



Hawkesbury City Council

extraordinary  
meeting  
business  
paper

date of meeting: 16 December 2008  
location: council chambers  
time: 7.00 p.m.



mission  
statement

***“To create opportunities  
for a variety of work  
and lifestyle choices  
in a healthy, natural  
environment”***

## **How Council Operates**

Hawkesbury City Council supports and encourages the involvement and participation of local residents in issues that affect the City.

The 12 Councillors who represent Hawkesbury City Council are elected at Local Government elections held every four years. Voting at these elections is compulsory for residents who are aged 18 years and over and who reside permanently in the City.

Ordinary Meetings of Council are held on the second Tuesday of each month, except January, and the last Tuesday of each month, except December. The meetings start at 5:00pm with a break from 7:00pm to 7:30pm and are scheduled to conclude by 11:00pm. These meetings are open to the public.

When a Special Meeting of Council is held it will usually start at 7:00pm. These meetings are also open to the public.

### **Meeting Procedure**

The Mayor is Chairperson of the meeting.

The business paper contains the agenda and information on the issues to be dealt with at the meeting. Matters before the Council will be dealt with by an exception process. This involves Councillors advising the General Manager at least two hours before the meeting of those matters they wish to discuss. A list will then be prepared of all matters to be discussed and this will be publicly displayed in the Chambers. At the appropriate stage of the meeting, the Chairperson will move for all those matters not listed for discussion to be adopted. The meeting then will proceed to deal with each item listed for discussion and decision.

### **Public Participation**

Members of the public can request to speak about a matter raised in the business paper for the Council meeting. You must register to speak prior to 3:00pm on the day of the meeting by contacting Council. You will need to complete an application form and lodge it with the General Manager by this time, where possible. The application form is available on the Council's website, from reception, at the meeting, by contacting the Manager Corporate Services and Governance on 4560 4426 or by email at [fsut@hawkesbury.nsw.gov.au](mailto:fsut@hawkesbury.nsw.gov.au).

The Mayor will invite interested persons to address the Council when the matter is being considered. Speakers have a maximum of five minutes to present their views. If there are a large number of responses in a matter, they may be asked to organise for three representatives to address the Council.

### **A Point of Interest**

Voting on matters for consideration is operated electronically. Councillors have in front of them both a "Yes" and a "No" button with which they cast their vote. The results of the vote are displayed on the electronic voting board above the Minute Clerk. This was an innovation in Australian Local Government pioneered by Hawkesbury City Council.

### **Planning Decision**

Under Section 375A of the Local Government Act 1993, details of those Councillors supporting or opposing a 'planning decision' must be recorded in a register. For this purpose a division must be called when a motion in relation to the matter is put to the meeting. This will enable the names of those Councillors voting for or against the motion to be recorded in the minutes of the meeting and subsequently included in the required register.

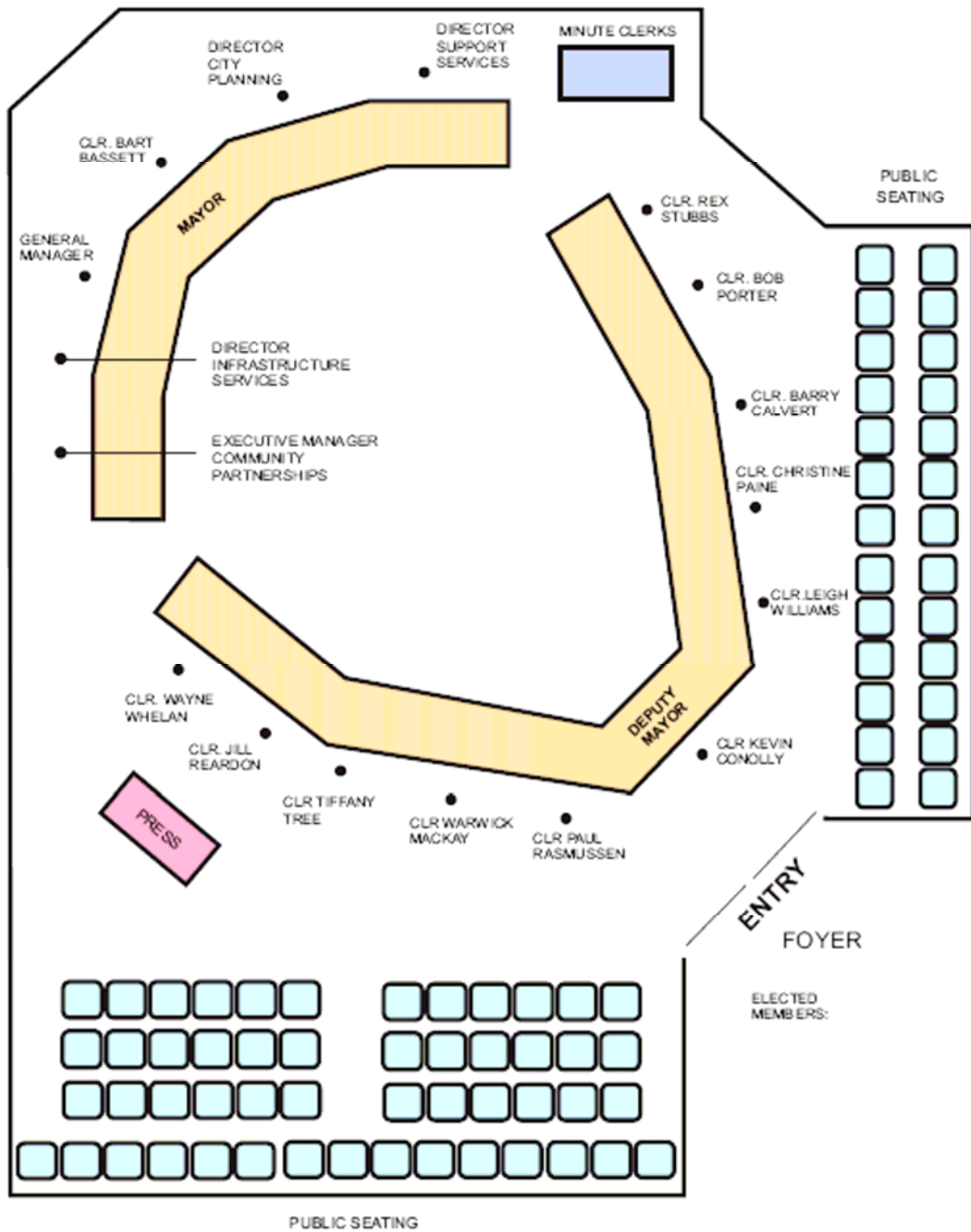
### **Website**

Business Papers can be viewed on Council's website from noon on the Friday before each meeting. The website address is [www.hawkesbury.nsw.gov.au](http://www.hawkesbury.nsw.gov.au).

### **Further Information**

A guide to Council Meetings is available on the Council's website. If you require further information about meetings of Council, please contact the Manager, Corporate Services and Governance on, telephone 02 4560 4426.

# hawkesbury city council council chambers



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- **APOLOGIES**
- **DECLARATION OF INTERESTS**
- **SECTION 4 - Reports for Determination**

**City Planning**

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### SECTION 4 - Reports for Determination

#### CITY PLANNING

**Item: 275** CP - Development Application - Shop - Aldi Store with Associated Carparking, Signage and Landscaped Area - 5 Curtis Road and 230 Windsor Road, Vineyard NSW 2765 - (DA0603/08, 95498, 12831, 111131)

**Previous Item:** 238, Ordinary (25 November 2008)  
272, Ordinary (9 December 2008)

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#### Background

This report was considered by Council at the meetings of 25 November and 9 December 2008. The resolution of 25 November 2008 is the subject of this report.

At the meeting of 9 December 2008, Council subsequently resolved:

*"That the matter be deferred and reported to an Extraordinary Meeting of Council to be held on Tuesday, 16 December 2008 commencing at 7.00pm"*

The following report is the same report that was presented to the Council on 9 December 2008 with the exception of the removal of part of proposed condition 128 which was included in error. The part removed from proposed condition 128 has been addressed in proposed condition 124 and is no longer required.

#### REPORT:

At the meeting of Council held on 25 November 2008 a report by the Director City Planning was considered in relation to Development Application No. DA0603/08 for a Aldi Store at the above address. Following consideration of the application Council resolved as follows:

*That the matter be deferred to enable the economic impact of the proposal to be further considered.*

A meeting was held with the applicant on 3 December 2008 in order to address the concern raised by Council having regard to the economic implications associated with the proposed development and to discuss amendments to conditions. The conditions attached to this report reflect the modifications agreed in the meeting and do not substantively alter those contained in the recommendation reported to Council on 25 November 2008.

The applicant has provided correspondence dated 4 December 2008 providing their response to the issue raised by Council. A copy of the letter from Hassell Limited is included as **Attachment 1** to this report.

#### Economic Assessment

Having regard to the economic assessment undertaken in association with the proposal it is advised that the applicant undertook an investigation prepared by Don Fox Planning included as **Attachment 2** to this report that was subject to an independent review process requested by Hawkesbury City Council in association with the assessment of the application. The independent review was undertaken by SEMF included as **Attachment 3** to this report concluding that the *"DFP report is not misleading in its methodology and approach"*.

The economic impact assessments detailed the potential impact on Windsor Town Centre, finding that:

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- Windsor will continue to be the dominant centre in the Hawkesbury LGA
- It is unlikely that Windsor will be undermined or threatened by the proposed Mulgrave ALDI as this will be a 'stand alone' facility without the necessary support infrastructure associated with a conventional retail and commercial centre.
- The existing supermarkets in Windsor form part of the diverse range of services and facilities available in Windsor; services and facilities that are not available at Mulgrave. Therefore, Windsor will continue to attract a significant proportion of retail expenditure, including supermarket expenditure, from households both within the ALDI catchment and those areas to the north-east, beyond the notional ALDI catchment."

Both economic assessments conclude that the development of the ALDI store is "unlikely to result in a detrimental economic impact on existing retailers".

Accordingly, the following recommendation is submitted for Council's consideration.

### Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e.:

*"Objective: Investigating and planning the City's future in consultation with our community, and co-ordinating human and financial resources to achieve this future".*

### Funding

There are no direct financial implications from this report at this stage.

### Planning Decision

As this matter is covered by the definition of a "planning decision" under Section 375A of the Local Government Act 1993, details of those Councillors supporting or opposing a decision on the matter must be recorded in a register. For this purpose a division must be called when a motion in relation to the matter is put to the meeting. This will enable the names of those Councillors voting for or against the motion to be recorded in the minutes of the meeting and subsequently included in the required register.

### RECOMMENDATION:

That Development Application No. DA0603/08 for a Shop - Aldi Store with Associated Car parking, Signage and Landscaped Area at Proposed Lot 6 in the subdivision of Lot 2 DP 270412, 5 Curtis Road and Lot 4 DP 270412, 230 Windsor Road Vineyard by granting a Deferred Commencement Consent subject to the conditions in Schedules 1 and 2:

1. Upon compliance with the condition appearing in Schedule 1, and with the issue of confirmation to that effect in writing from Council, this "Deferred Commencement" consent shall commence to operate as a development consent inclusive of all conditions appearing in Schedule 2 pursuant to Section 80(3) of the Act.
2. The "Deferred Commencement" consent will lapse in twelve months from the date of this consent unless all conditions appearing in Schedule 1 have been complied with.

### Schedule 1 - Deferred Commencement Condition

1. The following investigation/works are to be undertaken having regard to the findings contained in the *Proposed Aldi Store Development Preliminary Contamination & Acid Sulphate Soil Assessments* undertaken by Geotechnique Pty Limited Report No. 11688/2-AA, dated 2 April 2008.

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- (a) A *Stage 2 Detailed Investigation* must be completed in accordance with Clause 3.4.1 of the SEPP 55 Guidelines and the Department of Environment and Climatic Change (DECC) *Guidelines for Consultants Reporting on Contaminated Sites (1997)* by an Accredited Site Auditor to define the nature, extent and degree of contamination; to assess potential risks posed by contaminants to health and the environment; and to obtain sufficient information to develop a remedial action plan (RAP), if required, to be submitted to Hawkesbury City Council with a site audit report.

This investigation is to be undertaken in order to ascertain the presence or otherwise of asbestos contamination, delineation of the lateral and vertical extent of contamination and determination of the quantity of soil requiring remediation.

- (b) A *Stage 3 Remedial Action Plan*, if required by the accredited site auditor, any site audit report or by Hawkesbury City Council, must be submitted to Hawkesbury City Council.
- (c) The site must be remediated in accordance with the *Stage 3 Remedial Action Plan*.

Any stockpiles of contaminated materials shall be stored in a secure position on the site so as not to be exposed to surface waters, pedestrian activity, or wind.

In the event that the surface topsoil/fill is confirmed as contaminated with asbestos, the soils are to be classified as "Asbestos Waste" according to the "Waste Classification Guidelines Part 1: Classifying Waste" by the NSW Department of Environment and Climate Change (DECC) 2008. The "Asbestos Waste" must be transported and disposed of in accordance with NSW DECC and WorkCover NSW requirements at an EPA licensed landfill facility.

- (d) A *Stage 4 Validation and Monitoring Report* must be submitted to Hawkesbury City Council together with notice of completion of remediation pursuant to clause 18 of SEPP 55.

Following disposal of asbestos contaminated soils, validation of residual soils within the site, by sampling and testing, must be carried out to ensure the success of remediation. A validation report in accordance with NSW EPA guidelines is to be forwarded to Hawkesbury City Council for approval within one month of completion of remediation works. The report is to include documents relevant to any soils brought onto the land.

