



DARRYL ANDERSON CONSULTING PTY LTD

TOWN PLANNING & DEVELOPMENT CONSULTANTS

## **MODIFICATION OF MAJOR PROJECT APPROVAL NO. 07\_0179**

**PROPOSED MIXED USE DEVELOPMENT  
AT LOTS 184 - 187 AND 191 - 194 DP 259164  
AND LOTS 20 - 23 DP 31208  
TWEED COAST ROAD AND HASTINGS ROAD, BOGANGAR**

**PREPARED FOR:**

WOOLWORTHS LIMITED

**PREPARED BY:**

DARRYL ANDERSON CONSULTING PTY LTD

**FEBRUARY 2012**

Suite 7, Corporate House  
8 Corporation Circuit  
Tweed Heads South NSW 2486

Ph: 07 55233611  
Fax: 07 55233612  
Email: [admin@daconsulting.com.au](mailto:admin@daconsulting.com.au)

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## MODIFICATION OF MAJOR PROJECT APPROVAL NO. 07\_0179

### PROPOSED MIXED USE DEVELOPMENT AT TWEED COAST ROAD AND HASTINGS ROAD, BOGANGAR

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#### 1.0 INTRODUCTION

Woolworths Limited has commissioned Darryl Anderson Consulting Pty Ltd to prepare an application for modification of Major Project Approval No. 07\_0179 which relates to a mixed use development. This Modification Application seeks to vary the approved operating and loading hours for the project.

#### 2.0 MAJOR PROJECT APPROVAL

On 2 December 2009 the Director General, as Delegate for the Minister for Planning, granted Project Approval No. 07\_0179 for the carrying out of a part three and part four storey mixed use development entailing ground level commercial including supermarket and retail shops, upper level residential units, basement and surface car parking and landscape areas. The project had a capital investment value of \$22 million.

On 12 October 2011 an application to modify the Project Approval was lodged. That application proposes the following modifications:

- ♦ Increasing the size of the supermarket from 2310m<sup>2</sup> to 2479m<sup>2</sup>.
- ♦ Decreasing the size of the specialty retail area from 1106m<sup>2</sup> to 913m<sup>2</sup>.
- ♦ Relocation of a pedestrian connection.
- ♦ Relocation of the lobby for the approved residential units.
- ♦ A travelator and elevator in replacement of a ramp.
- ♦ Relocation of the loading dock access.
- ♦ Staging payment of Section 94 Contributions.

The Modification Application (No. 1) was approved on 21 December 2011. The location of the site is shown on the Aerial Photograph at **Figure 1**.



**Figure 1 – Site Location**  
Source: Tweed Shire Council, 2009 Aerial Photographs

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### 3.0 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS

Section 75W of the Act facilitates the lodgement and determination of an application to modify a Part 3A approval. Section 75W is in the following terms:

**"Modification of Minister's approval**

**75W**

(1) In this section:

**Minister's approval** means an approval to carry out a project under this Part, and includes an approval of a concept plan.

**Modification of approval** means changing the terms of a Minister's approval, including:

- (a) revoking or varying a condition of the approval or imposing an additional condition of the approval, and
  - (b) changing the terms of any determination made by the Minister under Division 3 in connection with the approval.
- (2) The proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.
- (3) The request for the Minister's approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.
- (4) The Minister may modify the approval (with or without conditions) or disapprove of the modification.
- (5) The proponent of a project to which Section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request with 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.
- (6) Subsection (5) does not apply to a request to modify:
- (a) an approval granted by or as directed by the Court on appeal, or
  - (b) a determination made by the Minister under Division 3 in connection with the approval of a concept plan.
- (7) This section does not limit the circumstances in which the Minister may modify a determination made by the Minister under Division 3 in connection with the approval of a concept plan."

Currently there are no regulations of relevance to a Modification Application.

### 4.0 CURRENT CONSENT CONDITIONS

Conditions G3 and G5 of the Approval are in the following terms:

**Condition G3 – Loading and Unloading**

*"All loading and unloading of services vehicles in connection with the use of the premises shall be carried out wholly within the site at all times and only during hours of operation for the shopping centre."*

**Condition G5 – Hours of Operation**

*"The hours of operation for the commercial component of the project shall be restricted to between:*

Day	Commencement Time	Cessation Time
Monday	8.30am	5.30pm
Tuesday	8.30am	5.30pm

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<b>Day</b>	<b>Commencement Time</b>	<b>Cessation Time</b>
Wednesday	8.30am	5.30pm
Thursday	8.30am	9.00pm
Friday	8.30am	5.30pm
Saturday	8.30am	5.00pm
Sunday	9.00am	4.00pm
Public Holidays	Closed	

## 5.0 PROPOSED MODIFICATIONS

The current operating hours are restrictive in terms of providing efficient and flexible shopping hours for customers. Modification of the Approval is sought to bring the trading hours generally in line with those approved for the Mullumbimby Woolworths Supermarket (Approval No. DA32-04-2006 issued in 2006 (as modified)), which are as follows:

### *G4 – Hours of Operation*

*The hours of operation of the supermarket shall be restricted to between:*

<b>Day</b>	<b>Commencement Time</b>	<b>Cessation Time</b>
Monday	7.30am	7.00pm
Tuesday	7.30am	7.00pm
Wednesday	7.30am	7.00pm
Thursday	7.30am	7.00pm
Friday	7.30am	7.00pm
Saturday	7.30am	7.00pm
Sunday/ Public Holidays	7.30am	7.00pm

### **G5A – Delivery hours**

- (1) *Delivery vehicles may service the site only between the hours of 7am and 6pm, Monday to Saturday, inclusive.*
- (2) *Notwithstanding part (1), the applicant may seek approval from the Department to allow delivery vehicles to also service the site on Sundays or public holidays during the hours of 10am and 12pm, inclusive.*

*Such approval may only be sought following a three (3) month trial period of such deliveries, commencing after occupation and following written notification of the commencement of the trial to the Department. During the trial the applicant shall keep:*

- a. a register of all Sunday deliveries to the site during this time, including the number, time and type of vehicle; and*
- b. a complaints register which documents all complaints received from the public in relation to such deliveries.*

*Immediately following the trial, the applicant shall submit the registers to the Department. The continuation of Sunday deliveries during the time the Department is considering the registers is at the Department's discretion. The Department may require the applicant to address certain matters in response to the review of the registers, which may include a requirement for a further trial period(s). Any action required to be undertaken must be completed within such period as the Department may agree.*

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*Deliveries on Sundays and public holidays may not continue on a permanent basis unless written approval has been given by the Department.*

**G5B – Size of Sunday Delivery Vehicles**

*The size of delivery vehicles using the site on a Sunday shall be limited to a maximum of a fixed axle, 14 pallet truck with a maximum length of 13 metres.*

**G5C – Idling of Delivery Vehicles**

*Delivery vehicles shall not be left idling during loading or unloading. Refrigeration compressors shall be turned off during unloading.*

**G5E – Noise Compliance Test**

*Within 3 months of commencement of operation a noise compliance test of the development shall be undertaken by a suitably qualified person(s) that demonstrates that it complies with the NSW Industrial Noise Policy. Details shall be submitted to the Department for approval.”*

The current approved hours of operation for Bogangar do not reflect normal operating hours for a supermarket based retail outlet. It would appear that the current restrictive operating hours were intended to minimise amenity impacts on adjoining properties, however we note that the Preliminary Environmental Noise Impact Assessment (CRG, 13 December 2007) prepared in respect of the project does not recommend limitations on operating hours as a means of mitigating potential impacts. However, it does contain the following recommendation in relation to the loading dock:

*“Goods deliveries and waste collection be limited to daytime only (eg. between 7.00am and 6.00pm).”*

In addition, the subject land and all adjoining and adjacent land is zoned 3(b) General Business (Hastings Road is the zone boundary with land southwest of Hastings Road being zoned Residential) and it is therefore reasonable to expect that there will be some amenity impacts on adjacent residential areas.

