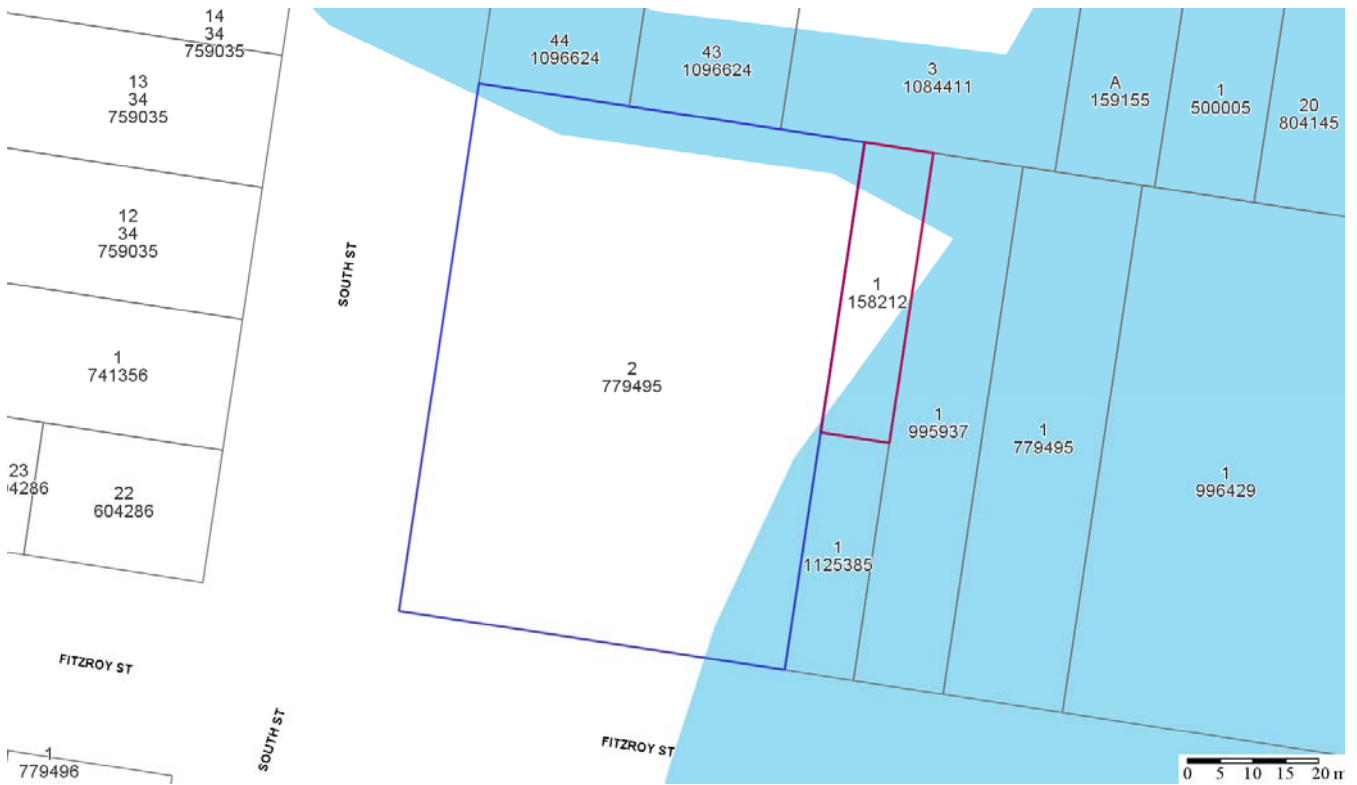
- Is this land classified as containing an item of environmental heritage?** No
- Is there an impact on and adjoining or in close vicinity to an item of environmental heritage?** No
- Is this proposal in a heritage conservation Zone?** No
- Is this proposal in an adjoining or in close vicinity to a conservation zone?** No
- Has a Heritage Impact Statement been prepared for this proposal?** No
- Has an Archaeological Survey been prepared for this proposal?** No
- Is there any other issue/feature/impact that requires notation?** No

Flooding
Section 79c(1)(b) – EP & A Act

- Is this property flood affected?** Yes
- Is there a flood study which includes this land?** Yes
- Name of Study:** Walcha Floodplain Risk Management Study, September 2009
- Flood Height:** Affected by the 1% flood. Survey will have to be undertaken to ensure supermarket is 500mm above the 1% flood extent.
- Has a Flood Impact Assessment been completed for this proposal?** No

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Bush Fire Prone Land
Section 79c(1)(b) – EP & A Act

Is this property bush fire prone as per the Bush Fire Prone Land Map? No

Contaminated Land
Section 79c(1)(b) – EP & A Act

Has this land been identified as being contaminated land by Council? No

Is it a possibility this land may be contaminated? Yes

Comment: Site has been identified as having a previous use as a service station, history is unknown, underground tank believed to be present, potentially adjacent to Brady’s Saddlery