### Schedule 2

#### **General Conditions**

1. The development is to be carried out in compliance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of consent:

<b>Architectural Drawing Number</b>	<b>Dated</b>
P07017 DA 01A - Cover Sheet, Location Plan & Drawing List	11 August 2008
P07017 DA 02A - Site Plan & Signage Details	11 August 2008
P07017 DA 03A - Car Park Level Plan	11 August 2008
P07017 DA 04A - Ground Floor Plan	11 August 2008
P07017 DA 05A - Roof Plan	11 August 2008
P07017 DA 06A - South & East Elevations	11 August 2008
P07017 DA 07A - North & West Elevations	11 August 2008
P07017 DA 08a - Sections	11 August 2008
<b>Landscape Plan</b>	
SS08-1777 101 C - Landscape Plan	11 July 2008
<b>Civil Drawings</b>	
06S017MLDA C01 01 of 02 Rev 0 - Siteworks Plan	8 August 2008
06S017MLDA C02 02 of 02 Rev 0 - Erosion & Sediment Control Concept Plan	8 August 2008

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<b>Document Name/Number</b>	<b>Dated</b>
Statement of Environmental Effects - Proposed ALDI Store 5 Curtis Road Mulgrave	12 August 2008
Transport Report for proposed ALDI Store Mulgrave (Report No. 6941)	August 2008
Economic Impact Assessment (Project No. 7128A)	August 2008
Crime Prevention Through Environmental Design (CPTED) Assessment: ALDI Stores Winford Drive and Grier Crossing Mulgrave	August 2008
Waste Management Plan	8 August 2008
Preliminary Contamination & Acid Sulphate Soil Assessments: Proposed ALDI Store Development (Report No. 11688/2-AA)	2 April 2008

2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.
3. The approved use shall not commence until all conditions of this Development Consent have been complied with.
4. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
5. The development shall comply with the provisions of the Building Code of Australia.
6. The accredited certifier shall provide copies of all Part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 relevant to this development to Hawkesbury City Council within 7 (seven) days of issuing the certificate. A registration fee applies.
7. Hawkesbury City Council is the sewer authority for this development, inspection for compliance certification for internal and external sewer drainage shall be requested and approved prior to covering any pipe. An inspection fee applies.
8. The building design shall ensure that unimpeded access to the manhole labelled 1B on the sewer plan approved in conjunction with Development Consent No. DA0044/08 will be maintained for Council.

**Prior to Issue of Construction Certificate**

9. Pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979* and Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time), a contribution of \$34 370.00 shall be paid to Hawkesbury City Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time).

The contribution is to be paid prior to the issue of the construction certificate and copies of receipts(s) confirming that the contribution has been fully paid are to be provided to the Principal Certifying Authority.

10. An Environmental Management and Rehabilitation Plan for the development site shall be prepared by an appropriately qualified person. The Plan shall address (without being limited to) the clearing of vegetation, lopping and removal of trees, earthworks, erosion control, site rehabilitation and landscaping.

All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.

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11. A Construction Management Program shall be submitted and approved by Council prior to the issue of any Construction Certificate. Any use of Council property shall require appropriate approvals. The program shall detail:
  - (a) The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area.
  - (b) The proposed phases of construction works on the site, and the expected duration of each construction phase;
  - (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
  - (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
  - (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site;
  - (f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
  - (g) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer and shall not involve any permanent or temporary encroachment onto Councils property;
  - (h) Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of hoardings over footpaths and laneways;
  - (i) The location and operation of any on site crane;
  - (j) A "Works Zone", if required, is to be installed adjacent to the site frontage/s as part of the Construction Program;
  - (k) An application for a "Works Zone" is to be lodged with Council for approval; and
  - (l) Parking of workers vehicles during construction.
12. Construction of the drainage works, filling and retaining walls are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director City Planning or an Accredited Certifier.
13. Payment of a Construction Certificate checking fee of \$267.00 and a Compliance Certificate inspection fee of \$445.00 when submitting Civil Engineering Plans for approval. This amount is valid until 30 June 2009.
14. Details of any fill material removed from or imported to the site shall be submitted with the engineering plans. Details to include quantities, borrow sites or disposal sites.
15. Retaining walls are to be designed by a suitably qualified and experienced Structural Engineer.
16. A minimum of sixty three (63) off-street car-parking spaces, together with access driveways, shall be constructed, paved, line marked and signposted in accordance with the approved development plans, Australian Standard AS2890.1 and AS2890.2 and industry best practice as appropriate. A certificate prepared and certified by an appropriately qualified and practising Civil Engineer for the

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construction of these areas in accordance with this requirement shall be submitted with the Construction Certificate.

17. The texture and substance of all external components of the building and hard surfaced areas being generally in accordance with following plans submitted in conjunction with the application:

Drawing Number	Dated
P07017 DA 01A - Cover Sheet, Location Plan & Drawing List	11 August 2008

External components/materials/finishes are to be selected so as to provide a suitable level of durability to withstand graffiti and damage through vandalism.

Final details of all external materials and colours are to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

18. The reflectivity index (expressed as a percentum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Written confirmation of the reflectivity index of materials is to be submitted with the Construction Certificate.

(Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

19. The roof shall utilise non reflective materials so as to limit interference with aircraft operations. Details being submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
20. A certificate from an Acoustic Engineer is to be submitted with the Construction Certificate certifying that the development and all sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm to 6.00 am) when measured at the boundary of the property, and will comply with the Environmental Protection Authority Industrial Noise Policy. Details being submitted with the Construction Certificate.
21. Details demonstrating the provision of high quality external lighting for security without adverse affects on public amenity due to excessive illumination levels/glare are to be submitted with the Construction Certificate.
22. Access/egress/services and facilities including external and interior access are required in accordance with the provisions of AS 1428.1 (2001) - Design for Access and Mobility.

The building being adequately adjusted where required complying with the provisions of the *Disability Discrimination Act (1992)*. Note that any approval granted by Council does not necessarily guarantee compliance or otherwise with the *Disability Discrimination Act (1992)* and the applicant should investigate their liability under the Act. You are directed to the following sources to achieve compliance with the DDA:

- a) AS 1428.1 (2001) - Design for Access and Mobility
- b) Advisory Notes on Access to Premises - Human Rights and Equal Opportunity Commission (1998)
- c) Disability Discrimination Act (1992)

Details being submitted and approved by Council/Accredited Certifier prior to the issue of the Construction Certificate.

23. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's water mains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For quick Check

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agent details, please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au), see Building Developing and Plumbing then Quick Check or telephone 13 20 92.

The consent authority or a private accredited certifier must either:

- Ensure that Quick Check agent/Sydney Water has appropriately stamped the plans before the issue of any Construction Certificate; or
- If there is a combined Development/Construction Certificate application or Complying Development, include the above condition as one to be met prior to works commencing on site.

24. The development shall be constructed of flood compatible materials in accordance with the NSW Government Flood Plain Manual. In this respect the following design precautions must be adhered to in all respects:
- (a) all electrical, heating and air conditioning service installations are to be located above the 2% AEP flood level of 15.7m AHD;
  - (b) the building is to be constructed of flood compatible materials such as galvanised steel frame, galvanised zinc alum cladding doors and door frames; and
  - (c) the structure and walls shall be strengthened to a level of 17.3m AHD to increase resistance to floodwater flow and debris impact.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

25. If required, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Energy Australia, prior to a Construction Certificate being issued.
26. The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development. A dilapidation survey of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the issuing of any Construction Certificate.

Note: This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicant's interest for it to be as full and detailed as possible.

27. Service ducts shall be provided within the building to keep external walls free of plumbing or any other utility installations. Such service ducts are to be concealed from view from the street. Details demonstrating compliance are to be provided in the Construction Certificate.
28. An appropriate area shall be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises.

The following requirements shall be met:

- (a) The area is to be provided with a roof to prevent stormwater entering the sewer;
- (b) All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained into Council's sewer with a tap in close proximity to facilitate cleaning;
- (c) Include provision for the separation and storage in appropriate categories of material suitable for recycling;

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- (d) The storage area shall be adequately screened from the street and adjacent residential properties;
- (e) Garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

Details of the storage area are to be provided to, and approved by the Council / Accredited Certifier prior to issuing of the Construction Certificate.

- 29. Plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement. Where plan and equipment cannot be located within the basement, it is to be designed and located to ensure it is suitably screened from areas surrounding the subject site. Details demonstrating compliance are to be submitted with the Construction Certificate application.
- 30. Construction of any mains sewer work or any structure to be constructed within the Zone of Influence of a sewer main must not commence until three (3) copies of the plan submitted with a Major/Minor Sewer Works Application is submitted to Hawkesbury City Council's Waste Management Branch for assessment and approval.
- 31. The applicant must submit a copy of the approved plans associated with the major/Minor Sewer Works Application to the Principal Certifying Authority. This plan must be stamped *Sewer Works Approved for Design Only*.
- 32. The pylon sign situated on Lot 4 DP 270412 shall be consistent in height with the adjacent Hungry Jacks and Winford Motors pylon signs and not more than 10 metres.
- 33. A Traffic Management Plan prepared in accordance with AS 1742-3 (1996) by an appropriately qualified person shall be submitted to Council. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Management Plan is to be approved by the Roads and Traffic Authority before submission to Council.
- 34. Council must be consulted regarding acceptable discharge limits to the sewage system. A trade waste agreement application if required, must be submitted and assessed by Council prior to the application for a Construction Certificate. Hawkesbury City Council's Trade Waste/Technical Officer should be consulted to determine if this is required.

### **Prior to Commencement of Works**

- 35. The applicant shall advise Council of the name, address and contact number of the Principal Certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1979.
- 36. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
- 37. All traffic management devices shall be installed and maintained in accordance with the approved traffic management plan.
- 38. A Waste Management Plan shall be submitted to and approved by Council. The plan shall address any builder's waste and waste generated during the day to day operation of the development. Particular attention shall be paid to type and quantity of waste, recycling, reuse, storage and disposal.
- 39. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction. The enclosed warning sign shall be affixed to the sediment fence/erosion control device.



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40. The building shall be set out by a Registered Surveyor. The Survey Certificate of the building showing the position of the external walls under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority. Any easements must be shown on the Survey Certificate.
41. A copy of receipt of payment of Long Service Levy shall be provided to the Principal Certifying Authority prior to any works commencing on site. Payments can be made at Long Service Corporation offices or most Councils.
42. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
43. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
  - (a) Unauthorised access to the site is prohibited.
  - (b) The owner of the site.
  - (c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
  - (d) The name and contact number of the Principal Certifying Authority.
44. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to any works commencing on site.
45. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Hawkesbury City Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

(Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.)

### ***During Construction***

46. The site shall be secured to prevent the depositing of any unauthorised material.
47. Vehicle entrances and exits shall be clearly signposted and be visible from both the street and site at all times.
48. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
49. The applicant shall not enter or undertake any work within adjoining public lands (i.e. Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the applicant is to liaise with Council prior to the commencement of any design works or preparation of a Construction Management Plan.
50. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
51. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, including a public road or place, the person causing the excavation to be made:

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- (a) must preserve and protect the building from damage; and
- (b) if necessary, must underpin and support the building in an approved manner; and
- (c) must, at least 7 (seven) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The person acting in accordance with this Consent is liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

- 52. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan Appendix E Civil Works Specification.
- 53. On-site detention shall be provided to maintain all stormwater discharges from the 1:1 up to the 1:100 year storm at pre-development levels.
- 54. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
- 55. A heavy duty layback and footway vehicular crossing minimum 12m wide shall be constructed to the development. The crossing shall be constructed in accordance with Hawkesbury Development Control Plan Appendix E, Civil Works Specification.
- 56. All necessary street signage and pavement markings shall be installed.
- 57. Disabled parking shall be provided in accordance with AS2890.1-1993.
- 58. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.
- 59. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
  - (a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
  - (b) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
  - (c) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
- 60. Filling shall comprise only uncontaminated virgin excavated natural material. Contamination certificates for all source material shall be provided to the Principal Certifying Authority prior to placing any fill on site.
- 61. Council records indicate that the building site is at a level of approximately 15.5 metres AHD. All materials used in the construction below the level of 17.3 metres AHD shall be capable of withstanding prolonged immersion in water without swelling or deteriorating.
- 62. Any sewer or stormwater main or manhole affected by the development, shall be repaired or altered in level as so directed at the applicant's expense.

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63. Registered Surveyor's identification report indicating the finished ground floor levels to a nominated fixed datum point are in accordance with the levels indicated on the approved plans. Surveyor's report is to be submitted for confirmation to The Principal Certifying Authority prior to pouring of the slab or construction of the floor platform.
64. Should any Aboriginal site or relic or European relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service or the Heritage Office (European relic) consulted. Any person who knowingly disturbs an Aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974 and Heritage Act.
65. Vehicles entering and leaving the site with soil or fill material must be covered.
66. Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction. Odour suppression measures must be carried out so as to prevent nuisance occurring at adjoining properties. This Condition must be complied with during demolition and building work.
67. Inspections and Compliance Certificates for sewer works are only to be undertaken by Hawkesbury City Council.
  - In the case of internal and external (house service connection) drainage, the inspection must be conducted by Hawkesbury City Council's City Planning Branch. Contact details to arrange inspections: (02) 4560 4565 (fees are to be paid prior to inspection/s).
  - In the case of any sewer work constructed under a major/minor Sewer Works Application, the inspection must be conducted by Hawkesbury City Council's Waste Management Branch. A Compliance Certificate will not be issued until Works as Executed Details have been received, assessed and approved by Council's Waste Management Branch. Contact details to arrange inspections: (02) 4560 4519 or (02) 4560 4529.
  - In the case of major sewer works where the contractor is permitted to independent quality control, the independent assessor shall be approved by the Branch Manager of Hawkesbury City Council's Waste Management Branch.