The key potential source of noise is the loading dock, located at the south western corner of the site with access from Hastings Road.

Immediately adjoining the loading dock and customer vehicle entry is a child care centre, which is unlikely to be significantly impacted by changed operating and loading hours.

The loading dock is covered (by the supermarket) and screened to the south by solid walls. The dock entry has gated access. In addition, the Statement of Commitments accompanying the Preferred Project Report (which forms part of the Approval by virtue of Condition A3), at Item 18 requires noise generated from the loading dock to meet the standards contained in the Preliminary Environmental Noise Impact Assessment, which are as follows:

- *The loading dock servicing the retail have acoustically absorptive linings installed in the dock area on the ceiling, and down the walls, extending down to 1.5m above ground level, refer to Sketch No. 6.1 for details.*

In summary, it is submitted that the suite of conditions applicable to the Mullumbimby Woolworths provide for a more flexible and convenient operating hours for customers with the exception of cessation time which is proposed at 9.00pm to provide greater flexibility and more convenient shopping hours. Those conditions contain monitoring mechanisms to ensure that noise mitigation measures are effective in terms of potential impacts on adjoining and adjacent properties. Modification of the Project Approval is therefore requested as follows:

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- ♦ Delete Condition G3.
- ♦ Insert a new Condition G3A as follows:

#### **G3A – Delivery Hours**

- (1) Delivery vehicles may service the site only between the hours of 7am and 6pm, Monday to Saturday, inclusive.
- (2) Notwithstanding part (1), the applicant may seek approval from the Department to allow delivery vehicles to also service the site on Sundays or public holidays during the hours of 10am and 12pm, inclusive.

Such approval may only be sought following a three (3) month trial period of such deliveries, commencing after occupation and following written notification of the commencement of the trial to the Department. During the trial the applicant shall keep:

- a. a register of all Sunday deliveries to the site during this time, including the number, time and type of vehicle; and
- b. a complaints register which documents all complaints received from the public in relation to such deliveries.

Immediately following the trial, the applicant shall submit the registers to the Department. The continuation of Sunday deliveries during the time the Department is considering the registers is at the Department's discretion. The Department may require the applicant to address certain matters in response to the review of the registers, which may include a requirement for a further trial period(s). Any action required to be undertaken must be completed within such period as the Department may agree.

Deliveries on Sundays and public holidays may not continue on a permanent basis unless written approval has been given by the Department.

- ♦ Delete Condition G5.
- ♦ Insert new Condition G5A as follows:

#### **G5A – Hours of Operation**

The hours of operation of the supermarket shall be restricted to between:

Day	Commencement Time	Cessation Time
Monday	7.30am	9.00pm
Tuesday	7.30am	9.00pm
Wednesday	7.30am	9.00pm
Thursday	7.30am	9.00pm
Friday	7.30am	9.00pm
Saturday	7.30am	9.00pm
Sunday/ Public Holidays	7.30am	9.00pm

- ♦ Insert new Condition G5B as follows:

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### **G5B – No Interference With Amenity of Neighbourhood**

The proposed use must not be conducted in such a manner as would interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise. In particular the noise level emanating from the use of the development must not exceed the background level by more than 5 d(B)A when measured at the boundary of the allotment.

- ♦ Insert new Condition G5C as follows:

### **G5C – Size of Sunday Delivery Vehicles**

The size of delivery vehicles using the site on a Sunday shall be limited to a maximum of a fixed axle, 14 pallet truck with a maximum length of 13 metres.

- ♦ Insert new Condition G5D as follows:

### **G5D – Idling of Delivery Vehicles**

Delivery vehicles shall not be left idling during loading or unloading. Refrigeration compressors shall be turned off during unloading.

- ♦ Insert new Condition G5E as follows:

### **G5E – Noise Compliance Test**

Within 3 months of commencement of operation a noise compliance test of the development shall be undertaken by a suitably qualified person(s) that demonstrates that it complies with the NSW Industrial Noise Policy. Details shall be submitted to the Department for approval.”

## **6.0 ENVIRONMENTAL ASSESSMENT**

The original Environmental Assessment Report, Preferred Project Report and Director General's Environmental Assessment Requirements thoroughly addressed potential impacts arising from the development.

The current controls relating to operating hours and noise generally arise from undertakings by the original developer however that was prior to a potential tenant for the Supermarket being identified. Woolworths require specific operating hours to ensure that optimum customer service is provided and maximum efficiency and flexibility is achieved.

The potential environmental impacts of those changes insofar as noise is concerned in particular, were addressed in the Environmental Noise Impact Assessment Report accompanying the original Project Application and are further discussed in this Report. In summary, it is submitted that the suite of proposed conditions will achieve an appropriate balance between optimising customer service and commercial viability and protecting the existing amenity of adjoining and adjacent properties.

## **7.0 CONCLUSION**

Modification of the conditions and terms of the approval as proposed is authorised by Section 75W (1)(a) and (b) of the Environmental Planning and Assessment Act.

The proposed modifications do not give rise to any physical changes to the scale, nature or footprint of the approved project and therefore no impacts other than those addressed in the original Environmental Assessment and this Modification Application are likely to arise. The proposed modification of the approval is considered to be sustainable and in the public interest and therefore approval of the application is respectfully requested.

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**ANNEXURE A     Project Approval No. 07\_0179**

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Modification of Major Project No. 07\_0179  
Project No: FAB 11/98 – February 2012

Tweed Coast Road and Hastings Road  
Bogangar

# Project Approval

Section 75J of the *Environmental Planning and Assessment Act 1979*

I, the Director-General of the Department of Planning, as delegate for the Minister for Planning, approve the project referred to in Schedule 1, subject to the conditions of approval in the attached Schedule 2 and the Statement of Commitments in Schedule 3:

These conditions are required to:

- adequately mitigate the economic impact of the project;
- preserve the amenity of the locality;
- reduce consumption of mains-supplied potable water
- achieve an acceptable level of amenity for future residents and occupants of the project;
- encourage good urban design and a high standard of architecture;
- confirm and clarify the terms of approval; and,
- advise of matters to be resolved prior to the commencement of works.



Sam Haddad

**Director-General**

As delegate for the Minister for Planning

Sydney, 2<sup>nd</sup> December 2009

## SCHEDULE 1

### PART A—TABLE

Application made by:	WA Stockwell Pty Ltd
Application made to:	Minister for Planning
Project Application Number:	07_0179
On land comprising:	Tweed Coast Road and Hastings Road, Tweed Heads Lots 184-187 191-194 DP 259164 and Lots 20-23 DP 31208
Local Government Area	Tweed Shire Council
For the carrying out of:	Part 3 part 4 storey mixed use development entailing ground level commercial including supermarket and retail shops, upper level residential units, basement and surface car parking and landscaped areas.
Type of development:	Project Application
Capital Investment Value	\$14 million
Determination made on:	
Date approval is liable to lapse:	5 years from the date of determination

### PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 07\_0179

#### ***Responsibility for other consents / agreements***

The proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

#### ***Appeals***

The proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

#### ***Appeals—Third Party***

A third party right to appeal to this approval in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

#### ***Legal notices***

Any advice or notice to the approval authority shall be served on the Director-General.

