

Minutes 04 August 2009



Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on 4 August 2009, commencing at 6.00pm.

PRESENT:

Councillors B. MacKenzie (Mayor); R. Westbury (Deputy Mayor); G. Dingle; S. Dover, G. Francis; P. Kafer; K. Jordan; D. Maher, J. Nell; S. O'Brien; S. Tucker, F. Ward; General Manager; Corporate Excellence Group Manager, Facilities and Services Group Manager; Sustainable Planning Group Manager; Commercial Services Group Manager.

		No apologies were received.
		Cr Frank Ward declared a non-pecuniary interest in Item 1.

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SUBJECT

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RESCISSION MOTIONS

RECISSION MOTION

ITEM NO. 1

FILE NO: 16-2009-178-1

DEVELOPMENT APPLICATION FOR COMMERCIAL PREMISES (DAN MURPHY'S LIQUOR) AT NO. 30 PORT STEPHENS STREET, RAYMOND TERRACE.

COUNCILLORS: GLENYS FRANCIS, GEOFF DINGLE & PETER KAER

That Council rescind its decision of 28 July 2009 on Item 1 of the Operations Committee Report, namely Development Application for Commercial Premises (Dan Murphy's Liquor) at No. 30 Port Stephens Street, Raymond Terrace – Minute No. 224.

EXTRA - ORDINARY COUNCIL – 04TH August 2009

	Councillor Glenys Francis Councillor Peter Kaer	That Council rescind its decision of 28 July 2009 on Item 1 of the Operations Committee Report, namely Development Application for Commercial Premises (Dan Murphy's Liquor) at No. 30 Port Stephens Street, Raymond Terrace – Minute No. 224.
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The Motion on being put was lost.

In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Councillors Peter Kaer, Glenys Francis, Geoff Dingle, John Nell and Frank Ward.

Those against the Motion: Councillors Ken Jordan, Daniel Maher, Steve Tucker, Shirley O'Brien, Bob Westbury, Sally Dover and Bruce MacKenzie

ORDINARY COUNCIL MEETING – 28 JULY 2009

ITEM NO. 1

FILE NO: 16-2009-178-1

DEVELOPMENT APPLICATION FOR COMMERCIAL PREMISES (DAN MURPHY'S LIQUOR) AT NO. 30 PORT STEPHENS STREET, RAYMOND TERRACE.

REPORT OF: ANTHONY RANDALL - ACTING MANAGER, DEVELOPMENT AND BUILDING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2009-178-1 for the demolition of the existing building, construction of a new building and its use as a shop – liquor store subject to the Conditions contained in Attachment 4.

OPERATIONS COMMITTEE – 14TH July 2009

RECOMMENDATION:

	Councillor Steve Tucker Councillor Shirley O'Brien	That the recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Councillors Bruce MacKenzie, Ken Jordan, Daniel Maher, Steve Tucker, Shirley O'Brien, and Bob Westbury.

Those against the Motion: Councillors Geoff Dingle. John Nell. Frank Ward and Sally Dover.

ORDINARY COUNCIL – 28TH July 2009	Councillor Glenys Francis Councillor Geoff Dingle	That Council refuse Development Application 16-2008-827-1 for the following reasons:- 1. Detrimental effects on the local amenity. 2. Adverse social impact given that Port Stephens Street is the main
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MINUTES FOR ORDINARY MEETING – 04 AUGUST 2009

		entry and thoroughfare to Raymond Terrace which is the Main Centre of Port Stephens. 3. Adverse social impacts in terms of further inducement to alcohol generated problems in Raymond Terrace (domestic, violence, crime, anti-social behaviour etc).
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Councillors Peter Kafer, Glenys Francis, Geoff Dingle, John Nell and Frank Ward.

Those against the Motion: Councillors Bruce MacKenzie, Ken Jordan, Daniel Maher, Shirley O'Brien, Bob Westbury and Sally Dover.

The motion on being put was lost.

224	Councillor Ken Jordan Councillor Daniel Maher	It was resolved that the recommendation be adopted.
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In accordance with the Local Government Act 1993, a division is required for this item.

Those for the Motion: Councillors Bruce MacKenzie, Ken Jordan, Daniel Maher, Shirley O'Brien, Bob Westbury and Sally Dover.

Those against the Motion: Councillors Peter Kafer, Glenys Francis, Geoff Dingle, John Nell and Frank Ward.

OPERATIONS COMMITTEE – 14 JULY 2009

ITEM NO. 1

FILE NO: 16-2009-178-1

DEVELOPMENT APPLICATION FOR COMMERCIAL PREMISES (DAN MURPHY'S LIQUOR) AT NO. 30 PORT STEPHENS STREET, RAYMOND TERRACE.

REPORT OF: ANTHONY RANDALL - ACTING MANAGER, DEVELOPMENT AND BUILDING

RECOMMENDATION IS THAT COUNCIL:

- 1) Approve Development Application 16-2009-178-1 for the demolition of the existing building, construction of a new building and its use as a shop – liquor store subject to the Conditions contained in Attachment 4.

BACKGROUND

The purpose of this report is to present the Development Application for a Dan Murphy's Liquor Store in Raymond Terrace to Council for determination.

The development application seeks consent for the erection of a 1450m² building to be occupied by Dan Murphy's Liquor. The proposal also includes the demolition of the existing H&D Hardware Store, the erection of the building and associated signage and the provision of sixty two (62) at grade carparking spaces.

The site is zoned 5(g) Special Urban (Flood Affected) Zone which permits retail shops subject to consent. The proposal is considered to be consistent with the zone objectives.

The proposal will employ fifteen (15) full time staff and twenty (20) part time staff with a minimum of six (6) staff on-site during trading hours. It is proposed that the store will operate in line with the following hours;

- Monday – Wednesday 9:00am – 8:00pm,
- Thursdays to Fridays 9:00am – 9:00pm,
- Saturdays 9:00am – 8:00pm,
- Sunday 10:00am – 6:00pm

The subject land is situated within an established commercial area and has a frontage to Port Stephens Street. Adjoining the property to the north is the new Aldi Development.

The key issues associated with this proposal are as follows:-

- Social Impact
- Flooding
- The economic/retail competition issues that have been asserted by authors of submissions and presenters at public access.

An assessment of these issues is provided in Attachment 3.

LINKS TO CORPORATE PLANS

The links to the 2008-2012 Council Plan are:-

SOCIAL SUSTAINABILITY –	<i>Council will preserve and strengthen the fabric of the community, building on community strengths.</i>
CULTURAL SUSTAINABILITY –	<i>Council will assist to inspire a sense of pride and place as well as enhancing quality of life and defining local identity.</i>
ECONOMIC SUSTAINABILITY –	<i>Council will support the economic sustainability of its communities while not compromising its environmental and social well being.</i>
ENVIRONMENTAL SUSTAINABILITY –	<i>Council will protect and enhance the environment while considering the social and economic ramifications of decisions.</i>
BUSINESS EXCELLENCE –	<i>Council will use the Business Excellence Framework to innovate and demonstrate continuous improvement leading to long-term sustainability across operational and governance areas in a Business Excellence Journey</i>

FINANCIAL/RESOURCE IMPLICATIONS

Nil

LEGAL AND POLICY IMPLICATIONS

The development application is consistent with Council's Policy.

Business Excellence Framework

Port Stephens Council is a quality driven organisation. We use the Business Excellence Framework as a basis for driving organisational excellence. The Framework is an integrated leadership and management system that describes elements essential to organisational excellence. It is based on eight (8) principles.

These outcomes align with the following Business Excellence principles:-

- 6) **INFORMATION AND KNOWLEDGE** – *Improve performance through the use of data, information and knowledge to understand variability and to improve strategic and operational decision making.*
- 7) **CORPORATE AND SOCIAL RESPONSIBILITY** – *Behave in an ethically, socially and environmentally responsible manner.*
- 8) **SUSTAINABLE RESULTS** – *Focus on sustainable results, value and outcomes.*

SUSTAINABILITY IMPLICATIONS

SOCIAL IMPLICATIONS

The application was supported by a Social Impact Assessment (prepared by TPG Dated March 2009, Project: 209.048 SIA).