In all cases inspections must be conducted on the exposed pipes prior to any backfilling this includes poured concrete slabs or concrete encasement.

It is advised that a statutory declaration will not be accepted in lieu of the compliance inspection.

68. Proposed tree planting within and adjacent to the car parking area is to utilise advanced species, appropriate protection measures and maintenance schedule are to be implemented so as to ensure long term viability of the landscape scheme.
69. Any part of the building to be used for food preparation shall comply with Council's Code for the Fitting out of Food Premises.
70. Any area used for storage of food or food appliances/equipment is to comply with the relevant section of Hawkesbury City Council's *Food Premises Fit Out Code* including Section 7.0 - Storerooms.
71. Ceilings throughout the premises are to be solid in food preparation areas and are to comply with section 4.0 of Hawkesbury City Council's *Food Premises Fit Out Code*. "Drop in" ceiling panels are not permitted over food preparation areas.
72. All walls, floors, benches, shelves, chairs, fittings and the like are to be constructed with materials that are smooth, durable, impervious to moisture, and capable of being easily cleaned with a disinfectant. Fittings and equipment should be constructed so as not to harbour food, insects or vermin.

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73. The floors are to be covered with a durable, non-toxic, impervious surface, graded to trapped floor waste outlets (where necessary), and connected to an approved drainage installation. The floor covering is to be free of protrusions or gaps.
74. All wall/floor junctions in the food preparation area(s), including any prefabricated low temperature rooms/freezer rooms, shall be covered according to Hawkesbury City Council's *Food Premises Fit Out Code*. The coving is to be a minimum radius of 25mm using a smooth impervious material of a light colour. Where walls and floors are tiled, the coving is to be of a tile type. "Stick on" coving is not permitted. Feather edge skirting is not permitted.
75. Any additional internal walls should be durable and of solid construction with no internal cavities. The wall should be sealed to the floor, and should comply with Hawkesbury City Council's *Food Premises Fit Out Code*, and the Building Code of Australia.
76. The premises is to be fitted with adequate hand washing facilities for the preparation of food. Handwashing basins are required in addition to other basins and sinks in any toilet, AND in any food preparation area. Where separate additional food preparation areas are provided, an additional hand washing basin is needed. Handwashing basins are required;
  - (a) to be fitted with hand's free taps such as knee or foot operated devices;
  - (b) with hot and cold running potable water;
  - (c) with a common spout delivering water of at least 40° Centigrade;
  - (d) to be easily accessible at all times.
77. A slop sink should be installed so that mop water does not contaminate the kitchen sinks. Mop water and water used for washing garbage receptacles must not be disposed of using a storm water drainage inlet.
78. The area used for storage of garbage receptacles is to be undercover, graded to a drain connected to the sewer, constructed with a surface that is easily cleaned, and shall have a supply of water under pressure available within the enclosure. Any stormwater or rainwater entering the garbage area should be adequately directed away from this drain.
79. In food preparation areas, the exhaust hood, filters and flue are to be installed and maintained as per Australian Standard AS 1668. The system should be adequate so that a smoke or odour emission nuisance does not occur as a result of the development.
80. A supply of soap and single use paper hand towels should be fitted to the wall in an appropriate and durable dispenser adjacent to any hand washing basin.
81. Equipment and appliances are to be installed on legs or castors as specified by Hawkesbury City Council's *Food Premises Fit Out Code*. Where plinths are to be used, the plinths shall be sealed to the floor, be covered in an equivalent finish to the floor, and the equipment/appliance effectively sealed to the plinth. Coving should also be provided to the plinth where necessary.
82. Food preparation and storage areas are to be adequately protected from flies, insects and vermin. Windows are to be screened, and doorways are to be provided with self-closing doors. External doors are to be provided with self-closing screen doors with the exception of egress doors and air locks.
83. Provide toilet and washing facilities in accordance with part F2 of the Building Code of Australia relevant to class 3 to 9 buildings.
84. Refrigerators and frozen food cabinets should be installed so as to comply with Hawkesbury City Council's *Food Premises Fit Out Code*.
85. Non-commercial refrigeration is not permitted in new food premises.

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86. The inaccessible cavities formed between the low temperature room and the ceiling, and the low temperature room and a wall are to be made vermin proof, and are to comply with Section 9.0 of Hawkesbury City Council's *Food Premises Fit Out Code*.
87. Adequate provision for the disposal of condensation from low temperature rooms and refrigeration shall be provided. Condensation waste is to be disposed of to the sewer in accordance with the requirements of Hawkesbury City Councils' Water Management branch.
88. An appropriate temperature gauge is to be provided externally to each low temperature room, refrigerated display unit, and refrigeration device.
89. All panels of the low temperature room are to be neatly cut and finished smooth to eliminate any cracks, crevices, or imperfections, which may provide access for food, vermin or insects.
90. Storage racks, where required, for the low temperature room shall be constructed of pipe, angle iron, "T" iron, channel iron, flat metal or other approved materials. The material should be galvanised and/or adequately treated to prevent corrosion.
91. The refrigeration equipment and all associated fittings are to be installed in such a manner that it is capable of operating without causing a noise or vibration nuisance for adjoining property holders.
92. An appropriately qualified person is to monitor excavation or similar activities, as per the 'Preliminary Contamination and Acid Sulphate Soil Assessment' report number 11688/2-AA prepared by Geotechnique Pty Ltd, regarding the potential presence of acid sulphate soils on the site or in any fill material imported to the site. Further testing/assessment is to be undertaken if required by the geotechnical engineer and results are to be submitted to the Principal Certifying Authority.

Appropriate measures shall be incorporated in the conjunction with the construction of the building relating to the presence or otherwise of acid sulphate soil.

93. Noise from the proposed machinery and excavation activities should be managed so that *offensive noise* as defined by the Protection of the Environment Operations Act does not occur at any sensitive receiver such as a residential property boundary.

### ***Prior to Issue of the Occupation Certificate***

94. 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 Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

95. A Certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.
96. Written clearance from Integral Energy shall be submitted to the Principal Certifying Authority.
97. A Compliance Certificate from Hawkesbury City Council's Waste Management Branch confirming sewer works constructed under a Major/Minor Sewer Works Application must be submitted to the Principal Certifying Authority.
98. A Compliance Certificate issued by Hawkesbury City Council's City Planning Branch confirming completion of internal and external drainage must be submitted to the Principal Certifying Authority.

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99. A Trade Waste Agreement may be required to be entered into with the Hawkesbury City Council for the discharge of trade waste to Council's sewer. Consultation with Council's Waste Management Branch is to be undertaken to determine whether such an agreement will be required.
100. The applicant shall prepare a flood emergency evacuation and management plan for the development. The plan shall advise occupants of flood evacuation procedures and emergency telephone numbers. The applicant shall contact Council and the NSW State Emergency Service for advice in the preparation of the plan. The evacuation procedures shall be permanently fixed to the building in a prominent location and maintained at all times.
101. Prior to occupation provision shall be made for access to and within the building on the site for persons with a disability in accordance with the provisions of AS 1428 Parts 1 and 4. Particular attention should be given to tactile ground surface indicators for the orientation of people with vision impairment (AS 1428.4).
102. To ensure that adequate provision is made for ventilation of the building all mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:
  - (a) The Building Code of Australia,
  - (b) AS 1668 Part 1 & 2,
  - (c) The Public Health Act,
  - (d) Public Health (Microbial Control) Regulation,
  - (e) Work Cover Authority,
  - (f) AS 3666 Air Handling and water system of building microbial control:
    - Part 1 - Design installation and commissioning
    - Part 2 - Operation and maintenance
    - Part 3 - Performance based maintenance of cooling water systems

An application to register any regulated system installed must be made to Council prior to commissioning of the system and the issuing of any Occupation Certificate.

103. A Plan of Management for the on-site stormwater detention facilities shall be submitted to and approved by Council. The Plan of Management shall set out all design and operational parameters for the detention facilities including design levels, hydrology and hydraulics, inspection and maintenance requirements and time intervals for such inspection and maintenance.
104. The owner shall enter a positive covenant with Council which provides the following:
  - (a) The registered proprietors will at all times maintain, repair and keep the on-site stormwater detention facilities in a good and safe condition and state of repair, in accordance with the approved design to the reasonable satisfaction, at all times, of Council, having due regard to the Plan of Management for the operation and maintenance of the on-site stormwater detention facilities, and
  - (b) The liability under the Covenant will jointly and severally bind the registered proprietors of the proposed dwellings, and
  - (c) Council only will be entitled to release or modify the Covenant.

All costs associated with the Covenant, including any legal costs payable by Council, are to be paid by the owner or applicant.

105. Submission of a report by the Design Engineer stating the conformance or otherwise of the On Site Stormwater Detention System in relation to the approved design.

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106. Prior to occupation of the development, a grease trap of an appropriate size may be required to be installed on the drainage line at a location approved by the Manager of Regulatory Services. Hawkesbury City Council's Trade Waste/Technical Officer should be consulted to determine if this is required.

### ***Use of the Development***

107. No internal or external alterations shall be carried out without prior approval of Council.
108. All fire safety equipment and fixtures shall be regularly serviced and maintained. The owner or their agent shall certify annually that each of the fire safety measures specified in this statement has:
- (a) been assessed by a properly qualified person, and
- found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.
109. All premises offering food, packaged or otherwise, are to be registered with Council and have inspections conducted by Council's officers as necessary/required. These premises are required to comply with the Food Act 2003, associated Regulations, and the Food Safety Standards 3.2.2 and 3.2.3. These are available on line at [www.foodstandards.gov.au](http://www.foodstandards.gov.au)
110. All waste materials are to be stored adequately, away from food areas, and disposed of at regular intervals to the satisfaction of the Manager Regulatory Services.
111. All packaged foods prepared for presentation at a different premises, are to be packed and labelled in compliance with the current Food Standards Code. Hawkesbury City Councils' Environmental Health Officers can assist with this requirement.
112. All unpackaged food and unpackaged food handling equipment is to be stored at least 300mm clear of the floor on an approved shelf or appliance. No unpackaged food is to be stored on the floor in a low temperature room or freezer.
113. A portable thermometer accurate to  $\pm 1^{\circ}\text{C}$  is to be available at the premises at all times for the purposes of checking cold and hot foods for compliance temperatures.
114. Materials and equipment for cleaning are to be stored in a place physically separated from any food storage, display, or preparation area. Separate cleaning equipment is required for cleaning of toilets.
115. A separate area should be made available for the purposes of storing personal items. A locker or cupboard is to be provided away from any food preparation or storage area.
116. Potentially hazardous foods should be stored below  $5^{\circ}\text{C}$ , or above  $60^{\circ}\text{C}$  at all times in accordance with The Food Act 2003.
117. Noise generated as a result of the development shall be managed so that the  $L_{Aeq}$  noise levels, measured at any point in accordance with the NSW DECC's *Industrial Noise Source Policy*, do not exceed 5dB(A) ( $L_{Aeq}$ ) above background levels ( $L_{A90}$ ) with respect to noise amenity of other properties and associated outdoor areas.
118. The owner/manager of the site must be responsible for the removal of all graffiti from the building within 48 hours of its application.
119. Security cameras must be installed and maintained in good operational order and placed in strategic places such as the external entrance, exit doors and secluded accessways. The DVDs/tapes/discs must have the time and date automatically recorded and be kept in a secure place to ensure their

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integrity for a minimum period of 14 days before being reused or destroyed. The DVDs/video tapes/discs are to be made available to the Police upon request.

120. No advertising signs or structures shall be erected, displayed or affixed on any building or land without prior approval.
121. The level of illumination and/or lighting intensity used to illuminate the signage is to be minimised to ensure that excessive light spill or nuisance is not caused to any nearby premises or public road.
122. Illumination to the approved signage associated with the subject premises shall be extinguished no later than 90 minutes after the store closing (as detailed in the approved hours of operation), and not before store opening (as detailed in the approved hours of operation).
123. The trading hours of the premises shall be limited to:  

Monday to Wednesday:	9.00am - 7.00pm
Thursday:	9.00am - 9.00pm
Friday:	9.00am - 8.00pm
Saturday:	8.30am - 6.00pm
Sunday:	9.00am - 6.00pm
124. The following activities shall not occur between the hours of 4.00pm to 6.00pm:
  - (a) Delivery or loading of goods;
  - (b) Stock movement within the loading area; and
  - (c) Garbage Collection.

125. All cooling towers and cooling and warm water systems must be operated and maintained in accordance with AS 3666.2:1995, (or AS 3666.3:2000 subject to prior notification to Council) the *Public Health Act 1991*, and *Public Health (Microbial Control) Regulation 2000*.

A true copy of the annual certificate as stipulated in clause 9(2) of the *Public Health (Microbial) Regulation 2000* which certifies the effectiveness of the process of disinfection used for the water cooling system, must be submitted to Council prior to the period ending 30 June each year.

Prior to commencement of the use the owner or occupier of the premises must apply to Council for the registration of water cooling systems warm water systems installed on the premises in accordance with the *Public Health (Microbial Control) Regulation 2000*.

126. The subject development, including landscaping, is to be maintained in a clean and tidy manner.

### Roads and Traffic Authority Conditions

127. Deleted
128. A traffic management plan is to be prepared to control the servicing of the site.
129. The design of the car parking area including parking space dimensions, access driveway, aisle widths, manoeuvring areas, sight distances, ramp grades and loading areas, etc are to conform to AS 2890.1-2004 and AS 2890.2-2002 for loading areas.
130. All vehicles are to enter/exit the premises in a forward direction.
131. All vehicles are to be wholly contained within the property before being required to stop.
132. All works associated with the development are to be at no cost to the RTA.