### PART C—DEFINITIONS

In this approval,

**Act** means the *Environmental Planning and Assessment Act 1979*.

**Advisory Notes** means advisory information relating to the approved development but do not form a part of this approval.

**BCA** means Building Code of Australia

**Certifying Authority** means a person who is authorised by or under section 109D of the *Environmental Planning and Assessment Act 1979* to issue Part 4A certificates

**Construction Certificate** means a construction certificate for bulk earthworks or civil works unless specified otherwise.

**Council** means Tweed Shire Council

**CPI** means Consumer Price Index.

**Department** means the Department of Planning or its successors.

**Developer** means anyone acting on behalf of the proponent.

**Director-General** means the Director-General of the Department.

**Environmental Assessment** means the Environmental Assessment prepared by Planit Consulting Pty Ltd and dated February 2009, including all Appendices.

**Minister** means the Minister for Planning.

**Project** means the project as described in Condition A1 to this approval.

**PCA** means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

**Preferred Project Report** means the Preferred Project Report prepared by Planit Consulting Pty Ltd dated July 2009.

**Proponent** means WA Stockwell Pty Ltd or any party acting upon this approval.

**Regulation** means the *Environmental Planning and Assessment Regulation 2000*.

**Subject Site** has the same meaning as the land identified in Part A of this schedule.

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## SCHEDULE 2

### RECOMMENDED CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 07\_0179

#### PART A—ADMINISTRATIVE CONDITIONS

##### **A1 Project Description**

Project approval is granted only to carrying out the project described in detail below:

- 1) part three (3) part four (4) storey mixed use development entailing ground level commercial component encompassing a 2310m<sup>2</sup> supermarket (with 200m<sup>2</sup> office mezzanine), and retail speciality shops (1106m<sup>2</sup>);
- 2) 40 upper level residential units (16 x 2 bedroom units and 24 x 1 bedroom units);
- 3) ground level public forecourt;
- 4) pedestrian thoroughfare;
- 5) landscaped podium;
- 6) site landscaping;
- 7) basement and surface car parking for 204 vehicles;
- 8) loading bay;
- 9) three access points from Hastings Road;
- 10) excavation works; and
- 11) signage.

##### **A2 Project in Accordance with Plans**

The project will be undertaken in accordance with the Environmental Assessment, the Preferred Project Report and the following drawings:

Architectural (or Design) Drawings prepared by Stockwell			
Drawing No.	Revision	Name of Plan	Date
DA-11	C	Site Plan	27/07/09
DA-12	D	Basement Lower Plan	15/10/09
DA-13	H	Basement Mezzanine Plan	15/10/09
DA-14	G	Ground Level 1 Plan	15/10/09
DA-15	E	Level 2 Plan	27/07/09
DA-16	D	Level 3 Plan	27/07/09
DA-17	B	Roof Plan	27/07/09
DA-18	D	Unit Plans	27/07/09
DA-19	B	Tweed Coast Road Elevation	27/07/09
DA-20	B	Hastings Road Elevation	27/07/09
DA-21	D	Sections	27/07/09
DA-22	C	Sections	28/08/09
DA-25	D	Area Plan	27/07/09

Landscape Drawings prepared by Jeremy Ferrier			
Drawing No.	Revision	Name of Plan	Date
29013 SK01	A	Landscaped Concept	02/20/09
29013 SK02	A	Landscape Concept	02/20/09
29013 SK03	A	Elevations & Plant Palette	02/20/09
Survey Drawings prepared by B & P Surveys			
Drawing No.	Revision	Name of Plan	Date
15128B	C	Sheet 1	10/04/08
15128B	C	Sheet 2	10/04/08

### **A3 Project in Accordance with Documents**

The project will be undertaken in accordance with the following documents:

- (1) *Environmental Assessment Report* prepared by Planit Consulting Pty Ltd on behalf of WA Stockwell Pty Ltd, dated February 2009; and,
- (2) *Preferred Project Report* prepared by Planit Consulting Pty Ltd on behalf of WA Stockwell Pty Ltd, dated July 2009.

### **A4 Inconsistency between documents**

In the event of any inconsistency between conditions of this approval, the proponent's Statement of Commitments and the drawings/documents referred to in Conditions A3 and A4, the conditions of this approval prevail to the extent of the inconsistency.

### **A5 Building Code of Australia**

All work must be carried out in accordance with the requirements of the *Building Code of Australia*.

## **PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### **Design Details and Changes**

#### **B1 Additional Details**

In order to advise of matters to be resolved prior to the commencement of works on site, additional details in regard to the following matters shall be submitted to the Department for approval prior to the issue of any Construction Certificate:

- (1) Water recycling measures as requested in condition B15.
- (2) An amended Acid Sulfate Soil (ASS) as requested in condition B7.
- (3) An updated Stormwater Assessment as requested in condition B13.
- (4) Completed site contamination study as requested in condition B6.

#### **B2 Design Modifications**

The design of the project shall be amended as follows:

- (1) Amendments to the landscaped podium as required by condition B4.



Reason: to ensure the future residents and occupants of the project have an acceptable level of amenity.

Amended plans incorporating this design modification shall be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

### **B3      *Design Verification Statement – Residential Flat Buildings***

Prior to the issue of a Construction Certificate, the proponent shall submit to the Certifying Authority a Design Verification Statement from a qualified designer, verifying that the plans and specifications achieve or improve the design quality of the development, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development*. In addition, a reduction in the overall length of the residential units 1-7, 13-27 and 33-40 by at least 1,000mm is required to assist in the improvement in the design quality.

### **B4      *Landscaped podium***

In order to achieve an acceptable level of amenity for future residents and occupants of the project, the landscaped podium area on level 2 shall be enlarged by way of reducing the overall length of residential units 1-7, 13-27 and 33-40 by in excess of 1,000mm.

It should be noted that front setbacks from Hastings Road and Tweed Coast Road shall not be amended in order to comply with this condition.

### **B5      *Disabled Access***

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

## ***Remediation / Demolition / Earthworks***

### **B6      *Site remediation***

A Site Audit Statement for the whole of the site, including both soil and groundwater assessments, is required to be submitted prior to the release of any Construction Certificate. The Statement shall demonstrate that the site has been remediated to a standard that is suitable for the proposed land use, and is not harmful to human health or the environment. The Statement shall be provided by a site auditor accredited under the provisions of the *Contaminated Land Management Act 1997* and be in accordance with the relevant Department of Environment, Climate Change and Water guidelines.

Note: This approval does not authorise any remediation works. Any such works shall require separate consent from Council.

### **B7      *Acid Sulfate Soil Management Plan***

A detailed Acid Sulfate Soil Management Plan for the entire site shall be prepared by a suitably qualified person in accordance with the *Acid Sulfate Soil Assessment Guidelines* (Acid Sulfate Soil Management Advisory Committee 1998). The Management Plan shall cover the entire site and be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

## **B8 Pre-Construction Dilapidation Reports**

The proponent is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all existing and adjoining buildings, infrastructure and roads. The report shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. A copy of the report is to be forwarded to Council.

## **Construction Management**

### **B9 Construction Management Plan**

Prior to the issue of a Construction Certificate for any stage of the project, a Construction Management Plan shall be submitted to and approved by the Certifying Authority. A copy of the approved plan shall be submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:

- a) hours of work;
- b) contact details of site manager;
- c) traffic and pedestrian management;
- d) noise and vibration management;
- e) construction waste management; and
- f) erosion and sediment control.