The Social Impact Assessment states that:

The Raymond Terrace Area (determined by census collector district) is serviced by nine (9) licensed premises/bottle shops including seven (7) bottle shops within 800m of the site.

In 2006 the ratio of licensed premises to persons over 18 years of age was 1 licensed premises per 1,029 people within the census collector district. The report considers that the addition of another licensed premises will have a minor impact on this ratio when population growth is taken into account. In this sense the addition of the Dan Murphy's proposal will not significantly increase the availability of alcohol on a per person basis.

The Social Impact Assessment states that the employment qualifications required to work within a bottle shop, the Responsible Service of Alcohol Certificate, will assist to minimise the number of persons that are submitted to hospital from an alcohol related cause as those persons will be refused service.

It is also considered that the nature of the commercial premises and the amenity created by a clean and tidy site maintained by the occupants will provide surveillance in the area which will serve to curb potential anti social behaviour.

The Social Impact Assessment concludes:

No significant impacts have been envisaged to occur to the amenity of surrounding properties as a result of this SIA. As such, the proposed bottle shop is appropriate to service the existing and future population of Raymond Terrace.

Council's Community Planner – Crime Prevention provided the following comments to the proposal. These comments were also submitted to the Crime Impact Statement for the licensing process.

Council's Community Planner Comment:

The cumulative impacts of another licensed premise in Raymond Terrace are considered to be not conducive with maintaining, enhancing and protecting the social well-being of the community.

The following information has been considered when arriving at this conclusion:

- The high level of social disadvantage and high unemployment which exists in Raymond Terrace. Port Stephens is characterised by pockets of social disadvantage with Raymond Terrace being the most socially disadvantaged area (Raymond Terrace Integrated Service Centre final report 2007 available on PSC Website). Social indicators that reflect high incidents of stress include low school completion rates, high unemployment/generational unemployment, low literacy and numeracy levels, and high numbers of social housing tenants;*
- The high level of drug and alcohol abuse and domestic violence in this area that has been reported to NSW Police (domestic violence has risen 3.5% per annum in Port Stephens over the last 10 years with Raymond Terrace experiencing the highest rate in the LGA - Port Stephens Crime Prevention Plan 2006-2009);*
- National Drug Research Institute research released in 2008 (Predicting alcohol-related harms from licensed outlet density) confirmed that an increase in the number of liquor outlets (hotels and/or bottle shops) is associated with an increase in alcohol-related violence and assault in the surrounding area. Regardless of the type of new liquor outlet, most of this increased violence occurs in private homes rather than at licensed premises. There are already two large liquor outlets and three hotel/ bottle shops in the town centre. This outlet would mean there are six outlets in close proximity to each other.*
- A report by the Alcohol Education and Rehabilitation Foundation (AERF) indicates that increased (liquor)outlet density and outlet accessibility are directly related to an increase in neighbourhood*

problems due to 'drunkedness', domestic assault and property damage

- An increase in the number of outlets will cause pricing competition between the liquor outlets which will result in cheaper alcohol. This in turn will result in higher consumption and stockpiling of liquor. Lower priced alcohol is directly related to higher consumption of alcohol and risky behaviour by young people. (Young People and Alcohol-the Role of Cultural Influences – DrinkWise Australia Ltd 2008)
- In total, throughout 2008 and up until march 2009, the total number of minors charged with alcohol related offences in Port Stephens was 29 (Port Stephens LAC statistics). The total number of alcohol related offences that attracted legal action across the whole community during this period was 324 with 90% of these related to street offences including offensive behaviour and intimidation

Council's Social Planning Coordinator comment:

Acknowledging the references made in the responses provided by Council's Community Planner – Crime Prevention about:

- *the reported correlation between an increase in the number of liquor outlets and alcohol related violence; and*
- *greater affordability of alcohol through competition,*

it is also acknowledged that the evidence/data to support this argument in the context of the existing density of liquor premises in the Raymond Terrace CBD appears to be relatively intangible with respect to definitively demonstrating that any adverse social impacts are directly attributable to the subject proposal.

It is therefore considered that there appears to be insufficient data to justify refusing this development application on social grounds.

The application is also accompanied by a Crime Prevention through Environmental Design report (prepared by TPG Dated March 2009, Project: 209.048 CPTED).

The report outlines a number of safety and security measures to be implemented in the development of the proposal. These measures are included as a condition of consent to ensure that they are implemented in the event of consent being granted. The security measures include the installation of Closed Circuit Television (CCTV), vandal resistant lighting, reinforced glazing, clear signage, and maintained landscaping.

Liquor is already readily available from a number of existing liquor outlets and licensed premises within the vicinity of this development and the addition of additional premises will not greatly increase the ratio of licensed premises per person in the Raymond Terrace locality. In this sense, the proposal is not going to make alcohol more readily available in the locality currently serviced by nine (9) licensed

premises. Economic forces will likely determine the viability of the licensed premises density in the Central Business District.

The Crimes Act 1900 and Liquor Act 1982 prohibits sale of alcohol to minors or the provision of alcohol to minors and staff of the Dan Murphy's will be required to attain the Responsible Service of Alcohol qualifications. It is likely through the liquor licensing process that the establishment will be required to participate in the Liquor Accord.

Consideration has also been given to the recently approved Local Area Command and Raymond Terrace Police Station. It is considered that the increased Police presence provided by the redevelopment and expansion of the Police Station will serve to mitigate against potential crime in the Raymond Terrace Central Business District.

Consideration of comments from Council's Community Planner – Crime Prevention and the submitted Social Impact Assessment and Crime Prevention Report has led to the conclusion that an additional retail liquor store is not considered likely to have a significant social impact on the community based on population density per premises not significantly increasing. In 2006 the ratio of licensed premises per person over 18 in the Raymond Terrace census district was 1 premises per 1029 people. Using the projected growth rate for Raymond Terrace of 1.87%, the projected population of persons over 18 in the Raymond Terrace census district in 2009 is 9819 people giving a ratio of 1 licensed premises per 982 people. While Council's Crime Prevention officer has raised areas of concern in relation to the Social Impact of an additional liquor outlet in the Raymond Terrace Locality, assessment of the data surrounding the social impacts of the development indicates that sufficient grounds for the application to be rejected solely in terms of the Social Impact on the community are relatively intangible in the context of the density of liquor outlets in the Central Business District.

Approving a retail liquor outlet is not considered to be contrary to the public interest on planning merit grounds.

It is concluded that there is no evidence that can form part of the assessment to the effect that refusing this DA will in any way lead to improving any antisocial behaviour and alcohol related crime in the Raymond Terrace area. To refuse the application could also have an effect on reinforcing the economic positioning of existing outlets and this would not be a defensible position for Council in the Land and Environment Court.

ECONOMIC IMPLICATIONS

In terms of Economic Impact on existing liquor establishments in the Raymond Terrace locality, the economic impacts of the development on other liquor outlets is considered to be an issue of consumer competition, it is considered that assessment of this impact is outside of the scope of assessment under the heads of

consideration, Section 79C of the Environmental Planning and Assessment Act, 1979.

Accordingly, Council is not considered to have a regulatory role in the determining of the economic viability of individual proposals or their impacts on existing premises.

The proposed development should create a positive multiplier effect, albeit limited, on the local economy. Initially, through income to local contractors during the construction phase and in the longer term, through the increased demand for goods and services by staff and visitors. The proposal has the potential to attract customers to the area with a flow on to other retail establishments.

ENVIRONMENTAL IMPLICATIONS

Flooding

The development is sited on land classified as being flood prone. The Flood Planning Level for the site is 5.3m AHD.

The proposal seeks approval for a floor level of 3.24m AHD, some 2.06m below the flood planning level. The existing footpath level is 2.35m AHD and the applicant considers that varying the flood planning level requirements will result in a superior streetscape.

To mitigate against the impacts of flooding the applicant has proposed that the design will incorporate flood barriers at each building opening.

