



Hawkesbury City Council

special meeting business paper

date of meeting: 18 November 2003

location: Council Chambers

time: 7.00pm

SPECIAL MEETING

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ITEM: 192 **Shopping Centre Complex and Roadworks - Hollands Paddock, Windsor - Request for Review of Determination.**

FILE NUMBER: DA1228/02/EVD/ORK18SAX.V01

REPORT:

Property Descriptions

Privately Owned: Lot 1 DP 586790 (Hollands Paddock), Lot 5 DP 67626 No. 223, Lot 20 DP 752061 No 227 to 229 and Lot 10 DP 586815 No. 235 George Street, Lot 1 DP 998433 No. 8 New Street, Windsor.

Council Owned: Pt Lot 30 and Pt Lot 31 New Street, Lot 1 and Lot 2 DP 788531 and Lot 1 DP 550135 Johnston Street and Lot 3 DP 759095 The Terrace (Howe Park), Windsor.

Introduction

At the Special Meeting held on 20 May 2003, Council resolved to refuse Development Application number 1228/02 for a number of reasons. On 16 September 2003, the applicant submitted a request for a review of determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979. The request provides information in response to the reasons for refusal and in response to the individual recommended deferred commencement conditions.

The applicant has provided additional information in respect of noise and flooding impacts and has made some alterations to the proposed building. This report presents a review of the additional information and recommends that conditional approval be issued to the development.

Reasons for Refusal

On 20 May 2003 Council resolved as follows:

That

1. *Council not make available land to provide access to the development proposed in DA1228/02 being part of Lot 3 DP759095 (part of Howe Park necessary to widen Johnston Street) and Lot 30 and Pt Lot 31 New Street.*
2. *The SEPP 1 objection is not supported to vary the process of clause 25(2) of HLEP 1989.*
3. *DA1228/02 be refused for the following reasons:*
 - (a) *It does not comply with clause 25(2) of LEP1989;*
 - (b) *There is no appropriate access available to the site;*

- (c) *It has an adverse noise impact on the adjacent properties;*
- (d) *There is a severe loss of amenity on the adjacent properties;*
- (e) *The impact on the adjacent heritage items is too severe;*
- (f) *Not in the public interest;*
- (g) *The proposal represents an over-development of the site;*
- (h) *The proposal will have an unacceptable impact on the economic viability of Windsor and South Windsor; and*
- (i) *The impact on the development by flood waters is unacceptable.*

A full copy of the report submitted to the Special Meeting is included as Attachment 1.

Statutory Provisions of Section 82A of the Environmental Planning and Assessment Act 1979

Section 82A provides that an applicant may request Council to review a determination at any time within 12 (twelve) months of the date of determination. The prescribed fee must be paid and Council may review the determination if it has notified the request for review in accordance with the Development Control Plan. Council must consider any submissions made concerning the request for review.

Where the applicant has made amendments to the Development Application, Council must be satisfied that the development as amended is substantially the same development as the development described in the original application. As a consequence of its review, Council may confirm or change the determination.

Council is advised that all of the statutory requirements of Section 82A have been met in the current application. It is considered that the amended application is substantially the same development as the development described in original application. Therefore, the Council may be satisfied of its statutory power to consider this request.

Amendments to Original Development Application

The applicant submits the following amendments made to the original DA in response to the matters raised by Council. The applicant also submits that the development is substantially the same. The proposed amendments are as follows:

- a) Loading dock area - supermarket docks are recessed into the Supermarket envelop to address noise.
- b) The building is set back off the northern boundary to No. 17 Johnston Street to allow that property to obtain vehicle access between street and the rear parking areas serving No. 17 Johnston Street.
- c) The previously proposed vehicular access through the shopping centre carpark to the rear at No. 17 Johnston Street is deleted.
- d) Several other minor amendments to the loading dock area to allow improved landscape buffer to No. 17 and No. 19 Johnston Street.

- e) Clarification of the proposed facade treatment to the carpark level in the South West corner of the building.
- f) The emergency pedestrian link leading west from the centre court providing a flood free route through to new street has been narrowed.
- g) Shopper amenities have been relocated.
- h) The floor area of the development has been reduced to 9,270sqm.

Applicant's Submission

The applicant has provided a detailed submission in support of the request to review the determination. The submission comprises responses to the reasons for refusal, responses to the recommended deferred commencement conditions, an amended noise report and a flooding constraints report. A full copy of the submission and amended plans has been circulated to Councillors with the business paper.

The following is a summary of the applicant's response to Council's reason for refusal.