Has a Contaminated Land Site Investigation been completed? No

Is this land in the close vicinity or adjoining a known contaminated site? No

Infrastructure

Has an engineering assessment been completed? Yes

Does this proposal have any potential impact on:

	Impact	Comment
Sewer	Yes	A full sewer design will be required to be approved by Council prior to the release of a Construction Certificate to

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		<p>ensure adequacy.</p> <p>As part of the sewer design, Council must be notified of the projected sewer production to ensure that downstream infrastructure is not overloaded as a result of this development.</p>
Water	Yes	<p>A full water provision design will be required to be approved by Council prior to the release of a Construction Certificate to ensure adequacy.</p> <p>As part of the water provision design, Council must be notified of the projected water usage to ensure that Councils existing infrastructure in the immediate area is sufficient to supply the required water for the development.</p>
Drainage	Yes	<p>A stormwater retention system is required. This system will need to be approved by Council prior to the release of a Construction Certificate to ensure adequacy.</p>
Access	Yes	<p>Customer ingress is proposed from South Street and egress to Fitzroy Street via existing driveways of 7 metres width.</p> <p>All internal driveways and visitor car parking must have an asphalt or reinforced concrete wearing surface. The pavement design will need to be approved by Council prior to the release of a Construction Certificate to ensure adequacy.</p>
Kerb & Gutter	Yes	<p>Where the existing Kerb or Gutter is impacted by the proposed design, the infrastructure will be reinstated to Council's standards.</p>
Upgrade Existing Road	Yes	<p>South Street, directly in front of the loading dock should be upgraded to a suitable wearing course to ensure truck movements do not damage councils existing bitumen seal. The upgraded wearing course should be asphalt, with the depth to be determined and submitted to Council prior to the release of a Construction Certificate.</p>
Road Network	No	Not Required.
Existing Easements	No	N/A
Electricity	Yes	As per the requirements of the electricity provider, which will be conditioned.
Telecommunications	Yes	As per the requirements of the telecommunications provider, which will be conditioned.

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Pedestrian Access	Yes	The design of pedestrian access within the development area must be designed to link into Councils existing footpath network. The footpath should be designed to ensure continuity with the existing Walcha CBD.
Loading & Unloading	Yes	<p>A separate and additional driveway is proposed strictly for service vehicles, access is proposed from South Street, this utilises rear of shop deliveries, keeping access vehicles separate from customer parking areas.</p> <p>It is proposed that the loading dock will be serviced by reversing direction ingress, this is not in accordance with Safe Work Australia Traffic Management Guidelines for Shopping Centres, however it is proposed so as to maximise the number of car parking spaces available and eliminate direct connection of the access vehicles to the supermarket car parking area.</p> <p>The risks could be managed by appropriately conditioning the consent to address traffic management and implementing safety devices such as:</p> <ol style="list-style-type: none"> 1. clearly marked signage prohibiting public access to loading dock and warning the public of the loading area 2. speed limits 3. convex mirrors 4. road clearway either side of the driveway <p>Recommended that a Traffic Management Plan is to be developed by a suitably qualified practising Engineer in consultation with the Local Traffic Committee detailing the operation of the loading bay, to be approved by Council prior to the issue of an occupation certificate.</p>
Parking	Yes	<p>The proposed development provides for 47 car spaces onsite. No provision is shown on the plans for bicycle parking and this should be a requirement of any approval as it is a primary mode of transport for youth.</p> <p>Two spaces are provided for disabled parking.</p> <p>An assessment has been undertaken of the proposed provision of onsite car parking using the RMS's Guidelines for Traffic Generating Development, as Walcha Council does not have specific car parking requirements.</p> <p>For shops having a gross leasable floor area (GLFA) of 0-10,000m² – car parking should be provided at 6.1 spaces (This is a metropolitan / regional average) per 100m² of GLFA. As a guide, about 75% of gross floor area is deemed GLFA.</p>

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		<p>Therefore for the development the gross floor area is = 1,997m²</p> <p>GLFA = 1,498m²</p> <p>Based on 6.1 spaces / 100m² GLFA, the demand = 91 spaces</p> <p>At least 85% of the calculated spaces should be provided on site which is 78 spaces.</p> <p>Therefore the development is 31 spaces short onsite. Giving consideration to the community interest in the retention of existing saddlery and craft buildings, plus the existence of on-street parking to the south and west, plus the RMS Guidelines being an average of metropolitan and regional areas with Walcha Council being a rural location, Council could consider the 47 car spaces sufficient.</p>
Emergency Services	Yes	<p>Part of the water design is to ensure that firefighting hydrants meet the necessary standard. In the event that the existing hydrant does not, an upright pillar hydrant assembly mid-block may be required. This will need to be assessed approved by Council at the time of water provision designs assessment and prior to the release of a Construction Certificate to ensure adequacy.</p> <p>Ambulance and Police would have full access.</p>

- Does the development require any new easements?** No
- Has an Erosion and Soil Control Plan been submitted?** No
- Was there any outstanding issues requiring attention?** Yes

Comment: Fire fighting hydrant issue needs to be finalised and is subject to the water provision design.