The application has been assessed by Council's Flood Engineer and specific conditions of consent have been included to mitigate against the potential external impacts of flooding. However, the protection of stock within the proposed building is entirely dependant upon the performance of the flood barriers proposed to protect the openings of the building, and the non-perishable nature of the stock due to its packaging.

The development conditions include the provision of a Flood Emergency Operation Plan to Council prior to the issue of a Construction Certificate, Certification of the structural design and specification of the building by an NPER Structural Registered Professional Engineer.

It is considered in this case that the alternate flood mitigation measures adopted by the proposal will allow for an enhanced streetscape with street level shop front windows providing street surveillance. It is considered that this streetscape outcome would not have been able to be achieved with the shop floor level elevated to 5.3m AHD, some 2.95m above the existing footpath level.

The flood constraints of the site have been included in the design response and are considered to reasonably resolve the issues of safety, streetscape, evacuation, access and loading.

Heritage

The development site is adjacent to a Local Heritage Item, being 34 Port Stephens Street – Timber Cottage. The development site currently contains a hardware store with an associated building sited in close proximity to the heritage item. The proposed commercial development will significantly improve the amenity of the Heritage item through increased setback of 28m from the commercial development to the Heritage Item and through the implementation of landscaping on site.

It is considered that the increased setback of the buildings on the subject site will result in a considerable reduction of the visual dominance on the heritage item of the current buildings. This will also serve to provide a larger vantage area around the heritage item from which it can be viewed.

It is considered that the development as proposed will result in a lessening of impacts on the heritage item to those currently experienced.

Flora and Fauna

The site is not known to contain any threatened flora or fauna and as such the development should not pose an adverse effect on any known threatened species, populations or ecological communities.

CONSULTATION

The application was publically exhibited in accordance with Council policy and three (3) submissions were received. These are discussed in the Attachment 3.

OPTIONS

Council can:

- 1) Adopt the recommendation.
- 2) Determine refusal of the application, which will require Councillors providing the reasons for refusal.

ATTACHMENTS

- 1) Locality Plan
- 2) Site Plan
- 3) Assessment
- 4) Conditions to apply with the Development Consent in the event that this is Council's determination.