### **B10 Traffic & Pedestrian Management Plan**

Prior to the issue of a Construction Certificate for any stage of the project, a Traffic and Pedestrian Management Plan in accordance with AS 1742: *Manual of uniform traffic control devices* and RTA publication *Traffic Control at Works Sites* (Version 2) shall be prepared by an RTA accredited person, and shall be submitted to and approved by the Certifying Authority. Safe public access shall be provided at all times. The Plan shall address, but not be limited to, the following matters:

- a) ingress and egress of vehicles to the site,
- b) loading and unloading, including construction zones,
- c) predicted traffic volumes, types and routes, and
- d) pedestrian and traffic management methods.

The proponent shall submit a copy of the approved plan to Council.

### **B11 Construction Waste Management Plan**

Prior to the issue of a Construction Certificate for any stage of the project, a Waste Management Plan shall be prepared by a suitably qualified person to the satisfaction of the Certifying Authority. The proponent shall submit a copy of the plan to the satisfaction of Council.

### **B12 Erosion and Sediment Control Plan**

An Erosion and Sediment Control shall be provided in accordance with the following:

- (1) The Construction Certificate Application for each stage of the project must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of Council's *Development Design Specification D7 - Stormwater Quality*.
- (2) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - Code of Practice for Soil and Water Management on Construction Works.

## **Stormwater Management**

### **B13 Stormwater systems and on-site detention**

- (1) The final design plans of the stormwater drainage systems within the proposed development, prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Council shall be submitted to and approved by Council prior to issue of any Construction Certificate. The hydrology and hydraulic calculations shall be based on models described in the current edition of *Australian Rainfall and Runoff*.
- (2) The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. This can be achieved by on-site stormwater detention (OSD) utilising above and or below ground storage. OSD devices including discharge control pits (DCP) are to comply with standards in the current version of The Upper Parramatta River Catchment Trust *On-Site Stormwater Detention Handbook* except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

All stormwater must initially be directed to the DCP. Details are to be submitted prior to the issue of any Construction Certificate and to the satisfaction of Council.

- (3) The final stormwater system is to consider water sensitive urban design measures in accordance with the Department of Environment and Conservation 2006 Guideline *Managing urban stormwater: harvesting and reuse*.
- (4) A Construction Certificate application for works that involve any of the following:-
  - (a) connection of a private stormwater drain to a public stormwater drain;
  - (b) installation of stormwater quality control devices; or
  - (c) erosion and sediment control works;

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the *Local Government Act 1993*.

Applications for these works must be submitted on Council's standard section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

Where Council is requested to issue a Construction Certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the Construction Certificate application, to enable one single approval to be issued. Separate approval under section 68 of the *Local Government Act 1993* will then not be required.

### **B14 Stormwater Quality**

Permanent stormwater quality treatment shall be provided in accordance with the following:

- (1) The Construction Certificate Application for each stage of the project shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with section D7.07 of Council's *Development Design Specification D7 - Stormwater Quality*.

- (2) Permanent stormwater quality treatment shall comply with section 5.5.3 of the *Tweed Urban Stormwater Quality Management Plan* and Council's *Development Design Specification D7 - Stormwater Quality*.
- (3) All runoff from car parking, driveway and hardstand areas must be treated to remove oil and sediment pollutants prior to discharge to the public drainage system. Proprietary treatment devices must be sized in accordance with section D7.12 of Council's *Development Design Specification D7 - Stormwater Quality*, with engineering details (including maintenance schedules) to be submitted with the s68 stormwater application. Roof water does not require treatment and should be discharged downstream of treatment devices to minimise sizing requirements.

### **B15 Water recycling**

In the interest of ecologically sustainable development and to reduce consumption of mains-supplied potable water, a Water Recycling Scheme for the site is to be prepared in accordance with the Department of Environment and Conservation 2006 Guideline *Managing urban stormwater: harvesting and reuse* to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate. The Scheme is to be prepared in consideration of the final stormwater system for the development and investigate the reuse of stormwater runoff from the site post-development for:

- (1) rainwater tanks;
- (2) toilet flushing; and
- (3) landscape watering

### **B16 Flooding**

Basement car parking shall be protected against the ingress of flood water in accordance with Council's *Development Control Plan Part A3 - Development of flood liable land*.

The basement car parking is to be protected against the inflow of water to a level of 500mm above the design flood level of RL 3.4m AHD in accordance with Council's *Development Control Plan Part A3 - Development of Flood Liable Land*. This immunity shall be provided at all accesses including external stairs to the basement car park. The pump system shall be designed for a storm event with a 10 year average return interval (ARI 10) and shall have failsafe measures in place such that property (onsite and adjacent) is protected against pump failure. Consequences of the 100 year ARI storm event must also be addressed. Details of the basement stormwater pump-out system shall be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate. 24 of 28 installed pumps must be designed and installed in accordance with Section 9 of *AS/NZS3500.3.2 1998 National Plumbing and Drainage Part 3.2: Stormwater Drainage Acceptable Solutions*

Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should be suitably treated to withstand continuous submergence in water.

### **Traffic and Parking**

#### **B17 Number of Car Spaces**

The maximum number of car spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

Car parking allocation	Number
<b>Residential Car parking spaces</b>	<b>56</b>
Number of residential car spaces to be disabled spaces	1
Number of residential car spaces to be visitor spaces	8
<b>Retail car parking spaces</b>	<b>148</b>
Number of retail car spaces to be disabled spaces	3
Number of retail car spaces to be staff spaces	28
<b>TOTAL</b>	<b>204</b>

### **B18 Number of Bicycle Spaces**

A minimum of 20 bicycle spaces are to be provided for the development. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

### **B19 Number of Loading Bays**

A minimum of two (2) loading bays are to be provided for the development. At least one (1) of these bays shall be capable of accommodating 12.5 metre trucks. Details of the loading arrangements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

### **B20 Car Park and Service Vehicle Layout**

- (1) The layout of the car park shall comply with Australian Standard AS2890.1: 2004 *Parking Facilities Part 1: Off Street Parking*. All parking spaces are to be line-marked.
- (2) The layout of the service vehicle area shall comply with Australian Standard AS2890.2: 2002 *Off Street Parking Part 2 – Commercial Vehicles Facilities*.
- (3) Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior the issue of Construction Certificate.

### **B21 Public Space & Centre Management Plan**

To ensure the general safety of members of the public during trading and after hours operation of the shopping centre and to provide adequate safety to residents of the development's residential component, a Public Space & Centre Management Plan is to be prepared to the satisfaction of Council prior to release of any Construction Certificate. The plan should address the following:

- (1) provide measures for reducing pedestrian and vehicle conflict along Hastings including the facilitation of safe pedestrian crossing of Hastings Road;
- (2) include a copy of the Flood Evacuation Plan submitted with the Preferred Project Report;
- (3) ensure adequate security outdoor lighting along Tweed Coast Road, Hastings Road and the northern carpark area;
- (4) provide measures to secure the pedestrian thoroughfare and landscaped forecourt area after trading hours/ and or night time;
- (5) ensure safe and adequate separation between residential and non-residential areas of the development;

- (6) provide measures to ensure rapid graffiti removal to the shopping centre;
- (7) investigate use of CCTV security cameras; and
- (8) use of security patrols on Thursday, Friday and Saturday nights as a minimum.