Construction Assessment

- Is a construction assessment required?** Yes
- Has a construction assessment been completed?** No
- Is there any other issue / feature / impact that requires notation from the assessment?** No
- Is a Construction Certificate Required?** Yes
- Was a construction certificate submitted with this application?** No
- Is the Construction Certificate required for a subdivision?** No
- Is an annual Fire Safety Measures certification required?** Yes
- Is a public defects liability agreement required?** No
- Is there any other issue that requires notation?** No

Section 68 Assessment

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..... General Manager Mayor



Section 68 – LGA Act

Is a section 68 assessment required? Yes
 Was a section 68 application submitted with this application? No
 Has a section 68 assessment been completed? No
 Does this system require connection to a Council maintained system? Yes
 Is there any other issue/feature/impact that requires notation from the assessment No

**Developer Contributions
Section 94 – EP & A Act**

Does this proposal require any Developer Contribution? No

Signage

Has this application included signage? Yes

Comment: Business Identification signs, additional signage to be specified in further development application.

**Notification
Section 79c(1)(d) – EP & A Act**

Is this application an advertised development application? No
 Was this application notified as per the provisions of Council’s Notification Policy? Yes
 Were there any written submissions received? Yes
 If yes, what was the number of submissions received? 2

Submission Maker	Received 23 February 2017
Issues:	
<ul style="list-style-type: none"> • Notification – concern over not being notified • Hope for current craft shop to be suitably restored • Loading bay noise (back-up alarms) at strange hours of the night • Request for northern buffer wall to reduce disturbance 	
Comment:	
<p>The application was notified in accordance with Councils “Notification of Development Applications” Policy as amended by Council in September 2000, in conjunction with relevant legislation and planning principles as applicable by today standards. Persons to be notified are those who appear to be the owner of adjoining and neighbouring land, if Council considers the enjoyment of any adjoining or neighbouring land may be detrimentally affected by the proposed building. The application was not notified to the submission maker as their property is not adjoining as it is separated from the subject land by a public road, Council also takes into consideration any lot that is within 20m of the boundary of the subject land and the submission makers land is not within 20m of the lot boundary of the subject land.</p> <p>Part of the existing craft shop that is dilapidated is proposed to be demolished, the applicant has</p>	

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outlined in their Statement of Environmental Effects submitted with the application that the remaining building is proposed to be “beautified”. Council may wish to reinforce this issue by way of applying a relevant condition of consent requiring the building to be refurbished.

The noise of delivery vehicles reversing into the loading bay is a relevant planning matter to be considered by Council. The development does have potential to increase background noise levels. Council should consider addressing this issue by way of applying relevant conditions of consent particularly in respect to the hours of delivery and the proposed northern boundary solid wall construction to be of a material and height suitable to absorb the noise and maintain amenity of the adjoining owners.

Submission Maker	Received 23 February 2017 – Opposition
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Issues:

- Proposed changed traffic conditions:
 - Increased traffic Hamilton Street
 - Reversing trucks in South Street
 - Increased traffic in South Street, already busy with school aged children
 - Question of the time restraints for the delivery trucks
- Position of loading bay – concerns in relation to noise, privacy and delivery times
- Concerned about the layout of the development being on the side where the residential buildings are.
- Concerned about appropriate buffer wall between the loading bay and the residential properties
- Concerned about the plant room directly opposite neighbouring resident’s bedrooms in relation to noise, light and heat from the industrial air conditioner running 24 hours a day.
- Concerned plans don’t clearly depict detail in relation to size and scale of the development.

Comment:

See comments above in submission 1 in relation to the loading bay and delivery trucks.

Council has determined at the time of adoption of its LEP that this type of development is suitable for this zoning, subject to development consent. This development fits with the aims and objectives. Council consulted with the community in the LEP preparation. The traffic generation ancillary to this development would also be considered to be suitable within this zone, however the issue of increased traffic and nearby land use of the school is valid and needs to be considered; Council under the provisions of the Infrastructure SEPP 2007, consulted with RMS for comment in relation to traffic generation, Council should consider imposing as conditions of consent the recommendations of RMS.

No Development Control Plan (DCP) exists for the subject site to provide guidance on layout, building setbacks, and design. The building has been designed so that any air conditioning units and ducting are screened from view from a public place or road; the applicant has designed the development to maintain the existing craft shop as a landmark feature of the street. The loading bay location has been designed to demonstrate no conflict between pedestrians and customer vehicles. The delivery trucks reversing into the site from South Street is a valid concern and needs to be considered, as done so within this report. The supermarket & liquor outlet has been sited to face the street to avoid expansive blank walls to view from a public place or road, the carpark location is designed taking into account crime prevention strategies and to facilitate appropriate vehicle and pedestrian access to the site and other shops within the CBD, further deliberation of the building layout on the site is for the consideration of Council.