1. Clause 25(2) of Hawkesbury LEP 1989. The applicant submits that it is agreed by all parties that the provisions of Clause 25 of Hawkesbury LEP 1989 in relation to land which is more than 3 metres below the floor height standard, fall within the definition of a 'Development standard' pursuant to State Environmental Planning Policy No. 1. In establishing the underlying planning objective of the flooding clause, it is clear from the drafting of the instrument and the wording of the clause, that it is directed to the minimisation of flood damage. The application for review is supported by a flood report prepared by hydrologists, Lyall & Associates and the applicant argues that there are sufficient grounds for the SEPP1 objection to be upheld. The applicant submits that it is not the purpose of the development standard to control the scale and bulk of buildings.
2. Lack of Appropriate Site Access. The applicant submits that they do not agree with this reason, nor does Council's Traffic Consultant in his advice to Council. The applicant considers that the access is both adequate and appropriate as proposed.
3. Noise Impacts on Adjacent Properties: The applicant advises *"the latest amendments to the DA drawings address this issue, by recessing the supermarket docks and providing additional enclosures on the 2 (two) levels on the development. Renzo Tonin & Associates, in relation to these latest drawings responds to this reason for refusal in their attached report in demonstrating any acoustic concern can be appropriately dealt with and controlled by proposed works"*.

The acoustic report recommends an acoustic screen wall, up to 4.5 metres in height adjacent to No. 17 Johnston Street. This matter is discussed later in this report.

4. Loss of Amenity to Adjacent Properties. The applicant advises that apart from acoustic amenity, other aspects of amenity have been addressed in the amended drawings, including vehicular access to the rear of No.17 Johnston Street now capable of being achieved without going through the shopping centre carpark. Also landscape screening of the building. The

applicant considers that these amendments represent a significant improvement in terms of any potential amenity impacts.

5. Impact on Adjacent Heritage Items. Based on the advice of the applicant's heritage consultant as quoted in the DA report to Council, the applicant states *"The applicant considered that impact on adjacent heritage items is not a valid reason for refusal"*.
6. Not in the Public Interest. The applicant submits as follows: *"It is difficult to understand how it might be argued why the proposed development is not in public interest, particularly given that it will significantly improve shopping facilities available for that very public. Furthermore, such a reason for refusal would appear to cut across the results of the Council's attitude survey more recently undertaken of Windsor residents who appear to be in favour of the proposed Holland's Paddock development"*.
7. Overdevelopment of the Site. The applicant advises as follows *"The gross floor area of the now - proposed development has now fallen again, from 9,495sqm to 9,270sqm representing a floor space ratio of 0.79 to 1. This is not a high FSR for a 3(a) commercial centre zoning, while the development traffic impacts are not considered a problem by Council's independent traffic consultant. Under the circumstances, the basis of this reason for refusal is uncertain at best, and is not accepted"*.
8. Unacceptable Economic Impact. The applicant submits as follows *"This reason claims there will be unacceptable impact on the economic viability of Windsor and South Windsor Centres. However, neither the economic impact report prepared by Peter Leyshon, nor that by Ibecon found that way. Certainly there are inevitably "point-in time" retail sales impacts experience by some existing retail outlets, but no suggestion of the threat of wide spread failure. Indeed, the economic benefits identified by Peter Leyshon are significant and the negative consequences of not proceeding with the development are considerable. Furthermore, the Council consciously rezoned the DA land to 3A in order to allow for its retail development in support of Windsor Town Centre, and in support of the position that Council took in relation to the Fabcot appeal. Under the circumstances, for Council to now argue against the subject land's development on economic grounds is logically inconsistent, and in my view unsupportable"*.
9. Flood Impacts on the Development. The applicant submits that most of the shopping centre floor level will be above the 1:100 year event. Shops fronting George Street will be lower so as to adopt the floor levels relating to the street. The flood liable tenancies will be constructed with appropriate flood resistant materials and provided with mezzanine storage at the rear of the tenancies to enable temporary flood free relocation of stock. The undercroft parking area beneath the shopping centre is not an issue in flood impact terms.

Community Response

On 30 September 2003, a letter was forwarded to all previous respondents to the development application and surrounding property owners and tenants advising of the request for review and inviting submissions to be made until 16 October 2003. Written submissions were received as follows:

- 39 (thirty nine) submissions objecting to the proposed development;

- 8 (eight) submissions in support of the proposed development; and
- 2 (two) petitions in support of the development containing a total of 133 (one hundred and thirty three) signatures.

The following list summarises the concerns raised in the submissions objecting to the development:

- Heritage impacts and concern that the development is out of character with Windsor;
- Increase in traffic and difficulty in access within Windsor and near the site;
- Impact on existing retail, in particular, may lead to more empty shops;
- Inappropriate use of park land for wide widening;
- Rear access to existing commercial properties should be provided/maintained;
- Amenity and noise impacts to adjoining residential properties;
- Over-development of the site;
- Flooding impacts;
- Disruption to surrounding property owners during construction.

A number of respondents made general observations about the fencing of Holland's Paddock, inadequate details supplied with the application, request for an independent review of the DA and concern that the proposed amendments do not address the concerns of Council.

Main Issues

Flooding Impacts

Proposed deferred commencement condition number 4 was recommended to Council on 20 May 2003, viz '*a localised flood study be carried out to prove that the building does not affect or is affected by inundation of times of flooding*'. Condition 5 stated "*A Flood and Stormwater Drainage Report for the entire catchment area of the existing drainage system, which will outline the effects of stormwater and flooding from the Hawkesbury River during all storm events*".