## **B22 Servicing Arrangements**

The following amendments must be made to the service vehicle and loading dock area to ensure the safe and effective movement of all vehicle class users within and surrounding the development:

- (1) Rear service vehicle access shall be provided in general accordance with Drawing DA-13 H. Detailed design shall ensure adequate turn paths are provided in laneway and carparking areas.
- (2) The section of laneway through the loading dock area shall be contained within a 6m wide easement benefitting Council.
- (3) A 6m wide easement benefitting Council shall be created over the nominated vehicle aisle in the northern car park area in general accordance with Drawing DA-25 D.
- (4) The 3m wide section of laneway adjacent to Lots 188, 189 and 190 on DP 259164 shall be constructed to Council specifications and dedicated to Council as public road.
- (5) The 3 metre portion of the car park access aisle running along the eastern boundary of lots 184, 185, 186 and 187 DP 259164 is to be dedicated to Council as public road.
- (6) Land dedication and registration of easements shall be completed prior to occupation of the development.
- (7) Closure of the laneway area through the loading dock area is conditional on the agreement of Council for the terms and the hours of closure. Future variation to those terms and/or hours shall also be subject to Council agreement. Arrangements for the provision of after hour's emergency access to this section of the laneway must be made to the satisfaction of Council.
- (8) Deliveries to the loading dock shall be restricted to small rigid vehicles (maximum 12.5m), and deliveries by semi trailer are not permitted. The developer shall pay a cash bond of \$20,000 to Council for the purpose of future traffic control devices in Hastings Road, should delivery arrangements be deemed by Council to be unsatisfactory. The bond shall be paid prior to occupation, and the balance of this bond shall be refunded 12 months after the date of occupation.

Design details of the proposed servicing arrangements shall be provided to the Certifying Authority for approval prior to the issue of any Construction Certificate.

## **Health**

### **B23 Mechanical Ventilation**

All mechanical ventilation systems shall be installed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

## **B24 Noise Management Plan**

A Noise Management Plan is to be prepared addressing the following as a minimum:

- (1) Identification of each work area, site compound and access route (both private and public);
- (2) Identification of the specific activities that will be carried out and associated noise sources at each work area, site compounds and access routes;
- (3) Identification of the primary potentially affected sensitive receivers;
- (4) An assessment of likely noise generation levels for key construction phases of the development;
- (5) Description of management methods and procedures and specific noise mitigation treatments that will be implemented to control noise and vibration during construction;
- (6) Procedures for notifying residents of construction activities that are likely to effect their noise and vibration amenity;
- (7) Measures to receive, record and respond to complaints;
- (8) Measures to monitor and report against noise performance; and
- (9) Mitigation measures and treatments in accordance with relevant Australian Standards including the use of acoustic-absorptive finishes and perimeter treatments to dwellings and loading bay areas.

The Noise Management Plan is to be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate for the project.

## **B25 Outdoor Lighting**

All outdoor lighting shall comply with, where relevant, *AS/NZ1158.3 Pedestrian Area (Category P) Lighting* and *AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting*. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for each stage of the project.

## **Other Approvals**

### **B26 Section 68 Approval**

- (1) Notwithstanding the issue of this project approval, separate consent from Council under section 68 of the *Local Government Act 1993*, must be obtained prior to any works taking place that involve any of the following:-
  - (a) connection of a private stormwater drain to a public stormwater drain;
  - (b) installation of stormwater quality control devices;
  - (c) relocation of existing sewer mains; and
  - (d) erosion and sediment control works.
- (2) Pursuant to section 68 of the *Local Government Act 1993* an approved Application for these works must be submitted on Council's standard section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee. Receipt of approval is to be obtained prior to the issue of a construction certificate for works within the development site.
- (3) In accordance with section 68 of the *Local Government Act 1993*, any premises proposing to discharge into Councils sewerage system a waste water other than domestic sewage, shall submit to Council a completed application for a Trade

Waste Licence. This application is to be approved by Council prior to the issue of a Construction Certificate.

- (4) Pursuant to section 68 of the *Local Government Act 1993* an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed in accordance with Council's Trade Waste Policy. Submission of detailed hydraulic plans and specifications indicating size, type, location and drainage installations in accordance with *AS 3500 Plumbing and Drainage* shall be submitted to Council for approval.

### **B27 Section 138 Approval**

Notwithstanding the issue of this project approval, separate consent from Council under section 138 of the *Roads Act 1993*, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access) kerb and gutter, stormwater drainage, full road width pavement including traffic facilities (roundabouts, median islands etc.) and paved footpaths. Applications for consent under section 138 must be submitted on Council's standard application form, be accompanied by the required attachments and prescribed fee. Receipt of approval is to be obtained prior to the issue of a construction certificate for works within the development site.

### **B28 Dewatering Approval**

Prior to issue of a Construction Certificate, an approval under Part 5 of the *Water Act 1912* must be obtained from the Department of Environment, Climate Change and Water. The application for the approval must contain sufficient information to show that the project is capable of meeting the objectives and outcomes specified in these conditions.

- 1) A Dewatering Management Plan for all dewatering activities to be carried out on the site shall be submitted to and approved by Council prior to release of any Construction Certificate. The plan is to give consideration to the acid sulfate soil issues on site and the impact that this may have on groundwater and dewatering activities proposed.
- 2) A license fee calculated in accordance with the *Water Act 1912* must be paid before a license can be granted.
- 3) Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.

### **Monetary Contributions**

#### **B29 Section 94 Monetary Contributions**

- 1) Prior to the endorsement of a Subdivision Certificate for each stage of the subdivision, the proponent must pay, in proportion to the additional lots created by that stage, the following contributions to Council pursuant to section 94 of the *Environmental Planning and Assessment Act 1979*:

##### **(1) Amount of Contributions**

Tweed Road Contribution Plan No. 4			
	No. of Trips	\$ per trip	Sub-Total
	447.333 Trips	\$868 + \$87	\$427,203
S94 Plan No. 5 Open Space (Casual)			
	No. of ET	\$ per ET	Sub-Total
	17.196	\$597+\$27	\$10,730
S94 Plan No. 5 Open Space (Structured)			
	No. of ET	\$ per ET	Sub-Total



	17.184	\$653 + \$31	\$11,754
<b>S94 Plan No. 11 Shirewide Library Facilities:</b>			
	No. of ET	\$ per ET	Sub-Total
	17.184	\$374	\$6,427
<b>S94 Plan No. 12 Bus Shelters S94 Plan No. 12</b>			
	No. of ET	\$ per ET	Sub-Total
	15.616	\$26	\$406
<b>S94 Plan No. 13 Eviron Cemetery</b>			
	No. of ET	\$ per ET	Sub-Total
	18.48	\$131 + \$0	\$2,421
<b>S94 Plan No. 15 Community Facilities (Tweed Coast - South)</b>			
	No. of ET	\$ per ET	Sub-Total
	31	\$584	\$18,104
<b>S94 Plan No. 16 Emergency Facilities (Surf Lifesaving)</b>			
	No. of ET	\$ per ET	Sub-Total
	17.2	\$200	\$3,440
<b>S94 Plan No. 18 Extensions to Council Administration Offices &amp; Technical Support Facilities</b>			
	No. of ET	\$ per ET	Sub-Total
	18.7255	\$1996.8	\$37,391
<b>S94 Plan No. 22 Cycleways</b>			
	No. of ET	\$ per ET	Sub-Total
	17.136	\$352	\$6,032
<b>S94 Plan No. 26 Regional Open Space (Casual)</b>			
	No. of ET	\$ per ET	Sub-Total
	17.152	\$855	\$14,665
<b>S94 Plan No. 26 Regional Open Space (Structured)</b>			
	No. of ET	\$ per ET	Sub-Total
	17.144	\$2,327	\$39,894

## 2) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Tweed Shire Council. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Council.