In respect of the concern for the noise generated from the proposed refrigeration units, relevant EPA

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noise recommendations should be imposed as a condition of consent.

The plans submitted with the application are drawn to scale with relevant dimensions shown to the satisfaction of Council’s requirements for the submission of a development application and associated plans and documents, including floor plan, site plan and elevations.

Is there any other issue/feature that requires notation? No

Section 88b Instrument

Does Council require a Section 88b instrument to be prepared? No

Public Interest
Section 79c(1)(e) – EP & A Act

Does this proposal have any construction or safety issues? Yes

Comment: All construction vehicles are to be parked onsite during construction, and not on the Street.

Is there any public health issues? Yes

Comment: Construction of a food premises

Site Suitability
Section 79c(1)(c) – EP & A Act

Is this a suitable site for this proposal Yes

Comment: The site is located in the B2 Local Centre Zone of Walcha LEP 2012 and is considered suitable for the development as proposed.

Assessing Officer General Comment

Comment:

This development does comply with the aims of the zone.

I believe Council is in a position to approve the development subject to conditions.

Recommendation

This development application be approved subject to the conditions as scheduled to this report in Attachment 1, and to include any additional conditions that result from the conclusion of any outstanding consultations.

Conclusion

I confirm that I am familiar with the relevant heads of consideration under the *Environmental Planning & Assessment Act 1979* and the *Local Government Act 1993* (if applicable) and have considered them in the assessment of this application.

I certify that I have no pecuniary or non-pecuniary interest in this application.

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Walcha Council
ExtraOrdinary Council Meeting
8 March 2017



Additional Notes Attached:

No

Signed:

Date: 26 February 2017

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ATTACHMENT 1

**CONDITIONS ATTACHED TO
DEVELOPMENT CONSENT 10.2016.17**

1. PRESCRIBED CONDITIONS

- cl. 98 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#) (cf clauses 78 and 78A of EP&A Regulation 1994)**
 - 1.1. For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
 - 1.1.1. that the work must be carried out in accordance with the requirements of the Building Code of Australia,
 - 1.2. This clause does not apply:
 - 1.2.1. to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
 - 1.2.2. to the erection of a temporary building, other than a temporary structure to which subclause (1A) applies.

In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:

- (a) Development consent, in the case of a temporary structure that is an entertainment venue, or
- (b) Construction certificate, in every other case

There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.

- cl. 98A Erection of signs**
 - 1.3. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - 1.3.1. showing the name, address and telephone number of the principal certifying authority for the work, and
 - 1.3.2. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - 1.3.3. stating that unauthorised entry to the work site is prohibited.
 - 1.4. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100)

cl. 98E Condition relating to shoring and adequacy of adjoining property

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- 1.5. For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - 1.5.1. protect and support the building, structure or work from possible damage from the excavation, and
 - 1.5.2. where necessary, underpin the building, structure or work to prevent any such damage.
- 1.6. The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

2. GENERAL CONDITIONS

- 2.1. The development must take place in accordance with the approved plans (bearing the Walcha Council approval stamp) and documents submitted with the application, listed below:

Project No.	Drawing No.	Description	Prepared by	Dated
1119 – 16	1 of 4 (Rev. A)	Site plan	J.A. of Jeremy Allen Planning & Design	5/12/2016
1119 – 16	2 of 4 (Rev. A)	Floor plan	J.A. of Jeremy Allen Planning & Design	7/12/2016
1119 – 16	3 of 4 (Rev. A)	Elevations	J.A. of Jeremy Allen Planning & Design	7/12/2016
1119 – 16	4 of 4 (Rev. A)	Section plan	J.A. of Jeremy Allen Planning & Design	7/12/2016
1119 – 16	-	Statement of Environmental Effects	J.A. of Jeremy Allen Planning & Design	5/12/2016

Also in accordance with any changes shown in red ink on the approved plans, and as amended by the conditions of consent.

- 2.2. All sewer and drainage works associated with the approval are to comply with the requirements of AS 3500 and completed only by a licensed plumber and drainer.

Notification of intention to carryout plumbing and drainage work must be provided on the appropriate 'Notice of Work' form (available for download from the NSW Fair Trading Website) prior to plumbing and drainage work commencing. A 'Certificate of Compliance' (also available for download from the NSW Fair Trading Website) and Sewer Service Diagram (SSD) (template available for download from NSW Fair Trading Website) is to be submitted to Council at completion of the plumbing and drainage work, either prior to or at the time of the inspection. The SSD must comply with the required specifications, further information available from Council upon request.

- 2.3. All Engineering works to be designed by an appropriately qualified person and carried out in accordance with the requirements of

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Council's Engineering Department, unless otherwise indicated in this consent, to ensure that these works are of a sustainable and safe standard.