The applicant has submitted a further flood report prepared by Lyall & Associates Consulting Water Engineers in September 2003. The report, technically, is not a localised flood study, however, it does contain sufficient information and detail to allow Council to determine whether or not the development is likely to have an effect on flooding in the locality.

The report draws upon the results of the 1996 Web McKewen & Associates report on the Warragamba Dam Auxillary Spillway 1996 and is supplemented by site specific analysis of local flood patterns in the vicinity of Hollands Paddock and George Street. The results support the conclusion that under the present day conditions that there is very limited opportunity for the transfer of flows to South Creek and that flow velocities in the Hollands Paddock area are very low with the area essentially functioning as a storage area for flood waters in major flood events.

Because of the depth of flooding, which in the 1:100 year event would be approximately 2.1 metres at the pedestrian crossing in George Street in front of the development, and the absence of significant flow velocities, the area is considered to be a high hazard - flood storage area. This is defined using the hydraulic and flood hazard categories outlined in the NSW Government Floodplain Management Manual 2001.

The report describes that flood waters will commence to enter Hollands Paddock at the 1:5 year flood level and the area would be inundated in a 1:10 event. For larger flood events, water levels in the carpark would rise, eventually reaching the level of the sag point in George Street, which is located about 30 metres to the west of the existing pedestrian crossing in front of the Colonial Arcade. This has a level of 14.85 metres AHD. The Hollands Paddock area would be filled to the elevation of the sag in George Street in the event of a flood about 0.85 metres lower than a 1:50 year event. Currently, water would enter George Street by the easement between Macquarie Plaza Shopping Centre on the corner of New Street and the takeaway food shop at No. 245 George Street and continuing increase in river levels would result in leakage of flow to New Street through the gap between the post office and the Macquarie Plaza Shopping Centre.

Further increase in flood levels also create the opportunity for flows from Hollands Paddock to enter George Street via the access way in the Colonial Arcade. At the 1:100 year flood event, most of the backyards of the allotments on the eastern side of New Street would be flooded. The potential flow onto George Street would be controlled by the widths of the 3 (three) flow paths discussed above and the difference in water levels between the river and South Creek. The report points out that the flow velocities in the flow paths are quite low at about 0.2 metres per second in each case.

The carpark located beneath the supermarket at a level slightly higher than current natural surface levels in Hollands Paddock would be flooded in the 1:10 year flood event. As the carpark area is open to flood waters, there will be no significant loss of floodplain storage. In addition, as flow velocities are low, the development will not have an adverse effect on local flooding patterns.

The report suggests that the hydraulic capacity of the existing flow paths through the Colonial Arcade building, which will be closed off by the proposed development, could be maintained by providing a connection between the carpark and George Street, which would function as a surcharge in the event of major flooding from the direction of Hawkesbury River.

Having reviewed the flooding constraints report prepared by Lyall & Associates, it is considered that sufficient information has been provided to determine that the building does not affect or is affected by inundation at times of flooding. Should Council resolve to grant consent, the previously recommended deferred conditions No. 4 and 5 would not be required.

Noise and Amenity

In the report to Council on 20 May 2003, a deferred commencement consent condition No. 7 was recommended "That an acoustic report be submitted that proves that the amenity of No. 17 and No. 19 Johnston Street would not be adversely effected by the operation of this building".

The applicant has revised the design of the building so that the loading dock is essentially recessed in the supermarket envelope creating an additional separation between the residential development at No. 17 Johnston Street and the loading activities. The plant room has been deleted from the trading floor level adjacent to No. 19 Johnston Street and the building has been revised in this location to create a setback from the boundary.

An additional report prepared by Renzo Tonin & Associates, Acoustic Consultants is submitted by the applicant. The report identifies the noise sources that potentially effect the amenity of No. 17 and No.

19 Johnston Street as Mechanical Plant on the roof of the shopping centre or in plant rooms, trucks and unloading activities in the loading dock and vehicles in the carpark.

In relation to mechanical plant, the report states that noise can be readily controlled to comply with EPA limits by incorporating commercially available silences, screens and enclosures, precurement of 'quiet' plant and strategically positioning plant away from residences. It is noted that a plant room previously proposed to be located on the east side of the shopping centre has been relocated so that it is further from the Johnston Street residences. The increased distances will reduce mechanical plant noise and by incorporating the appropriate continuation measures and noise measures will be designed to comply with the EPA limits.

In relation to the loading dock, the report recommends two options i.e. a 3 metre high noise wall to shield noise in the loading dock, combined with sealing of wall vents and mechanical ventilation to the first floor inhabitable rooms at No. 17 Johnston Street, or a noise wall of approximately 4.5 metres high.

Discussions have been held with the applicant since the preparation of this report, and Council offices have advised that the option of mechanical ventilation and sealing of vents is not appropriate, particularly as the applicant does not control the adjoining residences. Therefore, the only practical option for compliance with EPA noise limits would be the construction of a 4.5 metre high wall. It is proposed that the lower section of the wall (below the shopping centre floor level) would be of masonry construction while the upper section of the wall would be constructed of clear polycarbonate panels. A design sketch submitted by the applicant shows an alternating step arrangement with trees and landscaping planted on both sides of the polycarbonate panels.