Evidence of the payment to Council, shall be submitted to the Certifying Authority prior to the issue of the Subdivision Certificate for each stage of the project.

## 3) Section 94 Plans

A copy of the Section 94 contribution plans may be inspected at Tweed Shire Council, Civic & Cultural Centre, Tumbulgum Road, Murwillumbah NSW 2484.

## B30 Section 64 Monetary Contributions

- 1) Contributions plans relevant to the subdivision include:
  - a) *Development Servicing Plan for Water Supply Services* (July 2007)
  - b) *Development Servicing Plan for Sewerage Services* (July 2007)
- 2) Prior to the endorsement of a Subdivision Certificate for each stage of the subdivision, the proponent must pay, in proportion to the additional lots created by that stage, the following contributions to Council pursuant to section 64 of the *Local Government Act 1993*.

Water Supply Services		Sewerage Services	
Calculation	Total	Calculation	Total
\$10,709 x 6.4952ET	\$69557.10	\$5,146 x 14.779ET	\$76052.73
<b>TOTALS</b>	<b>\$69557.10</b>		<b>\$76052.73</b>

- 3) These charges to remain fixed for a period of twelve (12) months from the date of this approval and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.
- 4) A copy of the section 64 contribution plans may be inspected at Tweed Shire Council, Civic & Cultural Centre, Tumbulgum Road, Murwillumbah NSW 2484.

### **B31 Treatment of Vehicular Entry**

In order to improve the appearance of the building when viewed from the street, any part of the walls and ceilings of vehicular entry points that are visible from the street shall be finished in high quality materials and no service ducts or pipes are to be visible.

## **PART C—PRIOR TO COMMENCEMENT OF WORKS**

### **Structural Works**

#### **C1 Structural Details**

Prior to the commencement of construction at each stage of the project, the proponent shall submit to the satisfaction of the Certifying Authority structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the BCA,
- (2) the relevant project approval,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

#### **C2 Retaining Walls**

Prior to commencement of works for any stage of the project a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height, must be provided to the Principal Certifying Authority. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and must be supported by a geotechnical assessment of the founding material.

### **Pollution and Waste Control**

#### **C3 Waste**

A Waste Management Plan prepared to the satisfaction of Council shall be prepared and lodged with Council prior to the commencement of works.

#### **C4     *Erosion and Sediment Control***

Prior to commencement of work on the site for each stage of the project, all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Certifying Authority.

#### **Contact Details**

#### **C5     *Contact Telephone Number***

Prior to the commencement of the works for each stage of the project, the proponent shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

### **PART D—DURING CONSTRUCTION**

#### **Construction Management**

#### **D1     *Approved Plans to be On-site***

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

#### **D2     *Site Notice***

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to:

- (1) Details of the Builder, Principal Certifying Authority and Structural Engineer for all stages of the project;
- (2) The approved hours of work;
- (3) the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (4) To state that unauthorised entry to the site is not permitted.

#### **Structural Works**

#### **D3     *Setting Out of Structures***

The buildings shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the Certifying Authority certifying that structural works are in accordance with the approved project application.

#### **Site Maintenance**

#### **D4     *Erosion and Sediment Control***

Erosion and Sediment Control shall be provided in accordance with the following:

- (1) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with *Section D7.07 of Development Design Specification D7 - Stormwater Quality*.

- (2) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality and its Annexure A - Code of Practice for Soil and Water Management on Construction Works*.

#### **D5 Disposal of Seepage and Stormwater**

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

#### **D6 Dust Control Measures**

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

- (1) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
- (2) Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
- (3) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
- (4) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- (5) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
- (6) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
- (7) Cleaning of footpaths and roadways shall be carried out regularly.

#### **Noise and Vibration**

##### **D7 Hours of Work**

The hours of construction for all stages of the project, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (4) the delivery of materials is required outside these hours by the Police or other authorities;
- (5) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (6) the work is approved through the Construction Noise and Vibration Management Plan; and
- (7) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

#### **D8 Construction Noise Objective**

- 1) The construction noise objective for all stages of the project is to manage noise from construction activities (as measured by a  $L_{A10}$  (15minute) descriptor) so it does not exceed the background  $L_{A90}$  noise level by more than 5dB(A).
- 2) Background noise levels are those identified in the Environmental Assessment or otherwise identified in the approved Construction Management Plan. The proponent shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.
- 3) Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the approved Construction Management Plan.
- 4) If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the *NSW Industrial Noise Policy*), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

#### **D9 Construction Noise Management**

For all stages of the project, the proponent shall:

- (1) schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the Construction Management Plan:
  - (a) 9.00 am to 12.00 pm, Monday to Friday;
  - (b) 2.00 pm to 5.00 pm Monday to Friday; and
  - (c) 9.00 am to 12.00 pm, Saturday
- (2) ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where approved in the Construction Management Plan.

#### **D10 Vibration Criteria**

For all stages of the project, vibration resulting from construction of all stages of the project must not exceed the evaluation criteria presented in the *Environmental Noise Management – Assessing Vibration: A Technical Guide* (DEC 2006).

#### **Heritage**

#### **D11 Impact of Below Ground (Sub-surface) Works – Aboriginal Objects**

- (1) In the event that future works during any stage of the project disturb Aboriginal cultural materials, works at or adjacent to the material must stop immediately. Temporary fencing must be erected around the site and the material must be identified by an independent and appropriately qualified archaeological consultant. The Department of Environment and Climate Change, the local police, the relevant Local Aboriginal Land Council (LALC) and all relevant Aboriginal communities must be informed. These groups will advise on the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the the Police, Department of Environment and Climate Change, the relevant LALC and the relevant Aboriginal communities.
- (2) If the remains are found to be Aboriginal origin and the police consider the site not an investigation site for criminal activities, the DECC is to be contacted and notified of the situation. Works must not resume at the location without the prior

written consent of the Department of Environment and Climate Change, the relevant LALC and the relevant Aboriginal communities.

- (3) If Aboriginal cultural evidence is uncovered due to the project activities, the site is to be registered in the AHIMS and the management outcome for the site also included in the information provided to the AHIMS. It is recommended that the Aboriginal community representatives for the project be included in any management outcome decided for the site with all information required for formal consent being given to the representatives for this purpose.

## **PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

### **E1 Part 4A Certificate**

Prior to the registration of final subdivision plan in the Office of the Registrar-General, a Part 4A certificate shall be obtained under section 109D(1)(d) of the *Environmental Planning and Assessment Act 1979* for each stage of the subdivision.

### **E2 Compliance Certificate**

Prior to the application for a Subdivision Certificate for each stage of the subdivision a Compliance Certificate or Certificates shall be obtained from Council or an accredited certifier for the following:-

- a) Compliance Certificate - Roads
- b) Compliance Certificate - Water Reticulation
- c) Compliance Certificate - Sewerage Reticulation
- d) Compliance Certificate - Drainage

### **Earthworks**

### **E3 Retaining Walls**

All retaining walls are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the Subdivision Certificate application for each affected staged of the subdivision and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 *Earth Retaining Structures* and are structurally sound.

### **Geotechnical**

### **E4 Dilapidation Report**

A second dilapidation report is to be prepared by a suitably qualified engineer at the completion of the works for each stage of the project to ascertain if any structural damage has occurred to the adjoining and adjacent buildings, infrastructure and roads. The report is to be compared with the first dilapidation report and recommend a course of action to carry out repairs if required. The report is to be submitted to the Certifying Authority, prior to issue of the Subdivision Certificate for each stage of the project.