### Advisory Notes



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- \*\*\* The land is within the Hawkesbury City Council Sewerage Catchment. A separate application shall be submitted to Council for any alterations or connections to the sewer mains. The applicant shall consult with Council regarding acceptable discharge limits to the sewerage system.
- \*\*\* The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.
- \*\*\* The applicant is advised to consult with:
- (a) Sydney Water Corporation Limited
  - (b) Integral Energy
  - (c) Natural Gas Company
  - (d) a local telecommunications carrier
- regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public roads.
- \*\*\* The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed development. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- \*\*\* The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.
- \*\*\* The development falls within the Zone of Influence of a Council owned sewer main. The applicant is required to seek advice from the Waste Management Branch prior to an application for a Construction Certificate being made given that a specific foundation design will be required to be provided to the proposed building.

**ATTACHMENTS:**

**AT - 1** Correspondence Hassell Limited.

**AT - 2** Economic Impact Assessment (Don Fox Planning) - *(Distributed Under Separate Cover)*

**AT - 3** Review of Economic Impact Assessment Report (SEMF) - *(Distributed Under Separate Cover)*

**AT - 4** Development Assessment Report DA0603/08

**AT - 1 Correspondence Hassell Limited.**

**HASSELL**

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AUSTRALIA  
PR CHINA  
HONG KONG SA  
THAILAND

Thursday 4 December 2009

The General Manager  
Hawkesbury City Council  
PO Box 146  
Windsor NSW 2756

*Attention: Matthew Owens; Richard Nej*  
[via Email]

DEVELOPMENT APPLICATION 0603/08 – PROPOSED ALDI STORE AT 5 CURTIS ROAD, MCGRATH'S HILL/  
MULGRAVE

Matthew

We write following our meeting yesterday to provide additional commentary on economic impact assessment issues as raised by Council in their deferral of the above mentioned application on 25 November 2008.

**1. Proposal**

ALDI is proposing a stand alone ALDI store. No ancillary or additional retail uses are proposed.

An ALDI store, defined as a shop, is permissible in the 3(b) zone. A 'shop' is defined within the Hawkesbury LEP.

Any future applications for shops or retail facilities in the McGraths Hill locality would need to demonstrate permissibility and appropriateness and will be subject to stringent economic impact assessment.

**2. Response to Councillor Resolution**

Specifically, we write to respond to the Councillor adopted resolution:

*That the matter be deferred to enable the economic impact of the proposal to be further considered.*

Extensive economic impact assessment has been undertaken and additional investigations are not warranted.

*i. Economic Assessment*

Don Fox Planning (DFP) prepared a detailed economic impact assessment which accompanied the development application. This assessment has been subject to an independent peer review (commissioned by Hawkesbury City Council), undertaken by SEMF. The SEMF review confirms that the "DFP report is not misleading in its assessment and appears rigorous in its methodology and approach".

Therefore, the ALDI store development application has been subject to detailed economic testing and analysis and further assessment is not warranted. These economic impact assessments specifically investigate the potential impact on Windsor Town Centre, finding that:

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- *Windsor will continue to be the dominant centre in the Hawkesbury LGA*
- *It is unlikely that Windsor will be undermined or threatened by the proposed Mulgrave ALDI as this will be a 'stand alone' facility without the necessary support infrastructure associated with a conventional retail and commercial centre.*
- *The existing supermarkets in Windsor form part of the diverse range of services and facilities available in Windsor; services and facilities that are not available at Mulgrave. Therefore, Windsor will continue to attract a significant proportion of retail expenditure, including supermarket expenditure, from households both within the ALDI catchment and those areas to the north-east, beyond the notional ALDI catchment."*

Both economic assessments conclude that the development of the ALDI store is "unlikely to result in a detrimental economic impact on existing retailers".

### *ii. Windsor Economic Development Strategy 2003*

Council commissioned a retail study in 2003 to assess the supply and demand; escape expenditure; and displacement issues within the Hawkesbury LGA. This specifically included the impact of the North West Sector on the Windsor CBD (page 16, WEDS). The report provides recommendations with regard to the creation/ allocation of additional floor space within Windsor CBD (page 62, WEDS).

The study looks at the role and requirements for each centre/ location. McGraths Hill and Bligh Park are identified as locations which could support a supermarket to 'service the demand which is undersupplied' (page 56, WEDS).

The retail model estimated the source and destination of all retail spending to demonstrate where sales are captured.

- 53% of spending by Hawkesbury residents occurred within the LGA, while 47% escaped to outside of the LGA.
- Spending drawn from residents living outside of the Hawkesbury LGA was only 2%.

This demonstrates that nearly half of spending by Hawkesbury residents occurs outside of the LGA, with negligible investment coming from outside of the LGA.

While this study presents interesting data with regard to spending and allocation of retail floor area within the Hawkesbury LGA, it is noted that this document is outdated. The findings and data analysis presented in the DFP and SMEF economic impact reviews would prove to be more up to date and relevant to this application.

### *iii. Promoting spending and investment in the local area*

A development such as the ALDI is an expression of economic confidence in the area. There is the potential for it to lead to increased expenditure in other local retail outlets.

Based on the expected growth in the number of households and an increase in spending capacity, total expenditure on all retail commodity items from all households in the identified catchment area could be \$206.2 million in 2008, increasing to \$217.5 million in 2011 and \$237.5 million in 2016.

There is sufficient expenditure capacity from households within the catchment area and from households beyond that catchment now and in the future to support the existing main line supermarkets in Windsor and the ALDI Store at McGraths Hill. Introducing competitive grocery pricing, the proposed ALDI at McGraths Hill will draw spending and investment by local residents within the Hawkesbury LGA, promoting investment not only at the store, but in nearby Windsor.

Therefore, in terms of its potential to attract expenditure (keeping residents and spending in the Hawkesbury), its capacity to provide competition, creation of employment, and its ability to offer a complementary service needed by the catchment area population, the ALDI proposal can be assessed as having positive socio economic benefits in the locality. This has other flow on environmental benefits, including reduced length of vehicle trips.

*iv. Land and Environment Court precedent*

Clause 79 C (1) (b) of the *Environmental Planning and Assessment Act (1979)* states that, among the matters to be considered in assessing a development application are:

*"the likely economic impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts of the locality."*

It has been confirmed by the peer review of the submitted EIA that '*Council is able to reasonably conclude it has taken into consideration the economic impacts of the proposed development in the locality as required by S79C of the EP&A Act*' (page 11, SEMF)

Numerous judgements have dealt with the correct application of the words social and economic impacts in the locality, more recently:

- *Randell v Willoughby City Council* (2005) 144 LGERA 199;
- *Milne v Minister of Planning* [No. 2] [2007] NSWLEC 66;
- *Jetset Properties v Eurobodalla Shire Council* [2007] NSWLEC 198; and
- *Metricon Qld Pty Ltd v Tweed Shire Council* [2008] NSWLEC 1453

In the most recent of these cases (*Metricon Qld Pty Ltd v Tweed Shire Council* [2008] NSWLEC 1453), Senior Commissioner Roseth stated that the main principles that should guide the assessment of social and economic impacts are:

- > *"That the mere threat of competition between commercial interests is not a planning consideration;*
- > *The threat to the viability of a whole shopping centre is a relevant planning consideration; and*
- > *The relevant "locality" must be determined in each case."*

The Land and Environment Court have made it clear that a finding that the subject proposal affects, for example, the viability of the Windsor Riverview Shopping Centre, would not be a relevant consideration.

A finding that the proposal affects the viability of the entire Windsor Town Centre itself would be an impact to be taken into account under Clause 79 C (1) (b) of the *Environmental Planning and Assessment Act (1979)*. However, it is evident from the detailed economic impact assessments having been prepared that the proposal will not detract from the viability of retailing in the Windsor Town Centre, and that '*Windsor will continue to attract a significant proportion of retail expenditure*'.

In light of the above, it is evident that the integrity of economic assessment has been confirmed by a peer review, confirming the assessment is rigorous in its methodology and approach. Having considered all relevant economic impact matters, the assessment is sufficient to enable Council to confidently approve the application and would be held up at appeal.

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We trust that the above information will allow Council to put forward an amended report to Council for consideration at its next meeting.

Should you have any questions, or would like to discuss the matters raised, please do not hesitate to contact me on 0404 811 417.

Yours faithfully



Bridget Jarvis  
**ASSOCIATE**

## EXTRAORDINARY MEETING

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### AT - 4 Development Assessment Report DA0603/08

**Item:** CP - Development Application - Shop- Aldi Store with Associated Carparking, Signage and Landscaped Area - 5 Curtis Road and 230 Windsor Road, Vineyard NSW 2765

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#### Development Information

**Applicant:** Aldi Stores C/-Hassell Limited  
**Owner:** Winford Motors Pty Limited  
**Stat. Provisions:** Hawkesbury Local Environmental Plan 1989  
Sydney Regional Environmental Plan No. 20  
Hawkesbury Development Control Plan  
**Area:** 4690sqm  
**Zone:** 3 (b) Business Special  
**Advertising:** N/A  
**Date Received:** 13 August 2008

**Key Issues:**

- ◆ Economic Impact on Established Commercial Centres
- ◆ Consistency with Zone Objectives
- ◆ Building Floor Level
- ◆ Asbestos Contamination

**Recommendation:** Deferred Commencement Approval

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#### REPORT:

##### Description of Proposal

The application seeks consent for a free standing ALDI store, associated signage, at-grade car parking and landscaped area. The proposal involves the following:

- Construction of a retail building having a gross floor area of 1532 sq metres, including loading dock and ancillary storage areas;
- Provision of 63 on-site car parking spaces;
- Access driveway provided at the south western corner of the site from Grier Crossing;
- Installation of signage incorporating two ALDI logo signs on the building façade and three free-standing pole signs; and
- Landscaping works within the car parking area and adjacent to the perimeter of the site.

External materials:

**Roof:** Colorbond Steel  
**Walls:** Face Brick  
**Window Frames:** Powdercoated Aluminium

Proposed Hours of Operation:

Monday to Wednesday: 9.00am - 7.00pm  
Thursday: 9.00am - 9.00pm  
Friday: 9.00am - 8.00pm  
Saturday: 8.30am - 6.00pm  
Sunday: 9.00am - 6.00pm

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**Recommendation**

Deferred Commencement Approval

**Issues Relevant to the Decision - In Point Form**

- Economic Impact on Established Commercial Centres
- Consistency with Zone Objectives
- Building Floor Level
- Asbestos Contamination

**Council Policies, Procedures and Codes to Which the Matter Relates**

Hawkesbury Local Environmental Plan 1989  
Sydney Regional Environmental Plan No 20  
Hawkesbury Development Control Plan

**Section 79C Matters for Consideration**

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

<b>Issue</b>	<b>Comments (in point form)</b>
Any Environmental Planning Instrument (EPI)	<ul style="list-style-type: none"><li>• Refer discussion on HLEP 1989 and SREP No. 20 in this report</li></ul>
Any draft EPI that has been placed on public exhibition	<ul style="list-style-type: none"><li>• There are no draft environmental planning instruments that apply to the subject site</li></ul>
Any DCP in force	<ul style="list-style-type: none"><li>• Refer to discussion on Hawkesbury DCP 2002 in this report</li></ul>
Any matters prescribed by the Regulations	<ul style="list-style-type: none"><li>• None applicable</li></ul>
Likely impacts, including environmental, on both natural and built environments and the social and economic impacts of the locality	<ul style="list-style-type: none"><li>• The environmental impacts of the proposed development on the natural and built environment are addressed in the main body of this report.</li><li>• The proposed development will not have a detrimental social impact in the locality.</li><li>• The proposed development will not have a detrimental economic impact on the locality.</li></ul>
The suitability of the site	<ul style="list-style-type: none"><li>• The site is of sufficient area and does not contain significant environmental constraints therefore is considered suitable for the proposed development.</li></ul>
Any submissions (see attached scheduled for details)	<ul style="list-style-type: none"><li>• One (1) submission has been received and is addressed separately in this report.</li></ul>

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Issue	Comments (in point form)
The public interest	<ul style="list-style-type: none"><li>Approval of the application would be in the public interest</li></ul>

**Sydney Regional Environmental Plan 20 - Hawkesbury Nepean River (No 2 - 1997)**

It is considered that the proposed development will not significantly impact on the environment of the Hawkesbury-Nepean River either in a local or regional context. The development is not inconsistent with the general and specific aims, planning considerations, planning policies and recommended strategies contained in this instrument.

**Hawkesbury Local Environmental Plan 1989**

**Clause 2 - Aims, objectives etc**

The general aims, objectives etc. of Hawkesbury Local Environmental Plan 1989 are detailed as follows:

- (a) *to provide the mechanism for the management, orderly and economic development and conservation of land within the City of Hawkesbury;*

Comment: It is considered that the proposal involves the orderly and economic development of land.

- (b) *to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production;*

Comment: The subject site is considered to be of an appropriate size and the location is satisfactory for the proposed retail premises.

- (c) *to protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways;*

Comment: It is considered that the proposal will not compromise the character of the locality and will not adversely impact on any wetland areas or waterways.

- (d) *to conserve and enhance buildings, structures and sites of recognised significance which are part of the heritage of the City of Hawkesbury for future generations; and*

Comment: The proposed works are not situated adjacent to any identified heritage items or heritage conservation areas.

- (e) *to provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups within the City*

Comment: The proposed development does not involve housing development.

**Clause 5 - Definitions**

The proposed development is defined as a *shop* pursuant to Clause 5 of Hawkesbury Local Environmental Plan 1989. The following definition is provided in Clause 5:

*“shop” means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this clause, a building or place used for a purpose elsewhere specifically defined in this clause;*

**Clause 9 - Carrying out of development**



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The subject site is zoned Business Special 3(b) under the provisions of Hawkesbury Local Environmental Plan 1989. Shops are uses that are permissible with development consent within the Business Special 3(b) zone.