It is proposed that the wall would extend from Johnston Street to the rear of No. 17 and along the rear of No. 17 parallel with the supermarket building then return to the building. The wall would be set back some two metres from the existing north western boundary between the subject site and No. 17 Johnston Street.

Council's environmental noise specialist has reviewed the report and the amended proposal and has confirmed that the methodology is appropriate in terms of the EPA noise criteria and that the measures proposed are acceptable in terms of reducing the impacts of noise to acceptable levels within the EPA criteria.

Of obvious concern, is the aesthetic impact of a 4.5 metre high wall. The applicant has provided a number of sections detailing the relationship of the wall to the adjoining number No. 17 Johnston Street. The height of the wall which will be visible above the shopping centre trading floor varies from 3.3 metres to 4.5 metres. It is proposed that the top of the wall will be constructed from clear polycarbonate. This will still allow views to be obtained to the north west while providing adequate acoustic screening. Given that the commercial zone allows for buildings to be constructed at the boundary, the proposed clear polycarbonate acoustic wall is considered an acceptable solution.

It is also recommended that loading dock activities should be limited to certain hours.

Access to No. 17 Johnston Street

The original application proposed a right of way to be provided through the shopping centre carpark to the rear of No. 17 Johnston Street. The plan amendments submitted with the request for review provide for a one metre wide easement along the north western boundary of No. 17 Johnston Street to provide exclusive right of access to the rear of the building. Combined with the existing space, this will create a driveway three metres wide to provide unobstructed vehicular access from Johnston Street to the rear manoeuvring area behind the garages. The proposed acoustic wall is to be set back an additional metre creating opportunity for landscaping at the base of the acoustic wall. The driveway complies with the requirements of the residential chapter of Council's Development Control Plan and manoeuvring at the rear would be adequate for vehicles to enter and leave the existing garages .

This proposal is considered far better than the original proposal and is supported.

It is noted that the owner of No. 17 Johnston Street does not agree with this proposal.

Status of Union Lane

The constructed area of Union Lane between Johnston Street and the development site is approximately 4.6 metres wide for most of its length. The land which comprises union lane however, is 10 metres wide. The application relies on widening the pavement to 6 metres wide to allow for traffic flow into the undercroft parking area.

Council will be aware that this section of Union Lane has not been dedicated as public road and is community land as defined by the Local Government Act. Council has resolved to prepare an amendment to Hawkesbury Local Environmental Plan to reclassify the land from community to operational. The necessary road widening can not occur until the land is reclassified or Council prepares a plan of management, which recognises that this can occur. Accordingly, should Council approve the development application, there would need to be a deferred commencement condition requiring reclassification or preparation of a plan of management.

Proposed Deferred Commencement Conditions

In the report to Council on 20 May 2003, it was recommended that development consent be issued subject to 11 deferred commencement conditions and a number of operational conditions. The applicant has satisfied some of those conditions and has made submissions in respect of others. The following provides a summary of the current status of the deferred commencement issues.

1. *Johnston Street Widening*

The applicant argues that there is no physical reason why road works need to be completed before site works commence.

The reason for this deferred commencement condition is that the land required for the widening of Johnston Street would need to be dedicated and constructed as a road before work could commence, this would require a resolution of Council pursuant to clause 47F (2)(a) of the Local Government Act 1993. Therefore, a deferred commencement condition would still be required.

2. *Suitable Johnston and New Street Access*

This deferred commencement condition refers to the existing access to the site from New Street and the section of Union Lane between the site and Johnston Street. As the access from New Street is classified as Operational Land, there is no reason for deferred commencement, however, Union Lane is classified Community Land and therefore, deferred commencement is appropriate in this respect.

3. *Howe Park Plan of Management*

Construction of the development would require the Girl Guides Hall to be relocated from its present position or rebuilt. As there is currently no Plan of Management which envisages this, it is appropriate to remain as a deferred commencement condition.

4. *Localised Flood Study*

The additional report provided by Lyall & Associates, has satisfied this requirement and accordingly this deferred commencement condition would not be required.

5. *Flood and Stormwater Report*

This requirement has also been met by the Lyall & Associates report.

6. *Flooding and Acoustics to Coincide*

If the proposal for acoustic treatment is accepted by Council, this deferred commencement condition would not be required.

7. *Acoustic Amenity of No. 17 and No. 19 Johnston Street*

It is considered that this matter has been satisfactorily dealt with and therefore, is not required as a deferred commencement condition.

8. *Traffic Management Plan*

The applicant argues that as he has lodged a traffic management plan with the RTA this condition is no longer required.

This was a requirement of the Roads and Traffic Authority due to the proposed change in traffic arrangements in Johnston Street. Given the deferred commencement requirements for the widening of Johnston Street, this condition would still be required.

9. *Sample Board*

The applicant has submitted a colour sample board only. This does not meet the deferred commencement requirement as there is no indication of finish quality and texture, nor is the colour of the roof specified. The quality, texture and colour of finishes for a development of this nature is absolutely critical and therefore, it is appropriate that this deferred commencement condition remain.