- 2.4. Tree removal should be carried out by an appropriately qualified person (e.g. tree surgeon) to avoid any risk to life or damage to property. This person should have adequate public liability insurance cover.
- 2.5. Incorporation of planting to screen and visually integrate the development with the local environment when viewed from South and Fitzroy Streets as specified in the Site Plan submitted with the Development Application. Further details to be indicated on plan to the satisfaction of the Certifying Authority before the issue of a Construction Certificate for the development.

New tree planting to be a minimum of 3m horizontal distance from the line of buildings or underground services to reduce risk of future damage by limbs or roots.

- 2.6. Should Walcha Council be appointed the Principal Certifying Authority, the applicant must give at least 2 days' notice to enable the following inspections to be undertaken where appropriate for the class of building:
 - after the commencement of the excavation for, and before the placement of, the first footing **
 - prior to covering any stormwater drainage connections **
 - after the building work has been completed and prior to any occupation certificate being issued in relation to the building **

** denotes a critical stage inspection (a mandatory inspection pursuant to Section 109E of the EP&A Act 1979). Please note that an Occupation Certificate cannot be issued for a development where a critical stage or other nominated inspection has not been carried out. (Please call 02 6774 2515 to book an inspection).

- 2.7. The Applicant is to decide on the final finishes and colours of the buildings in consultation with Council's Arts Advisory Committee.

3. PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE CONDITIONS

- 3.1. The applicant shall consolidate the two lots prior to issue of a Construction Certificate.
- 3.2. All Engineering works to be designed by an appropriately qualified person and carried out in accordance with the requirements of Council's Engineering Department, unless otherwise indicated in this consent, to ensure that these works are of a sustainable and safe standard.
 - 3.2.1. A full sewer design will be required to be approved by Council prior to the issue of a Construction Certificate to ensure adequacy. As part of the sewer design, Council must be notified of the projected sewer production to ensure that downstream infrastructure is not overloaded as a result of this development.
 - 3.2.1.1. Consideration to be given to liquid trade waste discharge into Council's sewerage system, with approval to be approved by Council prior to

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- issue of a Construction Certificate.
- 3.2.2. A full water provision design will be required to be approved by Council prior to the issue of a Construction Certificate to ensure adequacy. As part of the water provision design, Council must be notified of the projected water usage to ensure that Councils existing infrastructure in the immediate area is sufficient to supply the required water for the development.
 - 3.2.3. A full hydraulic design from an appropriately qualified practising hydraulic engineer for the premises, including all fire fighting equipment, will be required to be submitted to the Principle Certifying Authority prior to the issue of a Construction Certificate.
 - 3.2.4. A full drainage plan will be required to be approved by Council prior to the issue of a Construction Certificate to ensure infrastructure design is adequate for flood protection and drainage control of the proposed development and / or other property. Stormwater systems must cater, as a minimum, for a stormwater flooding event of 20% Annual Exceedance Probability (AEP) for pipes, and 1% AEP for aboveground flow paths.
 - 3.2.5. All internal driveways and visitor car parking must have an asphalt or reinforced concrete wearing surface. The pavement design is required to be approved by Council prior to the issue of a Construction Certificate to ensure adequacy.
- 3.3. The detailed plans and specifications submitted with the application for a construction certificate must be certified by an appropriately qualified practicing structural engineer and are to demonstrate compliance with the requirements of the deemed-to-satisfy provisions of the Building Code of Australia for the appropriate class of building. Amended plans are to be submitted to the Principal Certifying Authority for authentication of BCA compliance and issue of a Construction Certificate. Should the external configuration of the building be modified as a result of achieving BCA compliance, this development consent must also be modified.
- 3.4. The retaining wall to the north boundary of the development adjacent to the loading dock is to be of a material and height to suitably absorb noise generated from the development.
- 3.5. Access to the building for the disabled shall be provided in accordance with AS 1428.1 and the Building Code of Australia. Details of the disabled facilities need to be adequately detailed on the Construction Certificate application plans to permit assessment and compliance evaluation with the Building Code of Australia.
- 3.6. A list of fire safety measures must be submitted with the Construction Certificate application, pursuant to Clause 139 of the Environmental Planning and Assessment Regulation 2000.
- 3.7. For all construction work required on Council land (e.g. storm water, footpaths, kerb and gutter etc.) the applicant is to submit an Application to Conduct Work on Land to Which Council is the Regulatory Authority. The Application must be approved prior to the issue of a Construction

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Certificate, to ensure pedestrian and vehicular safety during construction.