### Clause 9A - Zone objectives

The objectives of the Business Special 3(b) zone are described as follows:

- (a) *promote office development to meet the optimum employment and social needs of the City of Hawkesbury*

Comment: The application does not involve an office development being classified as a retail shop. Whilst not satisfying this objective it is noted that the proposed development will provide for an increase in employment opportunities in the area. It is considered that the proposal is generally consistent with this objective.

- (b) *permit non-commercial development within the zone where such development is compatible with the commercial character of the locality;*

Comment: The application involves a retail shop development that is considered consistent with the existing character of the locality.

- (c) *ensure that there is adequate provision for car parking facilities within the zone;*

Comment: The proposal satisfies the on site car parking requirements contained in Hawkesbury Development Control Plan 2002. A detailed assessment is included later in this report.

- (d) *minimise conflicts between pedestrians and vehicular movement systems within the zone; and*

Comment: The car parking design is considered satisfactory having regard to the principle of minimising potential conflict between pedestrian and vehicular movements throughout the site. It is considered that the proposal satisfies this objective.

- (e) *to preserve the historic character of the City of Hawkesbury by protecting heritage items and by encouraging compatible development within and adjoining historic buildings and precincts.*

Comment: There are no items of identified heritage significance situated adjacent to the site or in the immediate vicinity of the subject land.

### Clause 18 - Provision of water, sewerage etc. services

The subject site benefits from a full range of services and accordingly is considered to satisfy the requirements of this clause.

### Clause 25 - Development of flood liable land

Clause 25 (2) of Hawkesbury Local Environmental Plan 1989 provides the following:

- (2) *A building shall not be erected on any land lying at a level lower than 3 metres below the 1-in-100 year flood level for the area in which the land is situated, except as provided by subclauses (4), (6) and (8).*

The portion of the subject land that is proposed to accommodate the building has existing has existing land level of 15.5m AHD being approximately 1.8m below the predicted 1-in-100 year flood level for the area of 17.3m AHD. Therefore the proposal is able to satisfy the provisions contained in Clause 25 (2).

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The architectural plans submitted with the application detail that the ground floor level of the building is to have a constructed level of 17.8m AHD. This floor level provides a 500mm freeboard above the predicted 1-in-100 year flood level.

Given the design intent detailed above for the provision of a floor level above the predicted 1-in-100 year flood level, the ground floor of the building is proposed to be situated between 1.7m to 2.9m above adjacent ground levels. This will require the provision of a series of ramped walkways and stairways to provide access to the building. Whilst the design does not achieve an optimal functional relationship with the adjacent car parking areas it is noted that the ramps have been designed to satisfy the provisions of AS 1428 - Design for Access and Mobility.

### Hawkesbury Development Control Plan 2002

#### Landscaping

A landscaping strategy for the site has been developed by Site Image Landscape Architects being detailed on Plan No. SS08-1777 Drawing 101:C. The accompanying landscape report provides that the strategy addressed the following matters:

- *Provide visual amenity generally against the built form;*
- *Provide shade amenity as well as allow for solar access during the colder months;*
- *Create/maintain passive surveillance of the site; avoiding anti social behaviour;*
- *Soften the ground plane;*
- *Provide species of low - medium water demands; and*
- *Observe and maintain necessary safety sightlines.*

It is considered that the proposed landscape scheme is satisfactory and satisfies the design principles contained in Hawkesbury Development Control Plan 2002.

#### Car Parking

Clause 2.5.2 in Part C of Hawkesbury Development Control Plan 2002 requires the following on site parking provision in conjunction with commercial premises and shops:

*Commercial Premises and Shops: 1 space per 30 sq metres of GFA*

The following table details the existing and proposed floor areas associated with centre:

	<b>Area (sqm)</b>	<b>Required (spaces)</b>	<b>Provided (spaces)</b>
Proposal	1532	52	63

As detailed above, the proposal satisfies the car parking provisions contained in Hawkesbury Development Control Plan 2002. It is considered that the proposed car parking layout is satisfactory and an appropriate condition has been included in the consent requiring that the design be in accordance with Australian Standard AS2890.1 and AS2890.2.

#### Signage

Hawkesbury Development Control Plan 2002 provides the following design objectives relating to signage in Commercial zones:

- *Be integrated and in proportion with the architecture and structure of the host building;*
- *Be placed to ensure that architectural features of the building, views or vistas are not obscured;*
- *Consider existing signs to avoid visual or physical clutter; and*
- *Avoid obstruction of pedestrian access or line of sight of vehicular traffic.*

The signage proposed in conjunction with the application is detailed as follows:

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- Eastern elevation: internally illuminated wall mounted sign 2000mm in width x 2400mm in height;
- Western elevation: internally illuminated wall mounted sign 2000mm in width x 2400mm in height;
- Freestanding directional pole signs: internally illuminated sign having a sign face 2000mm in width x 2700mm in height having an overall height of 5400mm one situated on the south western corner and one situated on the south eastern corner of the site; and
- Freestanding pole sign: internally illuminated having a sign face 2000mm in width x 2400mm in height having an overall height of 10000mm between Winford Drive and Windsor Road adjacent to site.

In addition to the above, the submitted plans detail the provision of three (3) 6200mm in width x 3200mm in height display panels along the southern elevation of the building and one similar sized panel along the eastern elevation.

The signage proposed in conjunction with the application is considered satisfactory with the exception of the freestanding pole sign proposed between Winford Drive and Windsor Road. This sign exceeds the maximum 6000mm height restriction contained in Chapter 3.2 in Part C of Hawkesbury Development Control Plan 2002. Given the above limitation an appropriate condition has been included in the recommended consent restricting the height of this sign to a maximum of 6000mm.

In addition, conditions restricting the hours and intensity of illumination have been included in the recommendation.

### **State Environmental Planning Policy No. 64 – Advertising and Signage**

This Policy aims to ensure that signage (including advertising) is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of high quality design and finish. It also aims to regulate signage (but not content) under Part 4 of the Act and to provide time-limited consents for the display of certain advertisements.

SEPP No. 64 provides definitions for certain type of signs. The relevant definitions applicable to the subject application are detailed as follows:

***business identification sign*** means a sign:

(a) *that indicate:*

- (i) *the name of the person, and*
- (ii) *the business carried on by the person,*

*at the premises or place at which the sign is displayed*

(b) *that may include the address of the premises or place and a logo or other symbol that identifies the business,*

*but that does not include any advertising relating to a person who does not carry on business at the premises or place.*

### **Schedule 1 Matters for Consideration**

Schedule 1 to the Plan provides the 'assessment criteria' that needs to be considered for an application for signage:

#### ***Character of the area***

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*Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*

*Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

Comment: The proposed signage is considered compatible with the character of the immediate area and will not detract from the existing streetscape.

### **Special areas**

*Does the proposal detract from the amenity or visual quality of any environmentally sensitive area, heritage area, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

Comment: Given the signage area proposed it is considered that the proposal would not have a detrimental impact upon the existing visual quality of the area.

### **Views and vistas**

*Does the proposal obscure or compromise important views?*

*Does the proposal dominate the skyline and reduce the quality of vistas?*

*Does the proposal respect the viewing rights of other advertisers?*

Comment: The proposed signage does not obscure views, or features of adjoining buildings. The signs do not protrude into the skyline or obscure signage associated with adjoining/nearby businesses.

### **Streetscape, setting or landscape**

*Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*

*Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*

*Does the proposal reduce clutter by rationalizing and simplifying existing advertising?*

*Does the proposal screen unsightliness?*

*Does the proposal protrude above buildings, structures of tree canopies in the area or locality?*

Comment: Subject to the imposition of a height restriction on the freestanding pole sign it is considered that the scale, proportion and form of signage is satisfactory in the existing streetscape and commercial business setting.

### **Site and building**

*Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*

*Does the proposal respect important features of the site or building, or both?*

*Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

Comment: It is considered that the signage is compatible with the scale, proportion and characteristics of the proposed building.

### **Associated devices and logos with advertisements and advertising structures?**

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*Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

Comment: The proposal does not incorporate any of the above-described features.

### **Illumination**

*Would illumination result in unacceptable glare?*

*Would illumination affect safety for pedestrians, vehicles or aircraft?*

*Would illumination detract from the amenity of any residence or other form of accommodation?*

*Can the intensity of the illumination be adjusted, if necessary?*

*Is the illumination subject to a curfew?*

Comment: The proposal includes the provision of illumination of the proposed signage. Subject to inclusion of appropriate conditions it is considered that the proposal is satisfactory having regard to the principles relating to illumination detailed above.

### **Safety**

*Would the proposal reduce the safety for any public road?*

*Would the proposal reduce the safety for pedestrians or bicyclists?*

*Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

Comment: It is considered that the proposed signage will not have a significant impact upon pedestrian/traffic safety.

### **Site Contamination**

A *Preliminary Contamination and Acid Sulphate Soil Assessment*, dated 2 April 2008 was undertaken by Geotechnique Pty Limited. This report provided that asbestos fibre was detected in the surface topsoil/fill at two (2) of the twelve (12) sampled locations on the site.

Given the information contained in this report it is considered appropriate that further site assessment, remediation of contaminated areas and site validation be undertaken demonstrating that the site is rendered suitable for use as a retail shop prior to the consent for this use becoming operational. An appropriate deferred commencement condition has been included in the recommendation in this regard.

### **Access, Transport & Traffic**

#### **Access**

A single vehicular access to the site is proposed from Grier Crossing at the south west corner of the site. The driveway is to cater for customer entry/exit in addition to service delivery movements associated with the site. It is noted that this driveway is situated opposite ten (10) x 90° parking spaces located at the southern side of Grier Crossing. Given the number of spaces affected and the anticipated level of traffic generation attributable to the proposal it is considered that the access location is satisfactory.

The access driveway design provides for the swept turning paths of passenger and heavy vehicles anticipated to service the development as detailed in AS 2890.1 - Parking Facilities – Off-Street Carparking and AS 2890.2 - Parking Facilities Off-street Commercial Vehicle Facilities. The traffic report submitted in conjunction with the application provides that service vehicle access and circulation arrangements will be

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combined with a portion of the customer car parking area. This arrangement is considered acceptable given the number of deliveries anticipated generally up to four (4) per day.

### *Transport*

The site is serviced by bus services running along Windsor Road providing access to Windsor, Rouse Hill, Kellyville, Castle Hill and surrounding districts. Accordingly, these services would be available to both staff and customers to the site.

### *Traffic*

The traffic report titled *Transport Report for Proposed ALDI Store, Mulgrave*, dated August 2008, prepared by Colston Budd Hunt & Kafes Pty Limited details that traffic generated by the proposed development will have its greatest impact during Thursday afternoon and Saturday lunchtime peak periods when it combines with commuter and retail traffic. Surveys undertaken of similar ALDI stores have indicated peak hour traffic generation rates ranging between 160 and 240 vehicles per hour. The report has concluded that the additional traffic generated by the proposal would be able to be satisfactorily accommodated in the adjacent road network given current available capacity.

### **Roads and Traffic Authority**

The application was forwarded to the Roads and Traffic Authority in accordance with the provisions of State Environmental Planning Policy (Infrastructure) 2007. To date no correspondence has been received from the Roads and Traffic Authority and accordingly it is recommended that any conditions/comments received by Council from the Authority be incorporated as consent conditions.

### **Safety, Security & Crime Prevention**

In order to provide details relating to the proposal's compliance with the criteria established through Crime Prevention Through Environmental Design principles an assessment was undertaken by Hassell Limited. This assessment provides that the design has adopted the following principles:

- *The key customer/pedestrian areas of the site are the car park and entrance to the ALDI store; both of these spaces are highly visible from the surrounding road network and therefore provide excellent opportunities for visual surveillance by passing pedestrians and traffic.*
- *The store entry is elevated and highly visible from surrounding street and car park area, this ensures that the entry point and access to it is clearly identifiable.*
- *Pedestrian areas, including walkways are clearly delineated through use of line marking, raised pavements and signage. Barriers also provide clear indicators to restrict entry to back of house areas of the retail store.*
- *The development uses perimeter landscaping to clearly delineate the development from the surrounding public street network.*
- *The proposed landscape design consists of ground level shrubs and canopy level trees, this provides a high level of visibility for pedestrian and does not obstruct key sight lines through to key pedestrian access ramps and entries.*
- *The high level of passive surveillance between the surrounding street network and the retail store significantly reduces opportunity for graffiti and vandalism. It is understood that ALDI will implement a range of security and maintenance measures to further discourage vandalism and promptly remove graffiti.*

In addition to the measures detailed above appropriate conditions have been included in the recommended consent relating to provision of security surveillance equipment, exterior lighting, management of landscape planting and control of graffiti to minimise the potential for crime related activities on the site.