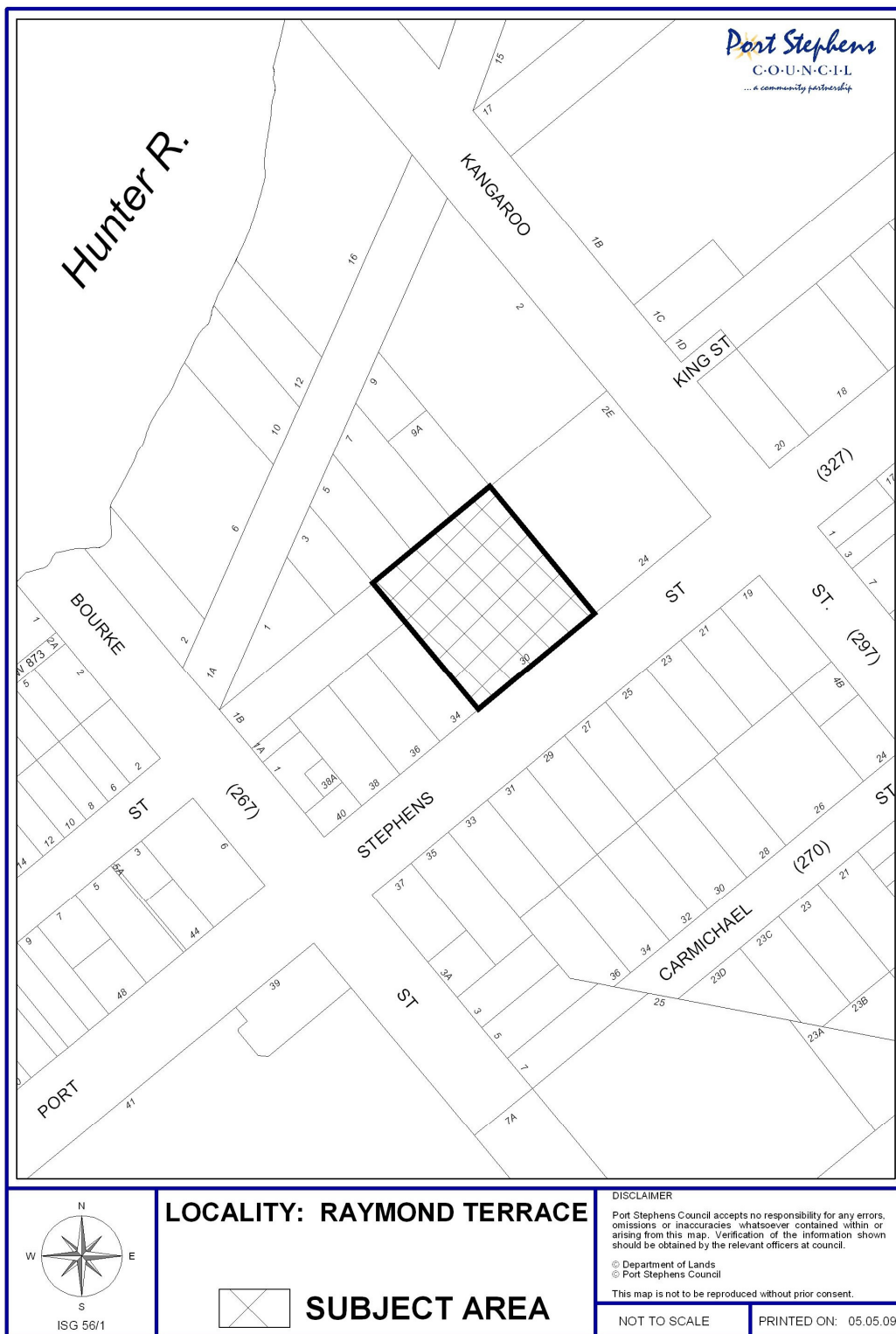
COUNCILLORS ROOM

- 1) Development Plans
- 2) Statement of Environmental Effects

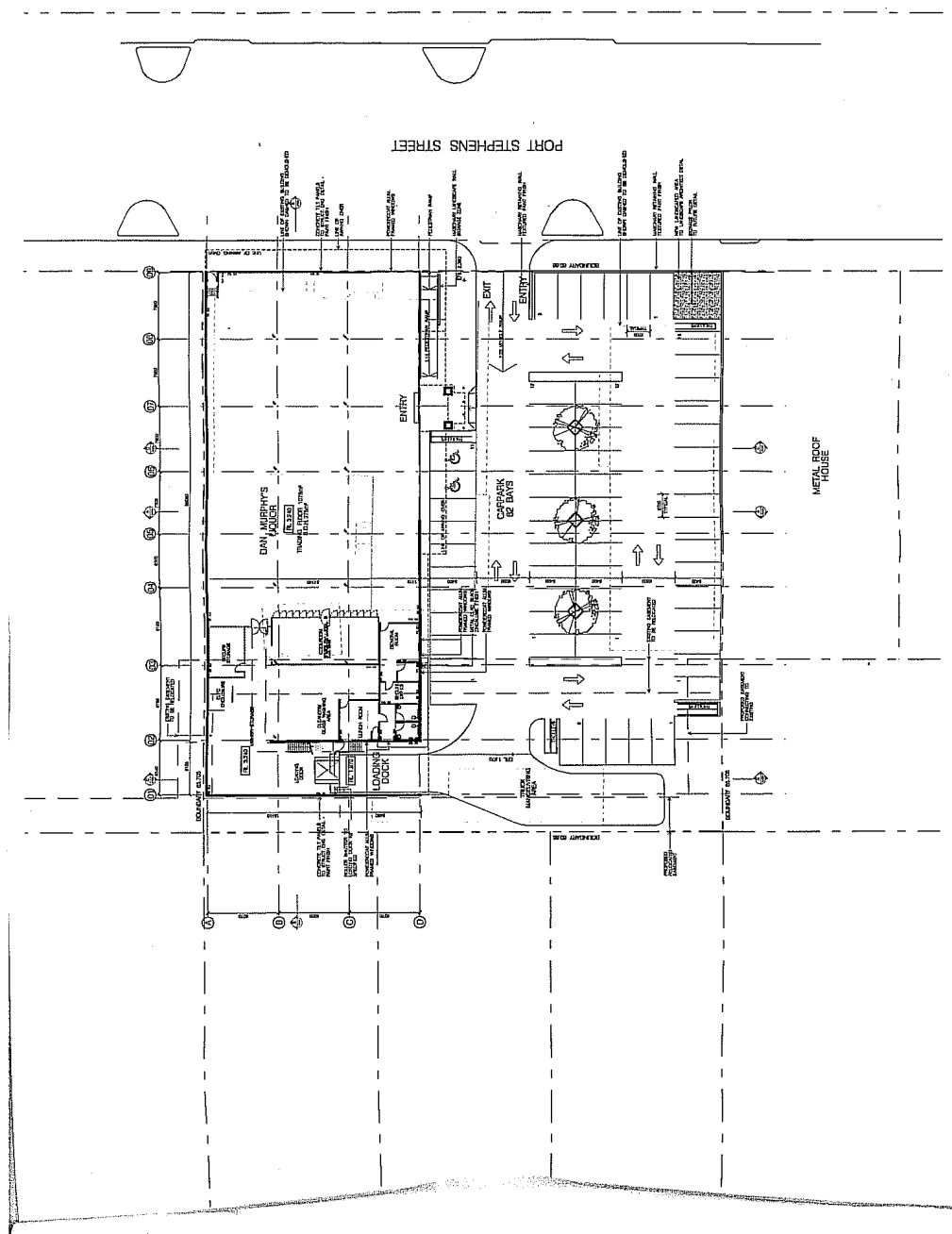
TABLED DOCUMENTS

Nil

ATTACHMENT 1 LOCALITY PLAN



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ATTACHMENT 3**ASSESSMENT**

The application has been assessed pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and the following is a summary of those matters considered relevant in this instance.

THE PROPOSAL

The development application seeks consent for the erection of a 1450m² building to be occupied by Dan Murphy's Liquor. The proposal also includes the demolition of the existing H&D Hardware Store, the erection of the building and associated signage and the provision of sixty two (62) at grade carparking spaces.

THE APPLICATION

Owner	Silsoe Developments Pty Ltd & Comtop Pty Ltd
Applicant	Fabcot Pty Ltd
Detail Submitted	Development Plans Statement of Environmental Effects Waste Management Plan Crime Prevention through Environmental Design Report Social Impact Assessment Statement from Flood Engineer

THE LAND

Property Description	Lot 12 DP 1111906
Address	30 Port Stephens Street Raymond Terrace
Area	3,985m ²
Dimensions	Street Frontage 60.65m, Depth 65.705m
Characteristics	Generally level, rectangular block with frontage to Port Stephens Street. Site is currently occupied by a H&D Home Timber and Hardware Store.

THE ASSESSMENT**1. Planning Provisions**

LEP 2000 – Zoning	5(g) – Special Urban (Flood Affected) Zone
Relevant Clauses	26, 37, 38, 51A, 60.
Development Control Plan	Development Control Plan 2007

State Environmental Planning Policies SEPP (Infrastructure) 2007

Environmental Planning and Assessment Act, 1979

The development has been assessed under Section 79C of the Environmental Planning and Assessment Act, 1979.

State Environmental Planning Policy (Infrastructure) 2007

The development involves the creation of 1,450m² of shop space. The proposal does not have direct access to a classified road and as such Column 2 of Schedule 3 is applicable in determining if the development is considered to be traffic generating.

To be considered as Traffic Generating under column 2 a development for the purposes of a shop must have a floor space of greater than 2000m². The development as proposed has a floor space of 1450m² and as such the development is not considered to be Traffic Generating.

Under the provisions of clause 104, there is no requirement for a development of this size to be referred to the Roads and Traffic Authority (RTA).

Port Stephens Local Environmental Plan 2000

Clause 26 - Zoning Provisions

The development site is zoned 5(g) – Special Urban Flood Prone. Under the provisions of this zone, development for the purposes of “Bulky Goods” is permissible with development consent. It is noted that the applicant has applied for the development under the definition of “shop” which is also permissible with development consent in the 5(g) zoning.

The development is considered to be consistent with the zone objectives and description.

Clause 38 – Development on Flood Prone Land

The development is sited on land classified as being flood prone. The Flood Planning Level for the site is 5.3m AHD.

The proposal seeks approval for a floor level of 3.24mAHD, some 2.06m below the flood planning level. The existing footpath level is 2.35m AHD and the applicant considers that varying the flood planning level requirements will result in a superior streetscape.

To mitigate against the impacts of flooding the applicant has proposed that the design will incorporate flood barriers at each building opening.

The application has been assessed by Council's Flood Engineer and specific conditions of consent have been included to mitigate against the potential external impacts of flooding. However, the protection of stock within the proposed building is entirely dependant upon the performance of the flood barriers proposed to protect the openings of the building, and the non-perishable nature of the stock due to its packaging.

The development conditions include the provision of a Flood Emergency Operation Plan to Council prior to the issue of a Construction Certificate, Certification of the structural design and specification of the building by an NPER Structural Registered Professional Engineer.

It is considered in this case that the alternate flood mitigation measures adopted by the proposal will allow for an enhanced streetscape with street level shop front windows providing street surveillance. It is considered that this streetscape outcome would not have been able to be achieved with the shop floor level elevated to 5.3m AHD, some 2.95m above the existing footpath level.

The flood constraints of the site have been included in the design response and are considered to reasonably resolve the issues of safety, streetscape, evacuation, access and loading.

Clause 51A – Acid Sulphate Soils

The subject site is identified as being class 5 Acid Sulfate Soils. The provisions of Clause 51A state;

Works within 500m of class 1, 2, 3 or 4 land which are likely to lower the water table below 1m AHD on the adjacent Class 1, 2, 3 or 4 land

The proposed development does not involve any excavation for the erection of the building. However, the proposal does involve relocation of a stormwater easement. During the relocation of the easement the following measures have been proposed and included as a condition of consent.

Excavation and dewatering works on the site shall be undertaken in accordance with the NSW Government's document titled Managing Acid Sulphate Soils. All testing and monitoring shall be undertaken by an appropriately qualified geotechnical consultant.

Clause 60 – Development in the vicinity of a Heritage Item

The development site is adjacent to a Local Heritage Item, being 34 Port Stephens Street – Timber Cottage. Clause 60 states,

60 Development in the vicinity of heritage items, heritage conservation areas,

archaeological sites or potential archaeological sites

The consent authority must take into consideration the likely effect of the proposed development on the heritage significance of a heritage item, heritage conservation area, archaeological site or potential archaeological site, and on its setting, when determining an application for consent to carry out development on land in its vicinity.

The development site currently contains a hardware store with an associated building sited in close proximity to the heritage item. The proposed commercial development will significantly improve the amenity of the Heritage item through increased setback of 28m from the commercial development to the Heritage Item and through the implementation of landscaping on site.

It is considered that the increased setback of the buildings on the subject site will result in a considerable reduction of the visual dominance on the heritage item of the current buildings. This will also serve to provide a larger vantage area around the heritage item from which it can be viewed.

It is considered that the development as proposed will result in a lessening of impacts on the heritage item to those currently experienced.

Port Stephens Development Control Plan, 2007

The development is subject to the controls of Development Control Plan 2007, specifically the controls of Section B2 – Environmental and Construction Management, B3 – Traffic Parking and Transport, B4 – Commercial and Mixed Use Development, B12 – Advertising Signs and C1 – Raymond Terrace Town Centre.

The development is considered to be generally compliant with the provisions of the Development Control Plan, however any departures are discussed below.

Section B3 – Traffic, Parking and Transport

Section B3 sets the controls for traffic, parking and transport considerations for development. It is considered that the development is consistent with these controls and principles other than the controls noted below.