- 3.8. The design and construction of food premises must:
 - 3.8.1. be appropriate for the activities for which the premises are used
 - 3.8.2. provide adequate space for the activities to be conducted on the food premises and or the fixtures, fittings and equipment used for those activities
 - 3.8.3. permit the food premises to be effectively cleaned and, if necessary, sanitised
 - 3.8.4. to the extent that is practicable (i) exclude dirt, dust, fumes, smoke and other contaminants; (ii) not permit the entry of pests; and (iii) not permit any harbourage for pests

In accordance with the Australia and New Zealand Food Safety Authority Food Safety Standards and to ensure the public health and safety of patrons and staff. A copy of the Standards can be downloaded from the ANZFA website <http://www.foodstandards.gov.au>. Details to be submitted for the approval of the Council's Environmental Health Officer before the issue of a Construction Certificate

- 3.9. Floor levels of the proposed development are to be a minimum of 500mm above the calculated 1% flood level, to ensure an acceptable level of flood protection for the development, and is to be shown on the plans submitted with the application for a Construction Certificate.

4. PRIOR TO CONSTRUCTION COMMENCING CONDITIONS

- 4.1. A Construction Certificate must be obtained from a Certifying Authority before work commences, in accordance with Cl.146 of the EP&A Regulation 2000.
- 4.2. Council is to be given written notice of the intention to commence works and the appointment of a Principal Certifying Authority (if the PCA is not Council) at least two days before the proposed date of commencement, in accordance with cl 103 and 104 of the Environmental Planning and Assessment Regulation 2000. Such notice is given using the form enclosed with this consent.

For development involving both building and subdivision work authorised by the same development consent, a separate appointment of a Principal Certifying Authority for each type of work is required, in accordance with Section 109E of the Environmental Planning & Assessment Act 1979.

- 4.3. Before construction commences on the site and throughout the construction phase of the development, erosion control measures are to be installed to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:
 - divert contaminated run-off away from disturbed areas,
 - erect silt fencing along the downhill side of the property boundary,
 - prevent tracking of sediment by vehicles onto roads by limiting

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access to the site and, where necessary, installing a temporary driveway and

- stockpile all topsoil, excavated material and construction debris on the site, erecting silt fencing around the pile where appropriate.

Failure to take effective action may render the developer liable to prosecution under the NSW Protection of the Environment Operations Act 1997.

- 4.4. A hoarding or fence must be erected between the work site and any public place if the work is likely to cause traffic (pedestrian or vehicular) in a public place to be obstructed or otherwise inconvenience. The erected hoarding is to be sufficient to prevent any substance from or in connection with the work falling into the public place. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. The hoarding, fence or awning is to be removed once the work has been completed.

5. DURING CONSTRUCTION CONDITIONS

- 5.1. Any building work must be carried out between 7.00am and 5.00pm Monday to Friday and 8.00am to 1.00pm Saturdays, excluding Sundays and public holidays. No audible construction is to take place outside these hours, to maintain the amenity of the locality.
- 5.2. Work may be carried out outside the standard hours for construction if the work only generates noise that is:
 - 5.2.1. no louder than 5 dB(A) above the rating background level at any adjoining residence in accordance with the Interim Construction Noise Guideline (ISBN 978 1 74232 217 9) published by the Department of Environment and Climate Change NSW in July 2009, and
 - 5.2.2. no louder than the noise management levels specified in Table 3 of that guideline at other sensitive receivers.
- 5.3. Work may be carried out outside the standard hours for construction:
 - 5.3.1. for the delivery of materials—if prior approval has been obtained from the NSW Police Force or any other relevant public authority, or
 - 5.3.2. in an emergency, to avoid the loss of lives or property or to prevent environmental harm.
- 5.4. A certificate of survey is to be provided from a registered surveyor to the principle certifying authority indicating the floor level is 500 mm above the 1% flood level.
- 5.5. No part of the structure (including the eaves gutter) to encroach upon adjoining property.
- 5.6. Buildings / structures must not be constructed over sewer mains unless specific approval has been granted by the Council. Approval to construct buildings over the sewer main will only be granted where other methods, such as realignment, are not possible.

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- 5.7. An appropriate Management Strategy is to be developed to deal with any potential contamination that may be found.
- 5.8. Roof and surface stormwater from paved and impervious areas is to be collected and directed to drainage easements in accordance with the approved stormwater drainage plan, to protect the site and adjoining property from effects of flooding. Relevant work to be carried out immediately the roof and guttering is installed
- 5.9. Toilet facilities are to be provided at, or in the vicinity of the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be connected to an accredited sewage management facility approved by the council or some other sewage management facility approved by the council.
- 5.10. A garbage receptacle must be provided at the work site before works begin and must be maintained until works are completed. The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
- 5.11. Waste materials (including excavation, demolition and construction waste materials) must be managed on the site (and must not be burned on site) and then disposed of at a waste management facility, to protect the amenity of the area and avoid the potential of air pollution.
- 5.12. Effective dust control measures are to be maintained during construction to maintain public safety / amenity. Construction activities are to be undertaken so as not to inconvenience the adjoining land owners and are to be restricted solely to the subject site.
- 5.13. Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- 5.14. No material or equipment associated with the development is to be placed on public land without the written consent of the Council, and any activity located in close proximity to public areas is to be fenced to prevent damage to persons or property.
- 5.15. All vehicles entering or leaving the site must have their loads covered, and all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- 5.16. Retaining walls associated with the erection of the building or other approved methods for preventing the movement of the soil must be provided where soil conditions are inadequate, ensuring adequate provision is made for drainage.
- 5.17. Any earthworks (including any structural support or other related structure for the purposes of the development):
 - 5.17.1. must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
 - 5.17.2. must not redirect the flow of any surface or ground water or cause