10. *Detailed Landscaping Plan*

This has been submitted and is satisfactory.

11. *Soil Contamination Report*

This is still required as a deferred commencement condition.

Conclusion

The request for review has been accompanied by crucial flooding and acoustic reports, which satisfy concerns in those areas. Minor amendments have been made to improve the amenity for the adjoining residences and to relocate the public amenities within the shopping centre to a more appropriate location.

It is recommended that Council review its determination and issue conditional consent.

RECOMMENDATION:

That:

- A. Council resolve to review the determination in accordance with the provisions of section 82A of the Environmental Planning Assessment Act 1979.
- B. The SEPP1 objection to clause 25(2) of the Hawkesbury Environmental Plan be supported.
- C. The development application for a shopping centre and roadworks be approved as a deferred commencement consent subject to the following conditions:
 - I 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.
 - II 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 A

- 1. Land necessary to widen Union Lane, i.e. Lot 1 and Lot 2, DP788531 is to be dedicated as public road.
- 2. Submission of evidence demonstrating that suitable arrangements have been made for the use of Lot 1 and Lot 2 DP788531 Johnston Street for access to the proposed development.
- 3. A Plan of Management for Howe Park is in place that contemplates the relocation of the Girl Guide’s Hall and the landscaping proposed in the application.
- 4. The submission of a Traffic Management Plan approved by the Road and Traffic Authority.
- 5. A schedule of materials, finishes and colours shall be submitted to Council for approval. In this regard a sample board, which includes actual finishes shall be provided to Council for approval.
- 6. A soil contamination report for the entire site to be submitted to Council for approval.

SCHEDULE B

7. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans as modified in red submitted with Development Application No. DA1228/02 and any supportive documentation, except as otherwise provided by the conditions of this consent.
8. This consent includes approval for the occupation and use of the building for a supermarket and individual retail tenancies.
9. This consent covers the removal of trees and other vegetation from the site of approved buildings, structures, permanent access ways and car parks. This consent also covers the removal or lopping of trees within 6m (six) of approved buildings. No other trees or vegetation shall be removed or lopped except with prior written approval of the this office.
10. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
11. Prior to construction of the approved development it is necessary to obtain a Construction Certificate.
12. The applicant is advised to consult with:
 - (a) Sydney Water Corporation Limited;
 - (b) Integral Energy; and
 - (c) 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 road(s). The relevant sewer authority Hawkesbury City Council, may also require the applicant to obtain a Trade Waste Approval as part of the operation of the approved development. Enquiries should be made to the relevant authority for their requirements for the eventual operation of the approved use.
13. The builder/contractor is advised that under the provisions of Regulation 86(16) of the Construction Safety Act, 1912, a qualified engineer is required to inspect and certify formwork for suspended slabs or beams where:
 - (a) the deck of the formwork is more than 3 metres above the lowest surrounding ground level; or
 - (b) the area of the formwork deck is more than 16 Sam and designed to hold more than 2.5 cubic metres or 7 tonnes of wet concrete.
14. Any part of the building to be used for food preparation shall comply with Council's Code for the fitting out of food premises, with particular alteration to floor, wall and ceiling finishes, any benches, appliances, equipment, fittings and mechanical exhaust ventilation system.

15. No excavation or site works shall be commenced prior to the issue of the construction certificate.
16. The applicant shall make themselves aware of the Disability Discrimination Act, 1992 in order to assess their responsibilities and liabilities with regards to the provision of access for all people.
17. Provision of satisfactory vehicular access to the land in accordance with Hawkesbury Development Control Plan, Chapter 2 Car Parking and Access and Hawkesbury Development Control Plan Appendix E Civil Works Specifications Part 1 Design Specification and Part 2 Construction Specifications to the requirements of the Director Environment and Development.

Prior to Issue of Construction Certificate

18. Construction of civil works including road, drainage, access, or sewer works 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 Environment and Development or an accredited certifier.
19. The submission of engineering designs and calculations covering all works required by this consent.
20. Payment of a design checking fee and inspection fee in accordance with Council's Revenue Pricing Policy when submitting Engineering plans for approval.
21. Submission of evidence demonstrating that suitable arrangements have been made for the use of part Lot 30 and 31 New Street as access for the proposed development.
22. Details of any fill material removed from or imported to the site to be submitted with the engineering plans. Details to include quantities, borrow sites or disposal sites. A contribution based on 3 cents per tonne per kilometre shall be paid to Council prior to issue of the Subdivision Certificate.
23. The submission of a satisfactory soil and water management plan (SWMP) prepared in accordance with the State Government guidelines titled "Managing Urban Stormwater: Soils and Construction (1988)".
24. Submission of proof of the payment of the Building Industry Long Service Levy.
25. The disabled car parking spaces shall be provided in the locations shown in red on the stamped approved plans, to improve accessibility.
26. Payment of a contribution of \$3.58 per sqm of gross floor area towards sewer headworks. This sum will remain fixed until 30 June 2004 after which it will be recalculated at the rate applicable at the time of payment. Credit will be given for the gross floor area of the existing commercial buildings that are proposed to be demolished.