B3.8 Schedule of Car Parking Requirements

Section B3.8 requires that parking be required at a rate of 1 space per 20m² for a shop.

This ratio requires that the development provide 73 spaces based on a floor space of 1450m². The development provides 62 spaces resulting in a shortfall of 11 spaces.

A traffic report (Colsten Budd Hunt & Kafes Pty Ltd, March 2009) was submitted to accompany the application. The report studies other Dan Murphy developments and the traffic demands of the stores concluding that peak demands require 1

space per 28m² to 36m². Utilising this ratio and the demands from other Dan Murphy stores, a total of 40 to 52 spaces would be required by the development.

It is considered in this instance that the departure from the requirements of Section B3.8 is justified on the basis of the demonstrated investigation of the parking demand of other Dan Murphy's development that are operating elsewhere.

The investigation indicates that the parking requirements of the development are being reasonably met at the site as demonstrated in a development specific Traffic Impact Assessment that has been submitted in support of the subject application.

In these circumstances it is considered unreasonable to levy via Section 94 a car parking shortfall arising from applying a generic car parking ratio for shops. If no Traffic Impact Assessment were supplied to justify the departure in this case, Section 94 levies would be applied to any shortfall of car parking at the site.

Section B4 – Commercial and Mixed use Development

Section B4 applies to all commercial development. The proposal is considered to be consistent with this section of the Development Control Plan.

C1 – Raymond Terrace Town Centre

Section C1 contains controls specific to the Raymond Terrace town centre. The subject allotment is identified as being within the Industrial Precinct. The controls of Section B4 apply to Commercial Development in this area, however where there are inconsistencies between section B4 and C1, the provisions of C1 are to take precedent.

The proposal is consistent with the provisions of this section.

2. Likely Impact of the Development

The proposed development is consistent with the requirements of the *Port Stephens Local Environmental Plan 2000* and generally consistent with the requirements of DCP 2007.

The development is situated adjacent to a heritage item, however the proposal is likely to reduce the existing visual impact on the heritage item through increased setbacks and landscaping.

3. Suitability of the Site

The development site is a fully serviced commercial site that currently contains retail Hardware Store. The site is bordered by the recent Aldi development.

It is considered that the proposed development is consistent with Council's codes and policies governing development of the site while being compatible and sympathetic with existing and envisaged commercial streetscape.

4. Submissions

The development was initially advertised and notified until the 15th April 2009. In response to this process three (3) submissions were received objecting to the proposal.

The key issues raised in the submissions are;

- Service of alcohol by persons without specific training.
The applicant and supporting documentation state that all employees involved in the sale of alcohol will be required to complete the Responsible Service of Alcohol qualifications.
- Over servicing of the Raymond Terrace Areas by liquor outlets.

The submitted Social Impact Assessment has outlined that the provision of an additional retail liquor outlet will bring the ratio of outlets per person in the Raymond Terrace locality to a number similar to that at the 2006 census. In 2006 the ratio of licensed premises per person over 18 in the Raymond Terrace census district was 1 premises per 1029 people. Using the projected growth rate for Raymond Terrace of 1.87%, the projected population of persons over 18 in the Raymond Terrace census district in 2009 is 9819 people giving a ratio of 1 licensed premises per 982 people. In this sense, the creation of an additional outlet when factoring in population growth will not dramatically change the ration of liquor outlets per person.

- Social Impacts of Alcohol on crime, violence and families.

The proposed liquor outlet is supported by a Social Impact Assessment, discussed elsewhere in this report, and will be the subject of the same licensing laws at the other existing liquor premises in the Raymond Terrace locality.

- Economic Impact on existing retail liquor outlets.

The submitted Social Impact Assessment outlined that in 2006 the ratio of licensed premises to persons over 18 years of age was 1 licensed premises per 1,029 people. Given the growth in population since the collection of the 2006 data, it is considered that the new premises will allow for servicing of the population increase and will not significantly alter the ratio of licensed premises per person in the Raymond Terrace locality.

5. Public Interest

It is considered to be in the public interest to approve the proposal. The development has demonstrated that it satisfies relevant planning considerations, represents an improvement over the current development on site in terms of architectural design, site responsiveness and merit and will result in an improved streetscape.

ATTACHMENT 4

CONDITIONS

CONDITIONS OF APPROVAL

1. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
2. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
3. Failure to comply with the conditions of consent constitutes a breach and on the spot fines may be issued under the Environmental Planning & Assessment Act 1979 and or the Protection of the Environment Operations Act 1997.
4. The development application has not been assessed against the provisions of the Building Code of Australia. A Section 96 application under the Environmental Planning & Assessment Act 1979 will be required if design amendments are necessary to comply with the provisions of the Building Code of Australia.
5. The development shall be limited to the following hours of operation;
 - Monday to Wednesday 9:00am to 8:00pm;
 - Thursday to Friday 9:00am to 9:00pm;
 - Saturday 9:00am to 8:00pm;
 - Sunday 10:00am to 6:00pm.
6. Landscaping shall be carried out in accordance **with the details submitted**. The landscaping must be completed prior to issue of Occupation Certificate.
7. A colour scheme providing full details of the colours and character of all external building materials and finishes to be used shall be approved by Council **prior to the issue of the Construction Certificate**.
8. The development shall provide 62 on-site car parking spaces, including 2 disabled parking spaces. These spaces shall be separately accessible, clearly line-marked (disabled spaces clearly signposted) and adequately paved and drained in accordance with Section B3 of Port Stephens Development Control Plan 2007. Car parking must be provided prior to the issue of the occupation certificate or use of the development.

Council, **prior to the issue of the Construction Certificate.** The construction management plan shall specify operational details to minimise any potential impact to adjoining properties. The construction management plan should include but not limited to the following information:- Construction techniques, noise and vibration management, storage of equipment and building materials, hours of work:, primary route for truck movements, etc.

10. All work or the storage of goods or materials shall be confined within the building or approved areas. Separate development approval is required for external storage.
11. Any lighting on the site is to be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.
12. Flashing illuminated signage is not permitted. Illuminated signs must be fitted with an automatic timing device to extinguish the illumination between the hours of 10.00pm and 7.00am.
13. An NPER Structural Registered Professional Engineer shall develop and/or review structural design, specifications, and plans and provide certification to Council, for the construction of watertight shields over doors, windows, and other openings. The certificate shall certify that below the flood planning level the structures are watertight with walls substantially impermeable to the passage of water which "shall not permit the accumulation of more than 100mm of water depth during a 24-hour period if there were no devices provided for its removal". The certificate shall also certify that structural components have the capability of withstanding the hydrostatic and hydrodynamic flood forces, including debris impact and buoyancy uplift for the 1% AEP Flood. The certificate shall be issued to Council prior to the issue of the Construction Certificate.
14. A Flood Emergency Operation Plan shall be prepared and approved by Council prior to the issue of the Construction Certificate. The Plan shall include measures to ensure that the floodproofing components will operate properly under all conditions, including power failures. A continuous source of electricity to operate any necessary floodproofing components, such as pumps, will be needed for any floodproofing design that includes such components. The plan must include the following:
 - An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.
 - A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.
 - A periodic training and exercise program to keep personnel aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials. Flood safety precautions should be repeated during each training drill.

- An Inspection and Maintenance Plan to ensure that all components will operate properly under flood conditions. The necessary inspection and maintenance activities, including inspection intervals and repair requirements, must be described in the Inspection and Maintenance Plan. Components that should be inspected as part of an annual (as a minimum) maintenance and inspection program include the following:
 - Mechanical equipment such as sump pumps and generators.
 - Flood shields and closures, to ensure that they fit properly and that the gaskets and seals are in good working order, properly labeled, and stored as indicated in the Flood Emergency Operation Plan.
 - Walls and wall penetrations, for cracks and potential leaks

15. The development shall be constructed in accordance with the NSW Government Floodplain Management Manual (2005).
The Flood Planning Level for this development is 5.3 metres AHD.
Flood Compatible Building Materials are listed in the attached Schedule #.