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- sediment to be transported onto an adjoining property, and
- 5.17.3. that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the [Protection of the Environment Operations Act 1997](#), and
- 5.17.4. that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the [Protection of the Environment Operations \(Waste\) Regulation 2005](#).

Any excavation must be carried out in accordance with Excavation Work: Code of Practice (ISBN 978-0-642-785442), published in July 2012 by Safe Work Australia.

- 5.18. Any demolition must be carried out in accordance with AS 2601—2001, The demolition of structures
- 5.19. Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 318 of the [Occupational Health and Safety Regulation 2001](#):
 - 5.19.1. the person having the benefit of the development consent must provide the principal certifying authority with a copy of a signed contract with such a person before any development pursuant to the development consent commences,
 - 5.19.2. any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the bonded asbestos material or friable asbestos material is to be delivered,
 - 5.19.3. if the contract indicates that bonded asbestos material or friable asbestos material will be removed to a specified landfill site, the person having the benefit of the development consent must give the principal certifying authority a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.

In this clause, bonded asbestos material, bonded asbestos removal work, friable asbestos material and friable asbestos removal work have the same meanings as in clause 317 of the Occupational Health and Safety Regulation 2001.

Information on the removal and disposal of asbestos to landfill sites licensed to accept this waste is available from the Office of Environment and Heritage.

6. PRIOR TO OCCUPATION CONDITIONS

- 6.1. An Occupation Certificate must be obtained before the approved use commences, in accordance with the Environmental Planning and Assessment Act 1979 and to ensure the health and safety of the building’s occupants.

Failure to obtain an Occupation Certificate is an offence under the legislation. Penalty advice for buildings (penalties do not apply to uses detailed in sections 109M and 109N; i.e. Crown projects, Class 1a and 10 buildings or as detailed for places of public entertainment).

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- 6.2. A Compliance Certificate stating that the necessary design and construction requirements for the food premises have been satisfied is to be obtained from Council's Environmental Health Officer prior to the issue of an Occupation Certificate.
- 6.3. The food business must be notified as required by The Food Act 2003, or licensed as required by the Food Regulation 2010, before an occupation certificate (whether interim or final) for the work is issued.
- 6.4. Approval must be obtained from the Council as the Local Water Supply and Sewer Authority for any potable water supply, sewerage or on-site waste water system serving the site, pursuant to Chapter 7 of the Local Government Act 1993 with all relevant work completed in accordance with such approval.

The Principle Certifying Authority is to contact Council to ensure all the Section 68 conditions of approval have been completed prior to the issue of an Occupation Certificate.

- 6.5. At the completion of the works, the work site must be left clear of waste and debris.
- 6.6. Where the existing kerb and / or gutter is impacted by the development, the infrastructure is to be reinstated to Council's standards, at full cost recovery to Council.
- 6.7. South Street, directly in front of the loading dock to be upgraded to a suitable wearing course to ensure truck movements do not damage councils existing bitumen seal. The upgraded wearing course to be asphalt, with the depth to be determined by Council, at full cost recovery to Council.
- 6.8. The property number shall be clearly and permanently placed at the address site entrance on the side of the road to which it relates, to identify the address to the public and to essential / emergency services. Numbers:
 - shall be 50mm wide x 90mm high (minimum),
 - shall be at least 1m above the ground, andmust be easily readable, high contrast and reflective, and easily distinguishable both day and night from a moving vehicle.
- 6.9. Provision of 47 off-street parking spaces to serve the development (as shown on the approved plans) is to be completed before the issue of an Occupation Certificate. Approved parking bays, including spaces allocated for people with disabilities, are to be clearly identified by appropriate pavement markings.
 - 6.9.1. All customer vehicles to enter and exit the site in a forward direction.
 - 6.9.2. Site entry and exit to be clearly signposted.
 - 6.9.3. Provision of adequate waste disposal bins within the carpark.
 - 6.9.4. The car park is to comply with AS 2890.1:2004 Parking facilities – off-street car parking.
- 6.10. Provision of parking for Bicycles to be located near the supermarket entry.
- 6.11. Access / facilities for people with disabilities to be provided in accordance with the Building Code of Australia before the issue of an

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Occupation Certificate for the development, and maintained thereafter.