### **Economic Impact in the Locality**

In order to address the economic impact of the development upon established retail centres within the Hawkesbury area a report *Economic Impact Assessment Proposed ALDI Store at Mulgrave*, dated August

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2008 prepared by Don Fox Planning was submitted in conjunction with the application. The following summary relating to the proposal's anticipated economic impact has been provided:

*The catchment area of the proposed store has been estimated taking into account the location of other supermarkets and grocery stores and centres around the area.*

*We estimate that there could be \$70 million of supermarket expenditure available from all catchment area households in 2011. Existing outlets and the proposed ALDI could attract \$59 million of available supermarket expenditure from households within the catchment area, which is \$11 million less than the available expenditure of \$70 million. The balance of sales at Woolworths and Coles is likely to originate from households beyond the local area.*

*And, even in 2008, the ALDI can be supported by available expenditure, along with existing shops. Most importantly, in economic terms, ALDI is not large and does not constitute a separate 'shopping centre'.*

*Furthermore, in our opinion, Windsor will continue to be the dominant centre in the Hawkesbury LGA and this role is unlikely to be undermined or threatened by the proposed Mulgrave ALDI as this will be a 'stand alone' facility without the necessary support infrastructure associated with a conventional retail and commercial centre.*

*Our analysis indicates that the proposal is unlikely to result in a detrimental economic impact on existing retailers in the centres in which they are located. We note that current local planning policy does not set out a hierarchy of retail centres upon which to base store locations, therefore our assessment can be considered under S79C of the EP & A Act as a consideration of the potential economic impacts of the proposal.*

*Further, we note that the Draft Northwest Subregional Strategy (which sets out a draft hierarchy of centres), identifies Mulgrave as a neighbourhood centre. In the context of supporting the objective that retail activities be focused in centres this proposal can be considered as being consistent with the Draft Northwest Subregional Strategy Plan.*

*We emphasise that the 'catchment' for ALDI is very much a shared catchment – in which both Mulgrave ALDI and all of the existing shopping facilities within that catchment can coexist (in terms of potential available household expenditure).*

*A development such as the ALDI is also an expression of economic confidence in the area. There is the potential for it to lead to increased expenditure in other retail outlets as a result of the synergistic effect of new development. The catchment area will benefit from the introduction of the ALDI as it will provide a service not readily available to the local community.*

*Therefore, in terms of its potential to attract expenditure, its capacity to provide competition, and its ability to offer a complementary service needed by the catchment area population, the ALDI proposal can be assessed as having a positive economic impact in the locality.*

In order to assist the analysis an independent review of the Economic Impact Assessment submitted in conjunction with the application was undertaken by SEMF. The review, requested by Hawkesbury City Council, was based on the following criteria:

- *Studies and information used as a basis for the conclusions*
- *Validity of assumptions*
- *The rigor and breadth of the analysis*
- *The ability to verify the figures (SEMF has not been contracted to undertake any economic analysis)*
- *Whether there is adequate basis for the conclusions drawn*

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- *Whether the document is likely to satisfy a test that Council has taken the requirements of s79C(1)(b) of the Environmental Planning and Assessment Act 1979 (EP&A Act) – through a review of relevant judgments in the Land and Environment Court*

The SEMF review concludes that the Economic Impact Assessment prepared by Don Fox Planning in conjunction with the application is generally sound in its findings being detailed as follows:

*While we have listed various analyses that have not been included in the DFP report, and conclude that the DFP report may therefore reflect a more positive economic assessment without such analysis, the report is not misleading in its assessment, and appears rigorous in its methodology and approach.*

*We conclude that if Hawkesbury City Council determines the proposal, then Council is able to reasonably conclude it has taken into consideration the economic impacts of the proposed development in the locality as required by s 79C of the EP&A Act.*

Accordingly, based on the above it is considered that the degree of economic impact of the proposal upon the established commercial centres would not be of a magnitude to warrant refusal of the application on such grounds.

### Notification

The application was not required to be notified as detailed in Chapter 3 of Hawkesbury Development Control Plan. One (1) submission was received by Council raising objection to the proposal with the matters raised being detailed as follows:

1. **The proposal is considered premature in terms of strategic planning in that Council has yet to finalise its Employment Lands Strategy and the State Government needs to finalise its draft North-West Sub Regional Strategy and enabling Centres Typology prior to determination of the application.**

Comment: Whilst Council has not yet finalised its Employment Lands Strategy it is noted that the subject development constitutes a permissible land use within the Special Business 3(b) zone. The proposal is generally consistent with the objectives of this zone and the established character of the area.

2. **The proposal is considered inappropriate in terms of existing supporting residential population surrounding the site and significant intensification is considered an essential prerequisite prior to any proposed supermarket development within the planning guidance of the draft North-West Sub Regional Strategy.**

Comment: It is noted that the subject site is not situated within a major commercial centre surrounded by a significant neighbouring residential catchment. Given that the proposal constitutes a permissible form of development within the Special Business 3(b) zone and that the site is favourably located having regard to future residential growth associated with Pitt Town it is considered that it would be unreasonable to place the development on hold pending finalisation of the North-West Sub Regional Strategy.

3. **The proposal would have a detrimental impact upon the economic viability of the existing Windsor Town Centre.**

Comment: The matter of economic impact associated with the proposed development has been independently reviewed by SEMF as detailed previously in this report. This assessment has concluded that the proposal would have a negligible impact upon the established centres and as such this issue is not considered to be of such nature so as to be given determining weight.



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4. **The Notification Table in Council's Development Control Plan restricts its criteria primarily to physical attributes of development excluding the equally important broader economic considerations.**

Comment: Any review of Council's notification requirements is a matter that would need to be dealt with separately to that of the subject application.

### Conclusion

The application has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979; Sydney Regional Environmental Plan No. 20; Hawkesbury Local Environmental Plan 1989; Hawkesbury Development Control Plan 2002 and other relevant codes and policies.

It is considered that the proposal represents a satisfactory form of development, should not result in an unreasonable economic impact upon existing commercial centres and is generally consistent with the stated objectives of the 3 (b) Business Special zone.

Accordingly, the application is recommended for approval subject to the conditions contained in the recommendation.

### Planning Decision

As this matter is covered by the definition of a "planning decision" under Section 375A of the Local Government Act 1993, details of those Councillors supporting or opposing a decision on the matter must be recorded in a register. For this purpose a division must be called when a motion in relation to the matter is put to the meeting. This will enable the names of those Councillors voting for or against the motion to be recorded in the minutes of the meeting and subsequently included in the required register.

### RECOMMENDATION:

That Development Application No. DA0603/08 for a Shop - Aldi Store with Associated Car parking, Signage and Landscaped Area at Proposed Lot 6 in the subdivision of Lot 2 DP 270412, 5 Curtis Road and Lot 4 DP 270412, 230 Windsor Road Vineyard by granting a Deferred Commencement Consent subject to the conditions in Schedules 1 and 2:

3. Upon compliance with the condition appearing in Schedule 1, and with the issue of confirmation to that effect in writing from Council, this "Deferred Commencement" consent shall commence to operate as a development consent inclusive of all conditions appearing in Schedule 2 pursuant to Section 80(3) of the Act.
4. The "Deferred Commencement" consent will lapse in twelve months from the date of this consent unless all conditions appearing in Schedule 1 have been complied with.

### Schedule 1 - Deferred Commencement Condition

1. The following investigation/works are to be undertaken having regard to the findings contained in the *Proposed Aldi Store Development Preliminary Contamination & Acid Sulphate Soil Assessments* undertaken by Geotechnique Pty Limited Report No. 11688/2-AA, dated 2 April 2008.
  - (a) A *Stage 2 Detailed Investigation* must be completed in accordance with Clause 3.4.1 of the SEPP 55 Guidelines and the Department of Environment and Climatic Change (DECC) *Guidelines for Consultants Reporting on Contaminated Sites (1997)* by an Accredited Site Auditor to define the nature, extent and degree of contamination; to assess potential risks posed by contaminants to health and the environment; and to obtain sufficient information to develop a remedial action plan (RAP), if required, to be submitted to Hawkesbury City Council with a site audit report.

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This investigation is to be undertaken in order to ascertain the presence or otherwise of asbestos contamination, delineation of the lateral and vertical extent of contamination and determination of the quantity of soil requiring remediation.

- (b) A *Stage 3 Remedial Action Plan*, if required by the accredited site auditor, any site audit report or by Hawkesbury City Council, must be submitted to Hawkesbury City Council.
- (c) The site must be remediated in accordance with the *Stage 3 Remedial Action Plan*.

Any stockpiles of contaminated materials shall be stored in a secure position on the site so as not to be exposed to surface waters, pedestrian activity, or wind.

In the event that the surface topsoil is confirmed as contaminated with asbestos, the soils are to be classified as "Industrial Waste" (Asbestos Waste). The "Industrial Waste" (Asbestos Waste) is to be transported in accordance with DECC requirements and disposed of at a Solid Waste Class 1 and Class 2 (EPA Licensed) Landfill.

- (d) A *Stage 4 Validation and Monitoring Report* must be submitted to Hawkesbury City Council together with notice of completion of remediation pursuant to clause 18 of SEPP 55.

Following disposal of asbestos contaminated soils, validation of residual soils within the site, by sampling and testing, must be carried out to ensure the success of remediation. A validation report in accordance with NSW EPA guidelines is to be forwarded to Hawkesbury City Council for approval within one month of completion of remediation works. The report is to include documents relevant to any soils brought onto the land.

### Schedule 2

#### **General Conditions**

1. The development is to be carried out in compliance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of consent:

<b>Architectural Drawing Number</b>	<b>Dated</b>
P07017 DA 01A - Cover Sheet, Location Plan & Drawing List	11 August 2008
P07017 DA 02A - Site Plan & Signage Details	11 August 2008
P07017 DA 03A - Car Park Level Plan	11 August 2008
P07017 DA 04A - Ground Floor Plan	11 August 2008
P07017 DA 05A - Roof Plan	11 August 2008
P07017 DA 06A - South & East Elevations	11 August 2008
P07017 DA 07A - North & West Elevations	11 August 2008
P07017 DA 08a - Sections	11 August 2008
<b>Landscape Plan</b>	
SS08-1777 101 C - Landscape Plan	11 July 2008
<b>Civil Drawings</b>	
06S017MLDA C01 01 of 02 Rev 0 - Siteworks Plan	8 August 2008
06S017MLDA C02 02 of 02 Rev 0 - Erosion & Sediment Control Concept Plan	8 August 2008

<b>Document Name/Number</b>	<b>Dated</b>
Statement of Environmental Effects - Proposed ALDI Store 5 Curtis Road Mulgrave	12 August 2008
Transport Report for proposed ALDI Store Mulgrave (Report No. 6941)	August 2008
Economic Impact Assessment (Project No. 7128A)	August 2008
Crime Prevention Through Environmental Design (CPTED) Assessment: ALDI Stores Winford Drive and Grier Crossing	August 2008

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Mulgrave	
Waste Management Plan	8 August 2008
Preliminary Contamination & Acid Sulphate Soil Assessments: Proposed ALDI Store Development (Report No. 11688/2-AA)	2 April 2008

2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.
3. The approved use shall not commence until all conditions of this Development Consent have been complied with.
4. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
5. The development shall comply with the provisions of the Building Code of Australia.
6. The accredited certifier shall provide copies of all Part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 relevant to this development to Hawkesbury City Council within 7 (seven) days of issuing the certificate. A registration fee applies.
7. Hawkesbury City Council is the sewer authority for this development, inspection for compliance certification for internal and external sewer drainage shall be requested and approved prior to covering any pipe. An inspection fee applies.
8. The building design shall ensure that unimpeded access to the manhole labelled 1B on the sewer plan approved in conjunction with Development Consent No. DA0044/08 will be maintained for Council.

**Prior to Issue of Construction Certificate**

9. Pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979* and Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time), a contribution of \$34 370.00 shall be paid to Hawkesbury City Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time).

The contribution is to be paid prior to the issue of the construction certificate and copies of receipts(s) confirming that the contribution has been fully paid are to be provided to the Principal Certifying Authority.

10. An Environmental Management and Rehabilitation Plan for the development site shall be prepared by an appropriately qualified person. The Plan shall address (without being limited to) the clearing of vegetation, lopping and removal of trees, earthworks, erosion control, site rehabilitation and landscaping.

All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.

11. A Construction Management Program shall be submitted and approved by Council prior to the issue of any Construction Certificate. Any use of Council property shall require appropriate approvals. The program shall detail:
  - (a) The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area.

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- (b) The proposed phases of construction works on the site, and the expected duration of each construction phase;
  - (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
  - (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
  - (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site;
  - (f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
  - (g) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer and shall not involve any permanent or temporary encroachment onto Councils property;
  - (h) Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of hoardings over footpaths and laneways;
  - (i) The location and operation of any on site crane;
  - (j) A "Works Zone", if required, is to be installed adjacent to the site frontage/s as part of the Construction Program;
  - (k) An application for a "Works Zone" is to be lodged with Council for approval; and
  - (l) Parking of workers vehicles during construction.
12. Construction of the drainage works, filling and retaining walls are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director City Planning or an Accredited Certifier.
13. Payment of a Construction Certificate checking fee of \$267.00 and a Compliance Certificate inspection fee of \$445.00 when submitting Civil Engineering Plans for approval. This amount is valid until 30 June 2009.
14. Details of any fill material removed from or imported to the site shall be submitted with the engineering plans. Details to include quantities, borrow sites or disposal sites.
15. Retaining walls are to be designed by a suitably qualified and experienced Structural Engineer.
16. A minimum of sixty three (63) off-street car-parking spaces, together with access driveways, shall be constructed, paved, line marked and signposted in accordance with the approved development plans, Australian Standard AS2890.1 and AS2890.2 and industry best practice as appropriate. A certificate prepared and certified by an appropriately qualified and practising Civil Engineer for the construction of these areas in accordance with this requirement shall be submitted with the Construction Certificate.
17. The texture and substance of all external components of the building and hard surfaced areas being generally in accordance with following plans submitted in conjunction with the application:

<b>Drawing Number</b>	<b>Dated</b>
P07017 DA 01A - Cover Sheet, Location Plan & Drawing List	11 August 2008

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External components/materials/finishes are to be selected so as to provide a suitable level of durability to withstand graffiti and damage through vandalism.

Final details of all external materials and colours are to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

18. The reflectivity index (expressed as a percentum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Written confirmation of the reflectivity index of materials is to be submitted with the Construction Certificate.

(Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

19. The roof shall utilise non reflective materials so as to limit interference with aircraft operations. Details being submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
20. A certificate from an Acoustic Engineer is to be submitted with the Construction Certificate certifying that the development and all sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm to 6.00 am) when measured at the boundary of the property, and will comply with the Environmental Protection Authority Industrial Noise Policy. Details being submitted with the Construction Certificate.
21. Details demonstrating the provision of high quality external lighting for security without adverse affects on public amenity due to excessive illumination levels/glare are to be submitted with the Construction Certificate.
22. Access/egress/services and facilities including external and interior access are required in accordance with the provisions of AS 1428.1 (2001) - Design for Access and Mobility.

The building being adequately adjusted where required complying with the provisions of the *Disability Discrimination Act (1992)*. Note that any approval granted by Council does not necessarily guarantee compliance or otherwise with the *Disability Discrimination Act (1992)* and the applicant should investigate their liability under the Act. You are directed to the following sources to achieve compliance with the DDA:

- d) AS 1428.1 (2001) - Design for Access and Mobility
- e) Advisory Notes on Access to Premises - Human Rights and Equal Opportunity Commission (1998)
- f) Disability Discrimination Act (1992)

Details being submitted and approved by Council/Accredited Certifier prior to the issue of the Construction Certificate.

23. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's water mains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For quick Check agent details, please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au), see Building Developing and Plumbing then Quick Check or telephone 13 20 92.

The consent authority or a private accredited certifier must either:

- Ensure that Quick Check agent/Sydney Water has appropriate stamped the plans before the issue of any Construction Certificate; or

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- If there is a combined Development/Construction Certificate application or Complying Development, include the above condition as one to be met prior to works commencing on site.
24. The development shall be constructed of flood compatible materials in accordance with the NSW Government Flood Plain Manual. In this respect the following design precautions must be adhered to in all respects:
- (a) all electrical, heating and air conditioning service installations are to be located above the 2% AEP flood level of 15.7m AHD;
  - (b) the building is to be constructed of flood compatible materials such as galvanised steel frame, galvanised zinc alum cladding doors and door frames; and
  - (c) the structure and walls shall be strengthened to a level of 17.3m AHD to increase resistance to floodwater flow and debris impact.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

25. If required, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Energy Australia, prior to a Construction Certificate being issued.
26. The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development. A dilapidation survey of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the issuing of any Construction Certificate.

Note: This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicant's interest for it to be as full and detailed as possible.

27. Service ducts shall be provided within the building to keep external walls free of plumbing or any other utility installations. Such service ducts are to be concealed from view from the street. Details demonstrating compliance are to be provided in the Construction Certificate.
28. An appropriate area shall be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises.

The following requirements shall be met:

- (a) The area is to be provided with a roof to prevent stormwater entering the sewer;
- (b) All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained into Council's sewer with a tap in close proximity to facilitate cleaning;
- (c) Include provision for the separation and storage in appropriate categories of material suitable for recycling;
- (d) The storage area shall be adequately screened from the street and adjacent residential properties;
- (e) Garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

Details of the storage area are to be provided to, and approved by the Council / Accredited Certifier

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prior to issuing of the Construction Certificate.

29. Plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement or other areas of the building that are not visible from areas surrounding the subject site. Details demonstrating compliance are to be submitted with the Construction Certificate application.
30. Construction of any mains sewer work or any structure to be constructed within the Zone of Influence of a sewer main must not commence until three (3) copies of the plan submitted with a Major/Minor Sewer Works Application is submitted to Hawkesbury City Council's Waste Management Branch for assessment and approval.
31. The applicant must submit a copy of the approved plans associated with the major/Minor Sewer Works Application to the Principal Certifying Authority. This plan must be stamped *Sewer Works Approved for Design Only*.
32. The pylon sign situated on Lot 4 DP 270412 shall be reduced in height so as not to exceed 6 metres in height. Details demonstrating compliance with this requirement are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
33. A Traffic Management Plan prepared in accordance with AS 1742-3 (1996) by an appropriately qualified person shall be submitted to Council. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Management Plan is to be approved by the Roads and Traffic Authority before submission to Council.
34. Council must be consulted regarding acceptable discharge limits to the sewage system. A trade waste agreement application if required, must be submitted and assessed by Council prior to the application for a Construction Certificate. Hawkesbury City Council's Trade Waste/Technical Officer should be consulted to determine if this is required.

### ***Prior to Commencement of Works***

35. The applicant shall advise Council of the name, address and contact number of the Principal Certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1979.
36. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
37. All traffic management devices shall be installed and maintained in accordance with the approved traffic management plan.
38. A Waste Management Plan shall be submitted to and approved by Council. The plan shall address any builder's waste and waste generated during the day to day operation of the development. Particular attention shall be paid to type and quantity of waste, recycling, reuse, storage and disposal.
39. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction. The enclosed warning sign shall be affixed to the sediment fence/erosion control device.
40. The building shall be set out by a Registered Surveyor. The Survey Certificate of the building showing the position of the external walls under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority. Any easements must be shown on the Survey Certificate.
41. A copy of receipt of payment of Long Service Levy shall be provided to the Principal Certifying Authority prior to any works commencing on site. Payments can be made at Long Service Corporation offices or most Councils.

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42. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
43. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
  - (a) Unauthorised access to the site is prohibited.
  - (b) The owner of the site.
  - (c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
  - (d) The name and contact number of the Principal Certifying Authority.
44. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to any works commencing on site.
45. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Hawkesbury City Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

(Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.)

### ***During Construction***

46. The site shall be secured to prevent the depositing of any unauthorised material.
47. Vehicle entrances and exits shall be clearly signposted and be visible from both the street and site at all times.
48. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
49. The applicant shall not enter or undertake any work within adjoining public lands (i.e. Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the applicant is to liaise with Council prior to the commencement of any design works or preparation of a Construction Management Plan.
50. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
51. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, including a public road or place, the person causing the excavation to be made:
  - (a) must preserve and protect the building from damage; and
  - (b) if necessary, must underpin and support the building in an approved manner; and
  - (c) must, at least 7 (seven) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.



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The person acting in accordance with this Consent is liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

52. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan Appendix E Civil Works Specification.
53. On-site detention shall be provided to maintain all stormwater discharges from the 1:1 up to the 1:100 year storm at pre-development levels.
54. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
55. A heavy duty layback and footway vehicular crossing minimum 12m wide shall be constructed to the development. The crossing shall be constructed in accordance with Hawkesbury Development Control Plan Appendix E, Civil Works Specification.
56. All necessary street signage and pavement markings shall be installed.
57. Disabled parking shall be provided in accordance with AS2890.1-1993.
58. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.
59. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
  - (d) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
  - (e) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
  - (f) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
60. Filling shall comprise only uncontaminated virgin excavated natural material. Contamination certificates for all source material shall be provided to the Principal Certifying Authority prior to placing any fill on site.
61. Council records indicate that the building site is at a level of approximately 15.5 metres AHD. All materials used in the construction below the level of 17.3 metres AHD shall be capable of withstanding prolonged immersion in water without swelling or deteriorating.
62. Any sewer or stormwater main or manhole affected by the development, shall be repaired or altered in level as so directed at the applicant's expense.
63. Registered Surveyor's identification report indicating the finished ground floor levels to a nominated fixed datum point are in accordance with the levels indicated on the approved plans. Surveyor's report is to be submitted for confirmation to The Principal Certifying Authority prior to pouring of the slab or construction of the floor platform.
64. Should any Aboriginal site or relic or European relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service or the Heritage Office (European relic) consulted. Any person who knowingly disturbs an

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Aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974 and Heritage Act.

65. Vehicles entering and leaving the site with soil or fill material must be covered.
66. Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction. Odour suppression measures must be carried out so as to prevent nuisance occurring at adjoining properties. This Condition must be complied with during demolition and building work.
67. Inspections and Compliance Certificates for sewer works are only to be undertaken by Hawkesbury City Council.
  - In the case of internal and external (house service connection) drainage, the inspection must be conducted by Hawkesbury City Council's City Planning Branch. Contact details to arrange inspections: (02) 4560 4565 (fees are to be paid prior to inspection/s).
  - In the case of any sewer work constructed under a major/minor Sewer Works Application, the inspection must be conducted by Hawkesbury City Council's Waste Management Branch. A Compliance Certificate will not be issued until Works as Executed Details have been received, assessed and approved by Council's Waste Management Branch. Contact details to arrange inspections: (02) 4560 4519 or (02) 4560 4529.
  - In the case of major sewer works where the contractor is permitted to independent quality control, the independent assessor shall be approved by the Branch Manager of Hawkesbury City Council's Waste Management Branch.

In all cases inspections must be conducted on the exposed pipes prior to any backfilling this includes poured concrete slabs or concrete encasement.

It is advised that a statutory declaration will not be accepted in lieu of the compliance inspection.

68. Proposed tree planting within and adjacent to the car parking area is to utilise advanced species, appropriate protection measures and maintenance schedule are to be implemented so as to ensure long term viability of the landscape scheme.
69. Any part of the building to be used for food preparation shall comply with Council's Code for the Fitting out of Food Premises.
70. Any area used for storage of food or food appliances/equipment is to comply with the relevant section of Hawkesbury City Council's *Food Premises Fit Out Code* including Section 7.0 - Storerooms.
71. Ceilings throughout the premises are to be solid in food preparation areas and are to comply with section 4.0 of Hawkesbury City Council's *Food Premises Fit Out Code*. "Drop in" ceiling panels are not permitted over food preparation areas.
72. All walls, floors, benches, shelves, chairs, fittings and the like are to be constructed with materials that are smooth, durable, impervious to moisture, and capable of being easily cleaned with a disinfectant. Fittings and equipment should be constructed so as not to harbour food, insects or vermin.
73. The floors are to be covered with a durable, non-toxic, impervious surface, graded to trapped floor waste outlets (where necessary), and connected to an approved drainage installation. The floor covering is to be free of protrusions or gaps.
74. All wall/floor junctions in the food preparation area(s), including any prefabricated low temperature rooms/freezer rooms, shall be covered according to Hawkesbury City Council's *Food Premises Fit*

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*Out Code.* The coving is to be a minimum radius of 25mm using a smooth impervious material of a light colour. Where walls and floors are tiled, the coving is to be of a tile type. "Stick on" coving is not permitted. Feather edge skirting is not permitted.

75. Any additional internal walls should be durable and of solid construction with no internal cavities. The wall should be sealed to the floor, and should comply with Hawkesbury City Council's *Food Premises Fit Out Code*, and the Building Code of Australia.
76. The premises is to be fitted with adequate hand washing facilities for the preparation of food. Handwashing basins are required in addition to other basins and sinks in any toilet, AND in any food preparation area. Where separate additional food preparation areas are provided, an additional hand washing basin is needed. Handwashing basins are required;
  - (a) to be fitted with hand's free taps such as knee or foot operated devices;
  - (b) with hot and cold running potable water;
  - (c) with a common spout delivering water of at least 40° Centigrade;
  - (d) to be easily accessible at all times.
77. A slop sink should be installed so that mop water does not contaminate the kitchen sinks. Mop water and water used for washing garbage receptacles must not be disposed of using a storm water drainage inlet.
78. The area used for storage of garbage receptacles is to be undercover, graded to a drain connected to the sewer, constructed with a surface that is easily cleaned, and shall have a supply of water under pressure available within the enclosure. Any stormwater or rainwater entering the garbage area should be adequately directed away from this drain.
79. In food preparation areas, the exhaust hood, filters and flue are to be installed and maintained as per Australian Standard AS 1668. The system should be adequate so that a smoke or odour emission nuisance does not occur as a result of the development.
80. A supply of soap and single use paper hand towels should be fitted to the wall in an appropriate and durable dispenser adjacent to any hand washing basin.
81. Equipment and appliances are to be installed on legs or castors as specified by Hawkesbury City Council's *Food Premises Fit Out Code*. Where plinths are to be used, the plinths shall be sealed to the floor, be covered in an equivalent finish to the floor, and the equipment/appliance effectively sealed to the plinth. Coving should also be provided to the plinth where necessary.
82. Food preparation and storage areas are to be adequately protected from flies, insects, and vermin. Windows are to be screened, and doorways are to be provided with self-closing doors. External doors are to be provided with self-closing screen doors.
83. Provide toilet and washing facilities in accordance with part F2 of the Building Code of Australia relevant to class 3 to 9 buildings.
84. Refrigerators and frozen food cabinets should be installed so as to comply with Hawkesbury City Council's *Food Premises Fit Out Code* .
85. Non-commercial refrigeration is not permitted in new food premises.
86. The inaccessible cavities formed between the low temperature room and the ceiling, and the low temperature room and a wall are to be made vermin proof, and are to comply with Section 9.0 of Hawkesbury City Council's *Food Premises Fit Out Code*.
87. Adequate provision for the disposal of condensation from low temperature rooms and refrigeration shall be provided. Condensation waste is to be disposed of to the sewer in accordance with the requirements of Hawkesbury City Councils' Water Management branch.

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88. An appropriate temperature gauge is to be provided externally to each low temperature room, refrigerated display unit, and refrigeration device.
89. All panels of the low temperature room are to be neatly cut and finished smooth to eliminate any cracks, crevices, or imperfections, which may provide access for food, vermin or insects.
90. Storage racks for the low temperature room shall be constructed of pipe, angle iron, "T" iron, channel iron, flat metal or other approved materials. The material should be galvanised and/or adequately treated to prevent corrosion.
91. The refrigeration equipment and all associated fittings are to be installed in such a manner that it is capable of operating without causing a noise or vibration nuisance for adjoining property holders.
92. An appropriately qualified person is to monitor excavation or similar activities, as per the 'Preliminary Contamination and Acid Sulphate Soil Assessment' report number 11688/2-AA prepared by Geotechnique Pty Ltd, regarding the potential presence of acid sulphate soils on the site or in any fill material imported to the site. Further testing/assessment is to be undertaken if required by the geotechnical engineer and results are to be submitted to the Principal Certifying Authority.