The following design precautions must be adhered to:-

- b. In sewerred areas some plumbing fixtures may be located below the Flood Planning Level. Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge.
- c. No potentially hazardous or offensive material is to be stored on site that could cause water contamination during floods.
- d. All building materials, equipment, ducting, etc., below the Flood Planning Level shall be flood compatible.
- e. All main power supply, heating and air conditioning service installations, including meters shall be located above the Flood Planning Level.
- f. All electrical wiring below the Flood Planning Level shall be suitable for continuous submergence in water. All conduits below the Flood Planning Level shall be self-draining. Earth core leakage systems or safety switches are to be installed.
- g. All electrical equipment installed below the Flood Planning Level shall be capable of disconnection by a single plug from the power supply.
- h. Where heating equipment and fuel storage tanks are not feasible to be located above the Flood Planning Level then they shall be suitable for continuous submergence in water and securely anchored to overcome buoyancy and movement which may damage supply lines. All storage tanks shall be vented to an elevation above the Flood Planning Level.
- i. All ducting below the Flood Planning Level shall be provided with

openings for drainage and cleaning.

Attach schedule for flood compatible materials.

16. The Designated flood is the 1 % AEP Flood. A structural engineer shall design provide certification to Council that all building structures and earth mounds are able to withstand the hydrostatic and hydrodynamic flood forces, including debris impact and buoyancy uplift for the 1% AEP Flood **prior to the issue of the Construction Certificate.**
17. A flood management plan which covers evacuation and the provision of emergency food, medical supplies, power/communication, water and effluent disposal, etc incorporating the State Emergency Services Business Floodsafe Toolkit,. shall be submitted and approved by Council **prior to the issue of the Construction Certificate.**
18. A flood storage area of at least 10% of the floor space shall be provided above the Flood Planning level for use by the occupier in times of flood. Such storage shall be accessible and be signposted for flood storage only and not be used for any other purpose. **Prior to the issue of Construction Certificate,** details shall be provided to Council identifying nominated areas.
19. Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Port Stephens Section 94A Development Contributions Plan, a contribution of 1% of the cost of the development, as determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000, shall be paid to Council

The amount to be paid is to be determined in accordance with the provisions of the Port Stephens Section 94A Development Contributions Plan. The contribution is to be paid **prior to issue of the Construction Certificate.**

A Quantity Surveyor's Detailed Cost Report (**form attached**) setting out an estimate of the proposed cost of carrying out development in accordance with Schedule 2 of the Port Stephens Section 94A Development Contributions Plan must be approved by Council prior to issue of a Construction Certificate.
20. The development shall incorporate the following safety and security measures
Details are to be approved by Council **prior to issue of an Occupation Certificate.**
 - Details shall be provided to Council prior to issue of Construction Certificate demonstrating that the proposed development will utilise either a shatter resistant film or laminated glass to aid in the prevention of breakage of windows.
 - CCTV shall be installed in the building and carpark areas (including

potential hiding locations. Details of camera locations shall be provided to Council prior to issue of Construction Certificate.

- Security lighting is to be provided on the property to minimise the potential for criminals to be concealed on site. A detailed lighting strategy achieving these aims is to be provided to Council prior to issue of Construction certificate.
- The site shall be covered in low glare/high uniform lighting compliant with Australian Standard AS:1158. Details shall be provided to Council prior to issue of Construction Certificate.
- The light covers shall be designed to reduce opportunities for vandalism to the lighting system. Details of the light covers shall be provided to Council prior to issue of Construction Certificate.
- The applicant shall prepare a lighting maintenance policy. All broken or damaged lighting shall be replaced within 48hours. Details of the lighting maintenance policy are to be provided to Council prior to issue of Construction Certificate.
- The applicant shall prepare a landscape maintenance policy. All landscaping is to be maintained so as to not result in overgrown vegetation providing hiding areas. Trees on the perimeter of the site shall be under pruned to allow for clear site lines and natural surveillance to and from the site. Details of the landscape maintenance policy are to be provided to Council prior to issue of Construction Certificate.

21. Digital or Video technology shall be implemented to record images from the CCTV camera's. Staff shall be trained in the correct operation of the system.
22. All lighting implemented is to be appropriate for its intended use. Car park lighting shall allow customers to view the interior of their vehicles.
23. Directional signage shall be implemented advising of entry and exit points to both the site and the building.
24. Signage shall be implemented in the carpark area and on the building advising of security measures in place on the site.
25. "Park Smarter" signage shall be placed in the carpark to encourage carpark users to remove or secure all valuables in vehicles.
26. The loading dock roller shutter doors are to remain closed at all times other than when deliveries are being made.

incorporating the gutter crossing shall have a width of 6m and shall be constructed in concrete in accordance with the options shown on **Council's Standard Drawing No. S122A & S105A.**

The construction of the footpath crossing and associated lipless layback must be constructed **prior to the issue of any Interim and Final Occupation Certificate.**

28. Internal carparking and manoeuvring areas shall have a 100mm concrete kerb along the boundary edge to stop stormwater discharging onto neighbouring properties.
29. The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
30. Submission of Works-As-Executed plans and report prepared and certified by a suitability qualified drainage engineer confirming all drainage works (volume, discharge, levels, location, etc) are built in accordance with conditions of consent and the approved plan. Minor variations in height can be certified providing they are clearly identified in the report and the engineer certifies that the overland flow paths are not altered, discharge rates are not increased, and no additional negative effects are imparted on any dwellings or property. Minor variations can only be certified where it can be demonstrated that the ease of maintenance and monitoring of the system has not been negatively affected.

The documents shall be submitted to, and accepted by the Certifying Authority, **prior to issue of the occupation certificate.**
31. Works associated with the approved plans and specifications located within the existing Road Reserve shall not commence until:
 - i) a Roads Act Approval has been issued, and
 - ii) all conditions of the Roads Act Approval have been complied with to Council's satisfaction.
32. Works associated with the Roads Act Approval are subject to:
 - a. inspection by Council,
 - b. testing by a registered NATA Laboratory and
 - c. approval by Council at each construction stage as determined by Council.
33. All driveways and parking/manoeuvring areas shall have an offset of 300mm or greater from obstructions higher than 150mm.
34. All redundant lay-backs shall be reinstated to match the adjoining kerb and gutter profile.

junction point located within the drainage easement.

36. Where Council is nominated as the Principal Certifying Authority, a separate approval under the Roads Act will be not be required from Council for all works within Council land and Road Reserves.
- 37.** All civil engineering works associated with the Roads Act Approval shall be carried out to the satisfaction of Council (with a letter of practical completion issued) **prior to issue of the Subdivision Certificate or Occupation Certificate.**
- All works associated with the Roads Act Approval shall be at no cost to Council.
38. Filling shall not obstruct any natural stormwater flowpath or water drainage system. Neither shall the fill encroach any adjoining property.
39. In areas that are disturbed for site filling, all available topsoil shall be stockpiled and re-used at the completion of the earthworks. The topsoil shall be spread evenly and lightly rolled. All disturbed areas shall be stabilised within 14 days of completion of the filling operations with grass cover by either turfing or seeding.
40. Erosion control measures shall be put in place to prevent the movement of soil by wind, water or vehicles onto any adjoining property, drainage line, easement, natural watercourse, reserve or road surface, in accordance with "Managing Urban Stormwater", Volume 1:2004 (Landcom).
41. The driveway (within the road reserve) shall have a minimum of 0.5 metres clearance from the edge of existing drainage structures, pits, power poles etc. Details shall be approved by the certifying authority **prior to issue of the construction certificate.**
42. Driveways, parking and turning areas shall be paved or sealed with either reinforced concrete, pavers or asphalt over a suitably prepared, compacted sub-base. These areas shall be maintained in perpetuity by the existing or future owners and occupiers of the property(s)
43. Provide a drainage system on site to collect pavement runoff from vehicle parking areas into proprietary oil arrestor before discharge from the site (or to any stormwater detention or infiltration systems on-site). Pollutants shall be disposed of in an approved manner. Roof stormwater must be discharged separately. Full details, shall be approved by the certifying authority **prior to issue of the Construction Certificate.**
- 44.** The stormwater detention system shall be designed and built in accordance with the approved concept plan. Details shall be approved by the certifying authority **prior to issue of the construction certificate.**