The Commonwealth Disability Discrimination Act 1992 provides opportunity for public complaint potentially leading to legal action if access to premises by people with disabilities or their carers is precluded. The Human Rights and Equal Opportunity Commission has released an advisory document entitled Access to Premises. As a substantial proportion of the community suffer from mobility handicaps, provision of good access to premises is also good business practice.

- 6.12. A Fire Safety Certificate with respect to each essential fire safety measure installed in association with the building as listed on the Fire Safety Schedule attached to the Construction Certificate is to be submitted to Council. Such certificate must be received by Council prior to the occupation or use of the development.
 - 6.12.1. Copies of the subject Fire Safety Certificate must be forwarded by the owner of the building to the Commissioner of the NSW Fire Brigades and a copy displayed in a prominent position within the subject building.
- 6.13. Landscaping is to be completed in accordance with the approved landscape plan prior to the issue of an Occupation Certificate for the development.
- 6.14. A Traffic Management Plan is to be developed by a suitably qualified practising Engineer in consultation with the Local Traffic Committee detailing the operation of the loading bay, to be approved by Council prior to the issue of an occupation certificate, examples of traffic management may include:
 - clearly marked signage prohibiting public access to loading dock and warning the public of the loading area
 - reduced speed limits within the vicinity
 - convex mirrors
 - a parking clearway either side of the loading dock driveway in accordance with Council's Engineering Department specifications.
- 6.15. The existing saddlery and craft shop buildings are to be refurbished (beautified) in keeping with the 'heritage feel' of the buildings.

7. OPERATIONAL REQUIREMENTS

- 7.1. A further application is to be made for any change, enlargement or intensification of the premises or land use, including the display / erection of any new structure such as signage, partition walls or building fit-out (unless the proposed work is exempt from the need for consent under State Environmental Planning Policy (Codes SEPP) 2008).
- 7.2. An annual fire safety statement shall be provided to Council at least once every 12 months.
- 7.3. The development must not be operated outside the following hours:
 - 8.00 am to 7.00 pm Monday to Saturday

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- 9.00 am to 6.00 pm on a Sunday or a public holiday.
- 7.4. Deliveries are to be limited to times between:
 - 8.00 am to 7.00 pm Monday to Saturday
 - 9.00 am to 6.00 pm on a Sunday or a public holiday
- 7.4.1. No deliveries are permitted between the hours of 8.30 am and 9.30 am and 3.00 pm and 4.00 pm on school holidays.
- 7.4.2. No delivery vehicle shall be left idling whilst making a delivery.
- 7.4.3. All delivery vehicles must enter the site from South Street via Fitzroy Street only. Delivery vehicles shall exit the site onto South Street and proceed in a southerly direction along South Street to Fitzroy Street.
- 7.5. The development must comply with the requirements for industrial premises contained in the Noise Policy.
- 7.6. Noise emitted by the development:
 - 7.6.1. must not exceed an L A (15 min) of 5dB(A) above background noise when measured at any lot boundary of the property where the development is being carried out, and
 - 7.6.2. must not cause the relevant amenity criteria in Table 2.1 in the Noise Policy to be exceeded.

In this clause, the Noise Policy means the document entitled NSW Industrial Noise Policy (ISBN 0 7313 2715 2) published in January 2000 by the Environment Protection Authority.

- 7.7. All new external lighting must:
 - 7.7.1. Comply with AS 11583.1 Pedestrian Area Lighting.
 - 7.7.2. Comply with AS 4282–1997 Control of the obtrusive effects of outdoor lighting, and
 - 7.7.3. Be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.
- 7.8. Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set:2010 Lighting for roads and public spaces Set
- 7.9. All driveways and parking areas must be unobstructed at all times.
- 7.10. Driveways and car spaces must not be used for the manufacture, storage or display of goods, materials or any other equipment, and must be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.
- 7.11. A waste minimisation and management program is to be developed and implemented so as to limit waste going to the landfill for disposal.
 - 7.11.1. All waste to be stored in a contained area, not accessible by the general public (within the loading dock area). Disposal to be to a licenced landfill facility.
- 7.12. Any tree or shrub that fails to establish within 2 years of the initial planting date must be replaced with the same species of tree or shrub.

Submitted to Council: 8 March 2017

..... General Manager Mayor



- 7.13. All landscaped areas on the site must be maintained on an on-going basis.
- 7.14. No signs (including sandwich boards) are to be displayed on the public footway or any external pedestrian areas, to maintain the visual amenity of the locality and to ensure public safety.

8. COUNCIL ADVICE ONLY

- 8.1. Covenant/s: The applicant / owner has the responsibility of being aware of any covenant which may affect the proposal.
- 8.2. Any structures are to erected / installed / constructed in accordance with the manufacturer's instructions.
- 8.3. Dial Before You Dig: Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.
- 8.4. Telecommunications Act 1997 (Commonwealth); Telstra (and its authorized contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.