### **E5 Registration of Easements / Restrictions to use / Right of carriageway**

- (1) The creation of easements for services, rights of carriageway and restrictions as to user are applicable under section 88B of the *Conveyancing Act 1919*, including (but not limited to) the following:

- a. Easements for sewer, water supply and drainage over all public services/infrastructure on private property.
  - b. Drainage Easements are to be placed over all subsurface drains and interallotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the section 88B instrument.
  - c. Documentary easements for access must be created over the appropriate lots in the subdivision to provide for public access and access to lifts, lobbies, fire stairs, service areas, loading areas and car parking areas
- (2) Any section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.
  - (3) Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the *Community Land Development Act 1989*, *Strata Schemes Management Act 1996*, *Conveyancing Act 1919*, or other applicable legislation.

#### **E6 Car parking restrictions**

The on-site car parking spaces, exclusive of service spaces, are not to be used by those other than an occupant or tenant of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee of the building.

These requirements are to be enforced through the following:

- (1) restrictive covenant placed on title pursuant to section 88B of the *Conveyancing Act 1919*,
- (2) restriction on use under section 68 of the *Strata Schemes (Leasehold Development) Act 1986* to all lots comprising in part or whole car parking spaces, and
- (3) sign visible at exits (excluding fire stairs and individual unit entries) from car parking areas.

These requirements are to be made to the satisfaction of Council. All costs associated with the above requirements are to be borne solely by the proponent.

#### **E7 Common areas and facilities**

No right of exclusive use and enjoyment of the whole or any specified part of the designated common area or similar in the approved plans will be conferred on any person or persons without the prior consent of the relevant Council.

These requirements are to be made, at no cost to Council, and to the satisfaction of Council and a restrictive covenant placed on title pursuant to section 88E of the *Conveyancing Act, 1919*.

#### **Services**

#### **E8 Utilities –Telephone and Electricity Services**

The project is to be connected to all available services (water, electricity and telephone) prior to issue of the Subdivision Certificate. Such connections, and any extension of services required to the development, are to be carried out at full cost to the proponent.

## **PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE**

### ***Design Verification Statement – Residential Flat Buildings***

#### **F1      *Design Verification Statement***

Prior to the issue of any Occupation Certificate, the proponent shall submit to the Certifying Authority a Design Verification Statement from a qualified designer, verifying that the plans and specifications achieve or improve the design quality of the development, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development*.

#### ***Streetscape works***

#### **F2      *Streetscape works***

All final streetscape works including public art, paving finishes, street furniture, alfresco dining, street tree locations and species type are to be submitted to Council for approval prior to release of any Occupation Certificate.

#### ***Engineering***

#### **F3      *Fire Safety Certificate***

A Fire Safety Certificate shall be furnished to the Certifying Authority for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of any Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the approval authority and Council by the Certifying Authority.

#### **F4      *Annual Fire Safety Statement***

An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the approval authority initial Fire Safety Certificate is received.

#### **F5      *Mechanical Ventilation***

Following completion, installation and testing of all the mechanical ventilation systems, the proponent shall provide evidence to the satisfaction of the Certifying Authority, prior to the issue of any Occupation Certificate, that the installation and performance of the mechanical systems complies with:

- (1) The Building Code of Australia;
- (2) Australian Standard AS1668 and other relevant codes;
- (3) The project approval and any relevant modifications; and,
- (4) Any dispensation granted by the New South Wales Fire Brigade.

#### **F6      *Structural Inspection Certificate***

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Certifying Authority prior to the issue of any Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:



- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

#### **F7 Public Space & Centre Management Plan**

Prior to the release of any Occupation Certificate for the project, the Public Space & Centre Management Plan is to have been implemented to the satisfaction of Council in accordance with condition B21.

#### **F8 Road Damage**

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the proponent/developer prior to the issue of any Occupation Certificate.

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

#### **Easements**

##### **F9 Registration of Easements**

Prior to the issue of any Occupation Certificate, the proponent shall provide to the PCA evidence that all easements required by this approval, approvals, and other consents have been or will be registered on the certificates of title.

### **PART G—POST OCCUPATION**

#### **Laneway**

##### **G1 Unobstructed laneway**

The section of laneway/right-of-carriageway traversing the site from north to south is to remain unobstructed and clear of any physical impediments.

#### **Fire Safety**

##### **G2 Annual Fire Safety Certification**

The owner of the building shall certify to Council every year that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

#### **Traffic and Parking**

##### **G3 Loading and Unloading**

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times and only during hours of operation for the shopping centre.

Deliveries to the loading dock shall be restricted to small rigid vehicles (maximum 12.5m), and deliveries by semi trailer are not permitted. The proponent shall pay a cash bond of \$20,000 to Council for the purpose of future traffic control devices in Hastings Road, should delivery arrangements be deemed by Council to be unsatisfactory. The bond shall be paid prior to occupation, and the balance of this bond shall be refunded 12 months after the date of occupation.

#### **G4 Unobstructed Driveways and Parking Areas**

All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

#### **Noise**

#### **G5 Hours of Operation**

The hours of operation for the commercial component of the project shall be restricted to between:

Day	Commencement time	Cessation time
Monday	8.30 am	5.30 pm
Tuesday	8.30 am	5.30 pm
Wednesday	8.30 am	5.30 pm
Thursday	8.30 am	9.00 pm
Friday	8.30 am	5.30 pm
Saturday	8.30 am	5.00 pm
Sunday	9.00 am	4.00 pm
Public Holidays	Closed	

#### **G6 Noise Control – Plant and Machinery**

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not exceed 5dB(A) above the background noise level when measured at the boundary of the site.

#### **G7 Noise Monitoring**

The proponent shall undertake a noise monitoring program for a minimum period of 24 months following the commencement of operations on the site. The monitoring program shall be undertaken by an appropriately qualified person and monitoring reports shall be submitted to the Certifying Authority at intervals of every 3 months.

#### **Air Quality**

#### **G8 Air Quality Monitoring**

The proponent shall undertake an air quality monitoring program for a minimum period of 24 months following the commencement of operations on the site. The monitoring program shall be undertaken by an appropriately qualified person and monitoring reports shall be submitted to the Certifying Authority at intervals of every 3 months.

## ***Hazardous Materials***

### ***G9 Storage of Hazardous or Toxic Material***

Any hazardous or toxic materials must be stored in accordance with Workcover Authority requirements and all tanks, drums and containers of toxic and hazardous materials shall be stored in a bunded area. The bund walls and floors shall be constructed of impervious materials and shall be of sufficient size to contain 110% of the volume of the largest tank plus the volume displaced by any additional tanks within the bunded area.

## ***Public Access***

### ***G10 Public Way to be Unobstructed***

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

## **ADVISORY NOTES**

### ***AN1 Compliance Certificate, Water Supply Authority Act 2000***

Prior to issuing a Subdivision Certificate, a Compliance Certificate shall be provided to the approval authority showing that the project has met with the detailed requirements of the relevant water supply authority for the region that the subject site is located within.

The developer shall obtain the Compliance Certificate from the relevant local water supply authority and produce this to the satisfaction of:

- (1) the certifying authority before release of the Construction Certificate,
- (2) the approval authority before the release of the Subdivision Certificate, and
- (3) the principal certifying authority prior to occupation.