27. The proposed shopping centre complex and all associated development is to be constructed in accordance with the requirements of the New South Wales Government Flood Plain Management Manual (2001), Interim Development Guidelines for a “high hazard-flood storage area”.
28. Design and construction of site drainage shall be carried out in accordance with Hawkesbury Development Control Plan Appendix E Civil Works Specification: Part 1 Design Specification; and Part II Construction Specification.

The drainage system shall be designed to:

- (a) Minimise impacts on local up and down stream flooding characteristics;
- (b) Incorporate source control measures to provide a primary level of treatment for the removal of all gross pollutants.

Full details of works shall be submitted for approval.

29. All stormwater from impervious areas of the site and the immediate local catchment upstream of the site shall be collected and drained by the existing underground trunk drainage system to be modified as determined.
30. Drainage easements of adequate width are to be created over existing water courses flowing through the subject land.

Where necessary existing easements for stormwater created in favour of Hawkesbury City Council may be amended to suit approved alterations caused by the works.

31. A surcharge path sufficient to carry the 1:100 year storm flow is to be provided across the site and a drainage easement of adequate width shall be created over the surcharge path. Details are to be submitted for approval.
32. Design details (structural and hydraulic) of the proposed subterranean flood surcharge tube to link the carpark with George Street are to be submitted for approval.

The surcharge bypass is to be designed to function in isolation from the existing street drainage system for all storm flow events as determined under Condition (2).

33. Details of all street lighting, line marking and traffic signage to be submitted with the application for the construction certificate.

Prior to Commencement of Works

34. The site and its locality is to be photographically recorded to archival standard prior to commencement of works to ensure there is a record of the site and its locality for historical and research purposes. The applicant shall liaise with Council about the level of detail to be provided to Council satisfaction. Three sets of the archival recording and original photographs are to be lodged with Council.

35. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is being carried out:
- (a) stating that unauthorised entry to the work site is prohibited; and
 - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
36. If the work involved in the erection or demolition of a building:
- (a) is likely to be dangerous to a person in a public place or adjoining property;
 - (b) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - (c) involves the enclosure of a public place,
- a hoarding or protective barrier must be erected between the work site and the public place. such hoarding or barrier must be designed and erected in accordance with Council's *Local Approvals Policy* and WorkCover requirements/guidelines.
- If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
37. Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of litter, vegetation debris or other water borne pollutants in accordance with Council's Development Control Plan. The enclosed warning sign shall be affixed to the sediment fence/erosion control device at all times.
38. The applicant or person having the benefit of this development consent must give at least two days notice prior to commencement of works to Council of the intention to commence works. This notice is to be given in accordance with form 7 of the Environmental Planning and Assessment Regulation 1998.
39. The applicant shall advise Council of the name, address and contract number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1997.
40. A waste management plan shall be submitted for consideration and approved by Council. Such plan shall address any builder's waste and waste generated during day to day operations and shall include types and quantities, recycling, reuse, storage and disposal.
41. Approval in the form of stamped Construction Certificate plans is to be obtained from Sydney Water to verify that the development meets its requirements concerning the relationship of the development to any water mains, sewers or stormwater channel.

42. Separate application shall be made by a licensed drainer for permission to carry out work in relation to Council's sewer. The attached application shall be returned with the appropriate fee prior to the relevant work commencing.
43. The applicant should contact the New South Wales Fire Brigade (Fire Safety Division) in order to determine the Brigade's requirements for submissions regarding, hydrants, boosters, sprinklers, etc.

During Construction

44. All civil work must be carried out in accordance with the provisions of Hawkesbury Development Control Plan, Appendix E Civil Works Specification Part 1 Design Specification and Part 2 Construction Specification.
45. All building work must be carried out in accordance with provisions of the Building Code of Australia.
46. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of 1 toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- (a) must be a standard flushing toilet; and
- (b) must be connected:
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

47. The building site is to be adequately protected and drainage controlled to ensure that erosion and sediment movement is restricted to the site. The applicant will be responsible for restoration of any erosion and removal of sediment from the stormwater drainage system.
48. All necessary works being carried out to ensure that stormwater flow from adjoining properties is not impeded.
49. All trucks entering or leaving the site shall have their trays suitably covered to prevent spillage from the truck onto the road.
50. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.

51. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
52. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by running water to be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or road surface.
53. All demolition, construction and associated work necessary for the carrying out of the development is restricted to between the hours of 7.00am and 6.00pm on Mondays to Fridays and between 8.00am and 4.00pm on Saturdays.
54. No burning of demolition, construction or vegetative material being carried out on the site.
55. No spoil, excavated or demolition material from the site being deposited on any public road, footpath, public place or Council owned property without the approval of this office.
56. The site shall be kept clean and tidy during the construction period and all rubbish shall be removed from the site upon completion of the project to the satisfaction of this office.
57. A sign is to be erected adjacent to the access point to the site for the duration of the site works stating the following:
 - (a) owner of site and address;
 - (b) person/company carrying out site works and phone number;
 - (c) consent number and date of approval; and
 - (d) approval duration of site works.
58. Should any aboriginal site or relic, as defined under the National Parks and Wildlife Act, 1974 or a relic as defined under the NSW Heritage Act, 1977, be disturbed or uncovered during the construction of this development, all work shall cease and the National Parks and Wildlife Service or the Heritage Office consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974 or the Heritage Act, 1977.
59. The developer is responsible for full 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.
60. The provision of conduit/ducts under new driveways to the requirements of Integral Energy, in accordance with Integral Energy drawing 049759H dated 14/7/1987. Conduit and ducting material is available from Integral Energy.
61. 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 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 owner of the adjoining allotment of land is not 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.