Appropriate measures shall be incorporated in the conjunction with the construction of the building relating to the presence or otherwise of acid sulphate soil.

93. Noise from the proposed machinery and excavation activities should be managed so that *offensive noise* as defined by the Protection of the Environment Operations Act does not occur at any sensitive receiver such as a residential property boundary.

### ***Prior to Issue of the Occupation Certificate***

94. 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 Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

95. A Certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.
96. Written clearance from Integral Energy shall be submitted to the Principal Certifying Authority.
97. A Compliance Certificate from Hawkesbury City Council's Waste Management Branch confirming sewer works constructed under a Major/Minor Sewer Works Application must be submitted to the Principal Certifying Authority.
98. A Compliance Certificate issued by Hawkesbury City Council's City Planning Branch confirming completion of internal and external drainage must be submitted to the Principal Certifying Authority.
99. A Trade Waste Agreement must be entered into with the Hawkesbury City Council for the discharge of trade waste to Council's sewer.

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100. The applicant shall prepare a flood emergency evacuation and management plan for the development. The plan shall advise occupants of flood evacuation procedures and emergency telephone numbers. The applicant shall contact Council and the NSW State Emergency Service for advice in the preparation of the plan. The evacuation procedures shall be permanently fixed to the building in a prominent location and maintained at all times.
101. Prior to occupation provision shall be made for access to and within the building on the site for persons with a disability in accordance with the provisions of AS 1428 Parts 1 and 4. Particular attention should be given to tactile ground surface indicators for the orientation of people with vision impairment (AS 1428.4).
102. To ensure that adequate provision is made for ventilation of the building all mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:
- (a) The Building Code of Australia,
  - (b) AS 1668 Part 1 & 2,
  - (c) The Public Health Act,
  - (d) Public Health (Microbial Control) Regulation,
  - (e) Work Cover Authority,
  - (f) AS 3666 Air Handling and water system of building microbial control:
    - Part 1 - Design installation and commissioning
    - Part 2 - Operation and maintenance
    - Part 3 - Performance based maintenance of cooling water systems
- An application to register any regulated system installed must be made to Council prior to commissioning of the system and the issuing of any Occupation Certificate.
103. A Plan of Management for the on-site stormwater detention facilities shall be submitted to and approved by Council. The Plan of Management shall set out all design and operational parameters for the detention facilities including design levels, hydrology and hydraulics, inspection and maintenance requirements and time intervals for such inspection and maintenance.
104. The owner shall enter a positive covenant with Council which provides the following:
- (a) The registered proprietors will at all times maintain, repair and keep the on-site stormwater detention facilities in a good and safe condition and state of repair, in accordance with the approved design to the reasonable satisfaction, at all times, of Council, having due regard to the Plan of Management for the operation and maintenance of the on-site stormwater detention facilities, and
  - (b) The liability under the Covenant will jointly and severally bind the registered proprietors of the proposed dwellings, and
  - (c) Council only will be entitled to release or modify the Covenant.
- All costs associated with the Covenant, including any legal costs payable by Council, are to be paid by the owner or applicant.
105. Submission of a report by the Design Engineer stating the conformance or otherwise of the On Site Stormwater Detention System in relation to the approved design.
106. Prior to occupation of the development, a grease trap of an appropriate size may be required to be installed on the drainage line at a location approved by the Manager of Regulatory Services. Hawkesbury City Council's Trade Waste/Technical Officer should be consulted to determine if this is required.

### *Use of the Development*

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107. No internal or external alterations shall be carried out without prior approval of Council.
108. All fire safety equipment and fixtures shall be regularly serviced and maintained. The owner or their agent shall certify annually that each of the fire safety measures specified in this statement has:
- (b) been assessed by a properly qualified person, and
- found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.
109. All premises offering food, packaged or otherwise, are to be registered with Council and have inspections conducted by Council's officers as necessary/required. These premises are required to comply with the Food Act 2003, associated Regulations, and the Food Safety Standards 3.2.2 and 3.2.3. These are available on line at [www.foodstandards.gov.au](http://www.foodstandards.gov.au)
110. All waste materials are to be stored adequately, away from food areas, and disposed of at regular intervals to the satisfaction of the Manager Regulatory Services.
111. All packaged foods prepared for presentation at a different premises, are to be packed and labelled in compliance with the current Food Standards Code. Hawkesbury City Councils' Environmental Health Officers can assist with this requirement.
112. All food and food handling equipment is to be stored at least 300mm clear of the floor on an approved shelf or appliance. No food is to be stored on the floor in a low temperature room or freezer.
113. A portable thermometer accurate to  $\pm 1^{\circ}\text{C}$  is to be available at the premises at all times for the purposes of checking cold and hot foods for compliance temperatures.
114. Materials and equipment for cleaning are to be stored in a place physically separated from any food storage, display, or preparation area. Separate cleaning equipment is required for cleaning of toilets.
115. A separate area should be made available for the purposes of storing personal items. A locker or cupboard is to be provided away from any food preparation or storage area.
116. Potentially hazardous foods should be stored below  $5^{\circ}\text{C}$ , or above  $60^{\circ}\text{C}$  at all times in accordance with The Food Act 2003.
117. Noise generated as a result of the development shall be managed so that the  $L_{Aeq}$  noise levels, measured at any point in accordance with the NSW DECC's *Industrial Noise Source Policy*, do not exceed 5dB(A) ( $L_{Aeq}$ ) above background levels ( $L_{A90}$ ) with respect to noise amenity of other properties and associated outdoor areas.
118. The owner/manager of the site must be responsible for the removal of all graffiti from the building within 48 hours of its application.
119. Security cameras must be installed and maintained in good operational order and placed in strategic places such as the external entrance, exit doors and secluded accessways. The DVDs/tapes/discs must have the time and date automatically recorded and be kept in a secure place to ensure their integrity for a minimum period of 28 days before being reused or destroyed. The DVDs/video tapes/discs are to be made available to the Police upon request.

Note: Digital recordings are the preferred form of surveillance recording.

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120. No advertising signs or structures shall be erected, displayed or affixed on any building or land without prior approval.
121. The level of illumination and/or lighting intensity used to illuminate the signage is to be minimised to ensure that excessive light spill or nuisance is not caused to any nearby premises or public road.
122. Illumination to the approved signage associated with the subject premises shall be extinguished outside the approved hours of operation.
123. The trading hours of the premises shall be limited to:
- |                      |                 |
|----------------------|-----------------|
| Monday to Wednesday: | 9.00am - 7.00pm |
| Thursday:            | 9.00am - 9.00pm |
| Friday:              | 9.00am - 8.00pm |
| Saturday:            | 8.30am - 6.00pm |
| Sunday:              | 9.00am - 6.00pm |
124. The following activities shall only occur between the hours of 7.00am to 10.00pm Mondays to Saturdays and 8.00am to 6.00pm, Sundays and public holidays:
- (d) Delivery or loading of goods;
  - (e) Stock movement within the loading area; and
  - (f) Garbage Collection.
125. All cooling towers and cooling and warm water systems must be operated and maintained in accordance with AS 3666.2:1995, (or AS 3666.3:2000 subject to prior notification to Council) the *Public Health Act 1991*, and *Public Health (Microbial Control) Regulation 2000*.
- A true copy of the annual certificate as stipulated in clause 9(2) of the *Public Health (Microbial) Regulation 2000* which certifies the effectiveness of the process of disinfection used for the water cooling system, must be submitted to Council prior to the period ending 30 June each year.
- Prior to commencement of the use the owner or occupier of the premises must apply to Council for the registration of water cooling systems warm water systems installed on the premises in accordance with the *Public Health (Microbial Control) Regulation 2000*.
126. The subject development, including landscaping, is to be maintained in a clean and tidy manner.

### Roads and Traffic Authority Conditions

127. Due to the traffic generation from the proposed development, at the intersection of Windsor Road and Curtis Road, a dedicated left turn deceleration lane shall be provided on Windsor Road at this location. Detailed plans need to be submitted to the RTA for approval. Should a Works Authorisation Deed (WAD) be required in order to carry out these works, then this must be completed prior to any plan checking being undertaken by the Authority. All costs associated with this work including the execution of the deed are to be met by the applicant.
128. A traffic management plan is to be prepared to control the servicing of the site so as to ensure that all associated activities are undertaken outside of normal store trading hours.
129. The design of the car parking area including parking space dimensions, access driveway, aisle widths, manoeuvring areas, sight distances, ramp grades and loading areas, etc are to conform to AS 2890.1-2004 and AS 2890.2-2002 for loading areas.
130. All vehicles are to enter/exit the premises in a forward direction.
131. All vehicles are to be wholly contained within the property before being required to stop.

**EXTRAORDINARY MEETING**

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132. All works associated with the development are to be at no cost to the RTA.

**Advisory Notes**

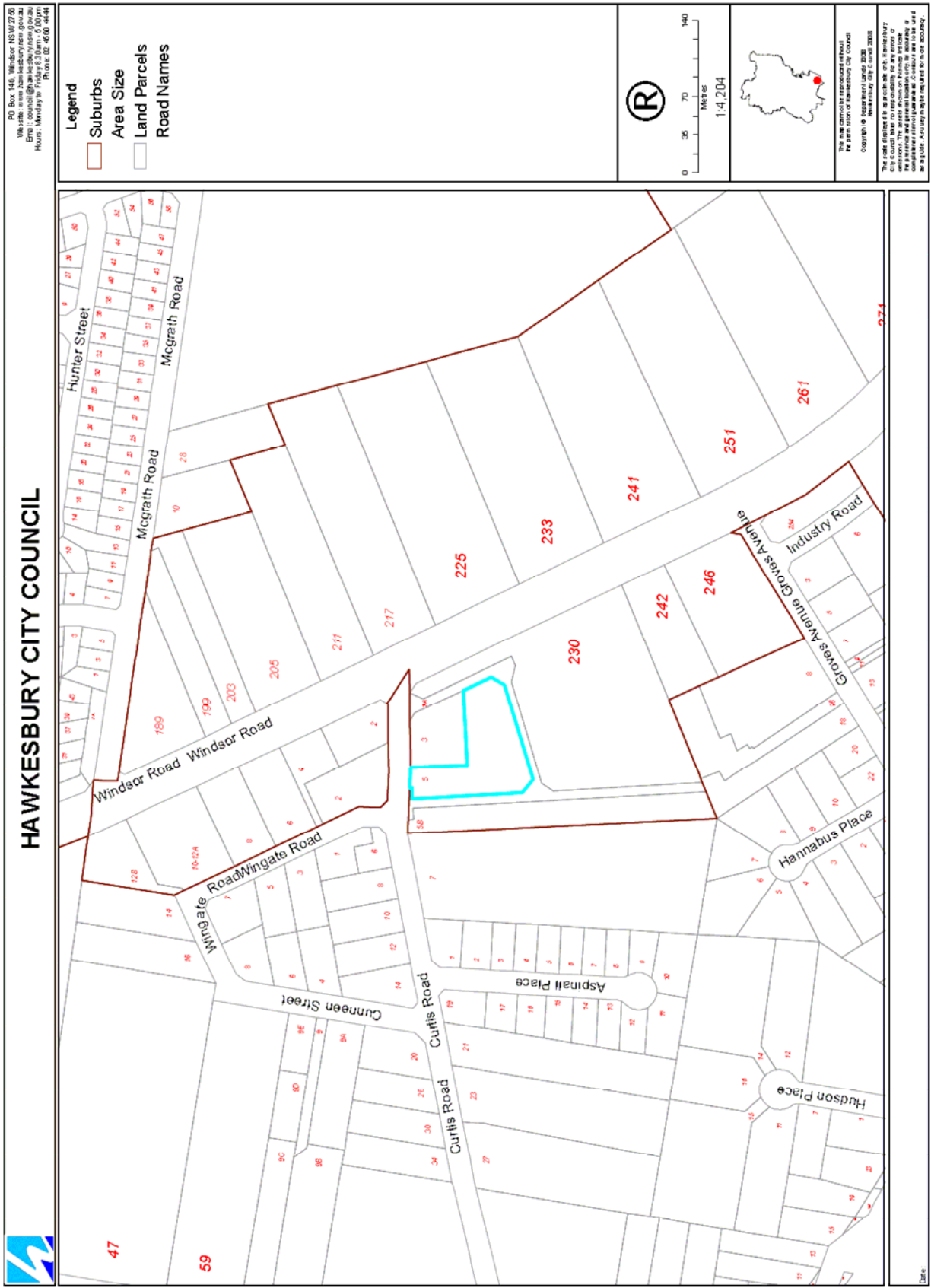
- \*\*\* The land is within the Hawkesbury City Council Sewerage Catchment. A separate application shall be submitted to Council for any alterations or connections to the sewer mains. The applicant shall consult with Council regarding acceptable discharge limits to the sewerage system.
- \*\*\* The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.
- \*\*\* The applicant is advised to consult with:
  - (a) Sydney Water Corporation Limited
  - (b) Integral Energy
  - (c) Natural Gas Company
  - (d) a local telecommunications carrierregarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public roads.
- \*\*\* The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed development. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- \*\*\* The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.
- \*\*\* The development falls within the Zone of Influence of a Council owned sewer main. The applicant is required to seek advice from the Waste Management Branch prior to an application for a Construction Certificate being made given that a specific foundation design will be required to be provided to the proposed building.

**ATTACHMENTS:**

- AT - 1 Locality Plan
- AT - 2 Site Plan



AT - 1 Locality Plan







extraordinary  
meeting

end of  
business  
paper

This business paper has been produced electronically to reduce costs, improve efficiency and reduce the use of paper. Internal control systems ensure it is an accurate reproduction of Council's official copy of the business paper.