45. The stormwater detention system is to be designed in accordance with Section 8.11 of AS 3500.3:2003. Details are to be approved by the Certifying Authority **prior to issue of Construction Certificate.**
46. Structural Certification is required for the below ground stormwater system/ tank(s). Details are to be approved by the Principal Certifying Authority **prior to issue of the Construction Certificate.**
47. All works as listed as conditions of development consent, which are located in public roads are subject to approval under section 138 of the Roads Act 1993. Engineering details in accordance with Council's Subdivision and Development Code, of such works shall be submitted with a Roads Act application form and then approved by Council prior to approval to commence these works and **prior to issue of the Construction Certificates.**
- The following items are also required to be approved by Council prior to approval being granted to commence works:
- a) Traffic control plans in accordance with the Roads and Traffic Authority – Traffic Control at Worksites Manual;
 - b) Payment of fees and bonds (same Principle Certifying Authority fees, inspection fees and maintenance bonds as relevant to subdivisions);
 - c) Contractors public liability insurances to a minimum value of \$10 million dollars.
48. The following fees and/or bonds are to be paid as part of this consent:
- a) Subdivision construction certificate/plan approval fee, prior to approval of construction certificate or plans.
 - b) PCA/inspection fee, prior to approval of construction certificate or plans.
 - c) Long Service Levy, prior to issue of construction certificate (verification of payment is required if paid directly to Long Service Board)
 - d) Maintenance Bond, prior to release of subdivision certificate.
 - e) Street Tree Bond/Contribution, prior to release of subdivision.
- The rates are as listed in Council's fees and charges. Contact Council's Subdivision Engineer prior to payment.
49. Collected stormwater runoff shall be piped to # within a drainage easement.
50. The building is located adjacent to a drainage system and as such all footings are to be founded below the zone of influence. Details shall be approved by an accredited Certifier or Council **prior to issue of the Construction Certificate.**
51. The existing interallotment drainage system shall be relocated in accordance with the approved plans and covered by an appropriate easement **prior to issue of the Occupation Certificate.**

52. The footway verge over the full Port Stephens Street frontage shall be reconstructed with segmental paving (identical to that existing in Port Stephens Street in front of the Aldi development). Detailed drawings and specifications for the proposed paving shall be submitted to and approved by Council **prior to the issue of Roads Act Approval.**
53. The proposed driveway onto Port Stephens Street shall include suitable delineation to distinguish pedestrian right of way along the footpath. Full details are to be submitted to and approved by Council **prior to the issue of Roads Act Approval.**
54. Appropriate directional controls and signage shall be provided where secondary circulation aisles meet the main entry / exist aisle onto Port Stephens Street. Full details are to be submitted to and approved by Council **prior to issue of the Roads Act Approval.**
55. The cross fall on the accessible car parks shall not exceed 1:40. Full details are to be approved by the Principal Certifying Authority or Council **prior to issue of a Construction Certificate.**
56. All doors, windows, and other openings shall be protected by watertight shields to prevent the ingress of floodwaters. Full details are to be approved by the Principal Certifying Authority or Council **prior to issue of a Construction Certificate.**
57. The proposed development shall be provided with access and facilities for the disabled in accordance with Australian Standard 1428.1 and the relevant provisions of the Building Code of Australia.
58. A continuous and accessible path of travel, designed in accordance with Australian Standard 1428.1 shall be provided to and within any building on the site. This accessway shall provide access to all required facilities.
59. External access to the building required to be accessible must be in accordance with the Building Code of Australia Part D and Australian Standard 1428.1, and must be provided:a
(i) from the allotment boundary at the main points of entry; and
(ii) from any accessible carparking space on the allotment; and
(iii) from any adjacent and associated accessible building on the allotment; and
(iv) through the principal public entrance.
60. The minimum number of accessible car parking spaces shall be provided in accordance with the Building Code of Australia Section D Subsection 3.5 and designed in accordance with Australian Standard 2890.1.

Standard 1428.1 and the relevant provisions of the Building Code of Australia. These shall be maintained for the life of the development by existing or future owners.

62. The fit out of food preparation, storage and service areas are to be designed and constructed to comply with standard 3.2.3 of the Australia New Zealand Food Standards Code and Australian Standard AS 4674-2004 for the construction and fitout of food premises in particular with reference to the following:-

If Council is nominated as the Principal Certifying Authority, details of compliance are to be included in the plans and specifications for the construction certificate. The Food Surveillance Officer shall be given 48 hours notice to inspect the premises prior to commencement of the business.

Where Council is not nominated as the Principal Certifying Authority a certificate from an appropriately qualified person confirming compliance with the above legislation and guidelines is to be provided before the issue of the occupation certificate.

Prior to occupation the business is to be registered with Council.

a Solid Walls

The walls including internal walls of the food premises to the food preparation areas, kitchens, sculleries, food displays, food serveries and food storage areas shall be of solid construction eg. Brick, concrete, concrete block, lightweight concrete block or other similar approved homogenous material.

b Wall Finishes

Any kitchens, sculleries, food preparation areas, food serveries and the like shall be finished to a height of at least two (2) metres above the floor level with:-

- i. Glazed tiles fixed in accordance with the requirements of AS3958.1;
- ii. Stainless steel or other approved impervious material adhered directly to the wall.

c Rendering Walls Above Two (2) Metres

Where wall tiling does not extend to the ceiling level the wall surface above the tiles shall be rendered to a smooth steel trowel finish flush with the face of the tiles and painted with a durable gloss paint of a light colour.

d No Ledge On Wall Tiles

The face of the tiles fixed to the vertical wall surfaces shall be flush with the adjoining wall surfaces to reduce the likelihood of the collection of dust and other accumulations on the ledge formed.

e Ceilings

Ceilings over food preparation, display and storage areas are to be constructed of rigid smooth faced material such as plasterboard or villaboard finished with set joints and a plaster cornice at the walls and is required to be painted in a washable gloss paint of a light colour.

h Floor Finishes

Floors are to be covered with approved floor coverings:-

- i With the use of ceramic floor tiles coved with a 25mm ceramic cove tile at the intersection with the walls, or
- ii. With the use of a continuous sheet vinyl returned 150mm up the wall to form a cove and sealed to the wall and fillet with an approved fillet or backing piece to provide support, or
- iii. With the use of impervious trowelled epoxy over concrete, coved at the intersection of the walls and floor.

i Floorwastes

Floors are to be adequately graded and drained to the required floor waste(s).

j Light Fittings

Light fittings being recessed flush to the ceiling surface or be of a 'squareline' type attached to the underside and provided with approved diffuser covers.

L Vermin Proofing

Windows, external doors and other external openings shall be provided with vermin and insect proofing.

M Coolroom Construction

Any cool rooms and freezing rooms shall be constructed and drained in accordance with Standard 3.2.3 – Food Premises and Equipment, of the Australia New Zealand Food Standards Code, Australian Standard As 4674 and Council's local policies.

N Coolroom Coving

Coving of the coolroom and/or freezer room shall be finished up to a 25mm aluminium "arrowhead" moulding installed 50mm above the finished floor surface to prevent damage to the coving and to allow ease of cleaning.

o Coolroom Floor

The floor of the coolrooms / freezer rooms must be finished with a trowelled epoxy finish or tile with an epoxy grout or similar to ensure that the floor is impervious and easily cleaned. The concrete floor must be coved a minimum of 25mm and capped with an aluminium arrowhead.

p Coolroom Shelving

Shelves to the coolroom / freezer rooms shall be constructed of galvanised pipe, angle iron, T iron, flat metal or other approved materials, all of which should be treated to prevent corrosion. The base of the shelves in the coolroom / freezer room must be at least 300mm above the floor surface.

q Coolroom Top Infill

The coolroom being sealed and vermin proofed against the existing ceiling and wall surface.

rPlumbing & Electrical

Services pipes, conduits, condensate drains and the like being concealed behind the finished floor and ceiling surfaces. Where such services are installed pre-fabricated panels provide 25mm clearance off panel surfaces

S Fixed Thermometers

All hot and cold holding units used for storage of perishable foods eg; coolrooms / freezer rooms, fridges, pie warmers, bain maries, roller grills etc. must be fitted with permanent thermometers accurate to one (1) degree that are able to be read from outside the unit (ie. Without opening the unit) and must be fitted in a location that gives an accurate reading of the temperature of the food.