- 62. All fill to be adequately compacted by track rolling or similar.
- 63. The site shall be secured to prevent the depositing of any unauthorised material.
- 64. To ensure parking necessary for the development is provided and kept clear and available, 315 off-street car parking spaces, together with access driveways and turning areas, shall be constructed, paved, line marked, signposted and maintained, as shown on the approved plan.

In order to ensure on-site car parking and loading facilities are utilised, exit/entrance points are to be clearly signposted and visible from both the street and site at all times.

- 65. In order to maintain the structural integrity of the building should the adjacent sewer main need to be excavated, the footings shall be designed and constructed in such a manner that their zone of influence shall fall a minimum of 900mm below the angle of repose taken from a point 600mm from the centre line at invert level of the adjacent sewer main. The angle of repose shall be assumed to be 1:1 (45 degrees) in undisturbed clay or similar material and 1:2 (30 degrees) from horizontal in sand or filled ground whether compacted or not. All supporting piers adjacent to the sewer main shall contain appropriate starter bars cast in them for subsequent tying into the strip footing or perimeter beam. Design of the proposed footings system shall be certified by a structural engineer. The applicant shall accurately locate the position of the main prior to work commencing.
- 66. The building shall be set out by a Registered Surveyor and the Survey Certificate of the building shall be lodged with the principal certifying authority upon completion of the footings and prior to the external wall construction proceeding above floor level.
- 67. All sound producing plant, equipment, machinery, fittings, and the like shall be sound insulated and/or isolated so as to control noise emissions from the premises to within the limits prescribed by the Noise Control guidelines.
- 68. Access to the development for people with disabilities shall be provided in accordance with the requirements of the BCA and AS1428.1 (1993), 1228.2 (1992) and 1428.3 (1992) all thresholds and room access (both internal and external) shall have "lipless thresholds". It is preferred that disabled toilet facilities are identified Unisex and that doors open outwards to enable easy access in emergencies.

69. Separate application shall be made to Council's Asset Services & Recreation Department for the construction and location of the proposed crossover. (Refer to enclosed agreement form for driveways).
70. All construction vehicles associated with the development are to use the nominated traffic route as outlined in the Windsor Town Centre Traffic Study prepared by Christopher Stapleton Consulting, February 2003.
71. Written permission from adjoining property owners to undertake any proposed works on their property.
72. All recommendations contained in the soil contamination report required under Schedule A are to be implemented.
73. Inspections for Compliance Certificate to be requested from the Sewer Authority (Hawkesbury City Council) for internal and external sewer drainage **prior** to covering any pipe (24 hours notice for inspection is required, the fee is \$70.30 per inspection to be paid prior to requesting the inspection).
74. All part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 are to be submitted to Council within seven (7) days of the date of issue. The registration fee as per Council's Revenue Pricing Policy will apply.
75. The construction of sewerage reticulation, including junctions, to the development where not already provided.

Prior to Issue of Occupation Certificate

76. The approved use shall not commence and an occupation certificate shall not be issued until all conditions of this Development Consent have been complied with.
77. Landscaping shall be completed in accordance with the approved landscaping plan.
78. In order to protect landscaped areas, a physical barrier is to be provided between public spaces, vehicular accessways, parking areas and the surrounding landscaped area.
79. Registration of a plan of survey consolidating the site into a single allotment.
80. A Fire Safety Certificate, in accordance with the Schedule of Fire Safety Measures issued for the development, is to be submitted to Hawkesbury City Council for separate registration. The registration fee as per Council's Revenue Pricing Policy will apply.
81. Landscaping in Howe Park is to be completed in accordance with the approved Plan of Management for Howe Park.
82. The submission of a Surveyor's Certificate stating that all pipelines are contained within the proposed/existing easements.

83. Certification to be provided by a qualified professional advising that all measures and recommendations contained in the following reports have been provided:
- (a) acoustic;
 - (b) soil contamination.

84. A report by the Design Engineer and A Works-As-Executed (WAE) drawing by either a suitably qualified engineer or registered surveyor of the land and stormwater drainage system are to be submitted to and approved by Council prior to the release of the occupation certificate. The report from the design engineer is to state the conformance or otherwise of the system in relation to the approved design.