TRefrigeration Drainage

The refrigeration condensation drainage shall be conveyed to the reticulated sewerage system where available and in other cases disposed of without causing a nuisance.

uEquipment 150mm Off Floor

All cookers, ovens, vats, fridges, freezers, benches, cupboards, shelves or similar appliances or equipment are required to be fitted with legs so as the base of the unit is at least 150mm off the floor surface. Further consideration must be given to deep units so as to not hinder cleaning requirements.

W False Bases

False bottoms beneath counters, cupboards, fittings, fixtures and equipment are not permitted. The above shall be installed on approved metal legs not less than 150mm in height.

YRoller Shutters

The roller shutter drum casings being concealed above the ceiling level or enclosed in a plasterboard bulkhead.

BBInspection Requirements

It is the Applicants responsibility to ensure that the appropriate progress and final inspections of the food premises fitout have been carried out by the Principal Certifying Authority.

EE Cleaners Sink

A cleaners sink shall be provided with hot and cold water connected thereto, through a common mixing spout.

FF Hands Free Basin

All hand washbasins shall be provided in sufficient number within a food premises and must be fitted with a "hands free" operation with a single spout to mix hot and cold water. A supply of liquid soap and single-use paper towel made available from an enclosed dispenser is also to be provided to the handwash basin.

63. The fit out of food preparation, storage and service areas are to be designed and constructed to comply with standard 3.2.3 of the Australia New Zealand Food Standards Code and Australian Standard AS 4674-2004 for the construction and fitout of food premises.
64. All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
65. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
66. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
- * Monday to Friday, 7am to 6pm;
 - * Saturday, 8am to 1pm;
 - * No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L_{10} level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.

67. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
68. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.

69. Where the proposed development incorporates pile-driving activities associated with the construction process the applicant/beneficiary of the consent shall, **prior to commencement of work** for the works associated with the piling system undertake the following actions.
- a) For development incorporating pile-driving activities for a period of 5 days or more, be that consecutive or combined total:
 - i) An appropriately qualified Acoustic Engineer shall prepare a report on the impact on adjoining properties in relation to anticipated noise and vibration with reference to compliance with British Standard 6472 - 1996 Guide to evaluation of human exposure to vibration in buildings (1Hz to 80 Hz).
 - ii) Where the anticipated impacts exceed the prescribed performance standards of the noted Standard the consultant shall make recommendations on the method of minimising the noted impacts to meet the performance standards.
 - iii) For pile driving activities with a duration in excess of 5 days as noted above the applicant/beneficiary of the consent shall engage an Acoustic Engineer to undertake monitoring of the pile driving to verify the identified performance standards noted are not exceeded. Details to be forwarded to Principle Certifying Authority.
70. Pile driving shall only be carried out between the hours of 8.00am - 3.30pm Monday to Friday excluding public holidays.
71. Development incorporating pile-driving activities for a period of less than five (5) days be that consecutive and a total combined throughout the construction process, shall comply with the provision of British Standard 6472-1996.
72. The applicant or the person who is the beneficiary of the development consent incorporating pile-driving activities shall, **prior to commencement of work** prepare and submit for approval of a Construction Management Plan incorporating notification provisions for the pile-driving activities with practical measures taken to notify all adjoining property occupants of the commencement date and period of pile-driving works.
- The notification shall be forwarded a minimum of 2 days prior to the commencement of works.

73. Separate approval is required to occupy, close or partially close the road reserve adjacent to the property under the Roads Act. The storage of materials, placement of toilets and rubbish skips within the road reserve is not permitted.
74. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. **Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.**
75. The construction site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is kept on your site. Construction sites without appropriate erosion and sediment control measures have the potential to pollute the waterways and degrade aquatic habitats. Offenders will be issued with an 'on the spot' fine under the Protection of the Environment Operations Act 1997.
- Note: Erosion and sediment control measures prepared in accordance with the Erosion and Sediment Control Regional Policy and Code of Practice or Managing Urban Stormwater – Soils and Construction produced by Landcom 2004, need to be maintained at all times. A copy of Landcom 2004 bluebook may be purchased by calling (02) 98418600.
76. A "KEEP PORT STEPHENS WATERWAYS POLLUTION FREE" sign shall be displayed and be clearly visible from the road frontage for public viewing on the site at the commencement of works and remain in place until completion of the development. Signs are available from Port Stephens Council.
77. The Principal Certifying Authority shall only issue an occupation certificate when the building has been constructed in accordance with the approved plans, specifications and conditions of consent. No occupational use is permitted until the Principal Certifying Authority issues an occupation certificate. NOTE: If an accredited certifier approves occupation of a dwelling the accredited certifier is to immediately notify Council in writing.
78. A fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council, If Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.
79. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations

the building are to be submitted to Council. Such certificates are to state that:

- a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
 - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.
80. Prior to demolition, all existing services are to be disconnected, sealed and made safe. The sewer, water and gas service is to be disconnected by a licensed plumber.
81. An asbestos audit shall be undertaken in respect of the proposed demolition work by a qualified occupational hygienist to determine the presence or otherwise of materials containing asbestos. Where asbestos is found to be present, a written procedure approved by Workcover Authority is to be used by contractors for the demolition handling and disposal of materials containing asbestos. A copy of such procedure and Workcover approval is to be submitted to Council before undertaking any works.
82. The demolition and disposal of materials containing asbestos should be carried out in accordance with Workcover Authority Guidelines. Material should be disposed of at a licenced landfill facility.
83. Any proposal with respect to flood proofing of the development to be supported by a report identifying how full compliance with the Building Code of Australia is to be achieved.

ADVICES

The following general information is provided to assist you with the preparation and prompt processing of your **Construction Certificate** where such application is made to Council.

- a) Plans in respect of an application for a Construction Certificate must be submitted to the Hunter Water Corporation for checking & stamping prior to application for the Construction Certificate being made.
- b) In the case of residential building work, prior to commencement of work submit to Council or a private certifying authority a copy of the contract of insurance under Part 6 of the Home Building Act 1989 (specific for the building work the subject of this approval) and builders licence details. (Or alternatively present to Council a copy of an Owner Builders Permit issued by the Department of Fair Trading.)

MINUTES FOR ORDINARY MEETING – 04 AUGUST 2009

Service Corporation **prior to issue of the construction certificate**. You can either pay the Long Service Levy Corporation direct and show us your receipt OR you can pay us and we'll send your money to them.

Note: Owner builders can ask for a reduction in the levy. For more details contact the Long Service Corporation, Locked Bag 3000, CCDS, Lisarow 2252, phone 131441.

- d) Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/applicant to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.
- e) The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. This applies particularly to new buildings or significant building alterations. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act. Further information can be obtained from Council or the Human Rights and Equal Opportunity Commission on 008 021 199.
- f) Consideration should be given to the following enhanced access and facilities provisions for the proposed development.
 - (III) Australian Standard 1428.3 Design for access and mobility – Requirements for children and adolescents with physical disabilities.
- g) Further information about disabled access obligations can be found at the Human Rights and Equal Opportunities Commission website www.hreoc.gov.au
- h) It will be necessary to include within the Management Documents for this development, a programme for maintenance of stormwater detention devices.

There being no further business the meeting closed at 6.35pm.

I certify that pages 1 to 40 of the Open Ordinary Minutes of Council 04 August 2009 were confirmed by Council at its meeting held on 25 August 2009.

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Cr Bruce MacKenzie
MAYOR