The WAE drawings shall indicate the following as applicable:

- (a) invert levels of tanks, pits and pipes;
 - (b) surface levels of pits and surrounding ground levels;
 - (c) levels of surrounding kerb;
 - (d) floor levels of buildings;
 - (e) top of kerb levels at the front of the lot; and
 - (f) extent of inundation.
85. The carpark shall be amended to comply with the Hawkesbury Development Control Plan in regard to where there are more than 50 car parking spaces, the access ramps to the roads are to have separate ingress and egress. This can be achieved by widening the access ways and providing a raised island between the ingress and egress.
86. Line marking, street signage and physical restraints are required to be constructed at the location where Johnston Street changes from a one way street into a two way street.
87. Appropriate signage and line marking is required to prevent queuing across access to the Fire Station car park in Union Lane.
88. The southern kerb in Johnston Street is cracked along the front of Numbers 17 and 19 and 1-metres to the west of the access running off Johnston Street. This is to be rectified.
89. The existing kerb and gutter on the western side of the Union Street access is to be fixed where necessary and access to Numbers 19, 23 and 27 is to be provided.
90. The construction of concrete kerb and gutter, including layback vehicular crossings, the footway area being formed in earth and all necessary drainage, together with the full construction of the frontage of the Union Lane access together with any works necessary to make this construction effective.
91. The construction of concrete kerb and gutter, including layback vehicular crossings, the footway area being formed in earth and all necessary drainage, together with the full construction of the

road within Johnston Street to the eastern property boundary to the intersection of The Terrace together with any works necessary to make this construction effective.

92. The construction of concrete kerb and gutter, including layback vehicular crossings, the footway area being formed in earth and all necessary drainage, together with the full construction of the New Street access together with any works necessary to make this construction effective.
93. The existing pavement depths in Johnston Street, New Street, Union Lane and the Terrace shall be increased as a result of the increased traffic generated by the development. The pavement shall be designed by a Geotechnical Engineer.
94. To ensure that structural stormwater source control devices are satisfactorily maintained the owner/s shall be required at their cost to enter a positive covenant over all of the land comprised in the development in favour of the Council to at all times maintain, repair and keep the devices operational.
95. Signs are to be erected in the loading dock and delivery access area “switch engine off while waiting and loading”.
96. An acoustic screen wall is to be provided in accordance with the stamped approved plans. The sections of these screens which will be visible above the shopping centre trading floor level are to be constructed of clear polycarbonate or acrylic material with sufficient mass to prevent direct noise transmission to adjoining residential properties. Landscaping including mature trees and shrubs is to be incorporated with the screen wall. The acoustic wall shall extend from Johnston Street along the north and west boundaries of No. 17 Johnston Street and return to the building wall.
97. Acoustic installation is to be installed to the roof and walls of both of the loading dock stock area and covered truck bays at the loading dock.
98. The applicant shall prepare a flood emergency evacuation and management plan for the proposed development. The plan should advise occupants of flood evacuation procedures and emergency contact telephone numbers. The applicant should contact Council and the State Emergency Service for advice in the preparation of the management plan. The evacuation procedures should be permanently fixed to the building in a prominent location and kept up to date at all times.

Use of the Site

99. Trucks are not permitted to park with engines idling in the loading dock or loading dock access driveway.
100. The relevant sewer authority (Hawkesbury City Council) must be consulted regarding acceptable discharge limits to the sewerage system. A Trade Waste Agreement must be entered into with the relevant authority prior to discharge of trade waste from the premises.

101. 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.
102. The subject development, including landscaping, is to be maintained at all times in a clean and tidy manner.
103. To ensure vehicle movements associated with the land use do not adversely impact on the adjoining streetscape or traffic movement therein:
 - (a) all vehicles being loaded or unloaded shall stand entirely within the property;
 - (b) all vehicles must be driven in a forward direction at all times when entering and leaving the premises.
104. All waste materials to be stored and disposed of at regular intervals.
105. The development shall be conducted in such a manner that the LA(eq) noise levels, measured at any point in accordance with the NSW EPA's Industrial Noise Policy (2000), do not exceed 5dB(A) (LAeq) above background noise levels with respect to noise amenity of residential dwellings.
106. Operating hours shall be limited to 7.00am to 10.00pm Mondays to Saturdays and 8.00am to 6.00pm on Sundays and Public Holidays. The hours of operation includes all activities of the development, including but not limited to public trading hours, the use of the loading/delivery area, stock movement, cleaners and garbage collection.
107. All service vehicles associated with the development are to use the nominated traffic route in the Windsor Town Centre Study, prepared by Christopher Stapleton Consulting, February 2003.

ATTACHMENTS:

- AT-1** Amended Floor Plan
AT-2 Acoustic wall longitudinal section
AT-3 Section showing relationship between acoustic wall and No. 17 Johnston Street.
AT-4 Section showing relationship between proposed development and No. 19 Johnston Street.
AT-5 Copy of applicant's request (distributed separately)

SPECIAL

Meeting Date: 18 November, 2003

Item: **192**

At 1 - Page 1 of 2 - Amended Floor Plan

At 1 - Page 2 of 2 - Amended Floor Plan

SPECIAL

Meeting Date: 18 November, 2003

Item: **192**

AT2 - Acoustic Wall

AT 3 - Section showing relationship between acoustic wall and No. 17 Johnston Street.

AT 4 - Section showing relationship between
proposed development and No. 19 Johnston Street.

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special
meeting

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