### ***AN2 Requirements of Public Authorities for Connection to Services***

The proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the proponent. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

### ***AN3 Compliance with Building Code of Australia***

The proponent is advised to consult with the Certifying Authority about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

### ***AN4 Structural Capability for Existing Structures***

The structural capabilities of any existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

### **AN5 Use of Mobile Cranes**

The proponent shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied with to the satisfaction of the Certifying Authority:

- (1) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
  - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions, and
  - (b) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (2) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

### **AN6 Stormwater drainage works or effluent systems**

A Construction Certificate for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work (including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works); and,
- (2) management of waste.

as defined by section 68 of the *Local Government Act 1993* will not be issued until prior separate approval to do so has been granted by Council under Section 68 of that Act. Applications for these works must be submitted on Council's standard Section 68 application form accompanied by the required attachments and the prescribed fees.

### **AN7 Temporary Structures**

An approval under section 68 of the *Local Government Act 1993* must be obtained from the Council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Council with the application under section 68 of the *Local Government Act 1993* to certify the structural adequacy of the design of the temporary structures.

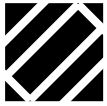
### **AN8 Disability Discrimination Act**

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The proponent/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4* provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

**AN9 Commonwealth Environment Protection and Biodiversity Conservation Act 1999**

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the proponents responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.



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**ANNEXURE B      Completed Modification Application Form**

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**Darryl Anderson Consulting Pty Ltd**  
A.C.N. 093 157 165  
Town Planning & Development Consultants

Modification of Major Project No. 07\_0179  
Project No: FAB 11/98 – February 2012

Tweed Coast Road and Hastings Road  
Bogangar

# Request to modify a major project



NSW GOVERNMENT  
Department of Planning

Date duly made: \_\_\_\_/\_\_\_\_/\_\_\_\_

Modification No. \_\_\_\_\_

## 1. Before you lodge

This form is required under section 75W of the *Environmental Planning and Assessment Act 1979* (the Act) in order to request the Minister to modify the Minister's approval to carry out a project or concept plan to which Part 3A of the Act applies.

Before making this request, it is recommended that you first consult with the Department of Planning (the Department) concerning your modification. The Director-General may issue environmental assessment requirements that must be complied with before your request will be considered by the Minister. If the changes proposed by the modification will result in a project that is consistent with the existing approval, the Minister's approval for a modification is not required.

### Disclosure Statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Note: For more details about political donations disclosure requirements, including a disclosure form, go to [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations).

### Lodgement

All modification requests must be lodged with the Director-General of the Department of Planning, by courier or mail. An electronic copy should also be e-mailed to the assessment contact officer assigned to the project.

NSW Department of Planning  
Ground floor, 23-33 Bridge Street, SYDNEY NSW 2000  
GPO Box 39 SYDNEY NSW 2001  
Phone 1300 305 695

## 2. Details of the proponent

Company/organisation/agency

WOOLWORTHS LIMITED

ABN

☐ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other

First name

Family name

Position

STREET ADDRESS

Unit/street no.

Street name

FOX ROAD

Suburb or town

ACACIA RIDGE

State

QLD

Postcode

4108

POSTAL ADDRESS (or mark 'as above')

PO BOX 202

Suburb or town

ARCHER FIELD

State

QLD

Postcode

4108

Daytime telephone

07 3213 4681

Fax

Mobile

0421 059 879

Email

csheehan@woolworths.com.au

### 3. Identify the land

STREET ADDRESS (where relevant)

Unit/street no.

Street or property name

TWEED COAST ROAD & HASTINGS ROAD

Suburb, town or locality

Postcode

BOGANGAR

Local government area(s)

State Electorate(s)

TWEED

TWEED

REAL PROPERTY DESCRIPTION

LOTS 184-187 & 191-194 DP 259164

LOTS 20-23 DP 31208 TWEED COAST ROAD & HASTINGS ROAD  
BOGANGAR

Note: The real property description is found on a map of the land or on the title documents for the land. If you are unsure of the real property description, you should contact the Department of Lands.

Please ensure that you place a slash (/) to distinguish between the lot, section, DP and strata numbers. If the proposed modification applies to more than one piece of land, please use a comma to distinguish between each real property description.

OR: detailed description of land attached: ☐

MAP: A map of the site and locality should also be submitted with this request.

### 4. Details of the original major project or concept plan

Briefly describe what the original approval allows

PART 3, PART 4 STOREY MIXED USE DEVELOPMENT ENTAILING  
GROUND LEVEL COMMERCIAL INCLUDING SUPERMARKET AND  
RETAIL SHOPS, UPPER LEVEL RESIDENTIAL UNITS, BASEMENT  
AND SURFACE CAR PARKING AND LANDSCAPED AREAS.

What was the original project  
application no.?

What was the date of the  
approval?

What was the original  
application fee?

07-0179

2.12.2009

Note: Clause 245K of the *Environmental Planning and Assessment Regulation 2000* provides information on calculating the maximum fee for a request for modification.

### 5. Describe the modification you propose to make to the approval

Describe the proposed modification

THIS MODIFICATION APPLICATION SEEKS TO VARY THE  
APPROVED OPERATING AND LOADING HOURS AS DETAILED  
IN THE ATTACHED REPORT (DARRYL ANDERSON CONSULTING  
PTY LTD, NOVEMBER 2011).

Your modification request may need to be accompanied by an Environmental Assessment, including plans. An electronic and hard copy of this document will be required.

ESTIMATED CAPITAL INVESTMENT VALUE

Please indicate the estimated capital investment value (CIV) of the modification to the project approval or concept plan (excluding GST).

\$ NIL



#### FULL TIME EQUIVALENT JOBS

Please indicate the number of jobs created by the proposed modification. This should be expressed as a proportion of full time equivalent (FTE) jobs over a full year.

Construction jobs (FTE)

Operational jobs (FTE)

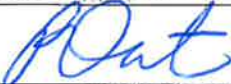
#### 6. Landowner's consent (where required)

As the owner(s) of the above property, I/we consent to this request being made by the proponent:

Land

LOTS 184-187 & 191-194 DP 259164  
LOTS 20-23 DP 31208

Signature



Name

PAUL OATES

Date

Land

Signature

Name

Date

Note: Under Clause 8F of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), certain applications for approval under Part 3A of the Act do not require consent of the landowner, however, the proponent is required to give notice of the application (e.g. linear infrastructure, mining & petroleum projects, and critical infrastructure).

#### 7. Political donation disclosure statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Have you attached a disclosure statement to this request?

☐ Yes

☒ No

Note: For more details about political donations disclosure requirements, including a disclosure form, go to [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations).

#### 8. Proponent's signature

As the proponent(s) of the project and in signing below, I/we hereby:

- provide a description of the modification to the project approval or concept plan and address all matters required by the Director-General pursuant to Section 75W of the Act, and
- declare that all information contained within this form is accurate at the time of signing.

Signature



Name

PAUL OATES

Date

In what capacity are you signing if you are not the proponent

Name, if you are not the proponent

## Authority

**Woolworths Limited ACN 000 014 675; and**

**Fabcot Pty Limited ACN 002 960 983**

both of 1 Woolworths Way, Bella Vista, NSW 2153 (each a **Principal**) declares as follows:

Each Principal appoints and authorises jointly and severally:

1. **Ralph Kemmler**, Director of Property, Woolworths Limited of 1 Woolworths Way Bella Vista NSW 2153;
2. **Paul Oates, National Manager - Property Development**, Woolworths Limited of 1 Woolworths Way Bella Vista NSW 2153,

to sign on behalf of the Principal any Development Applications, Building Permits or Applications or Notices or any related documentation required to be lodged by the Principal with any relevant Approving Authorities for the development of land.

**Dated 24 May 2011**

**EXECUTED by Woolworths Limited**  
in accordance with section 127(1) of the  
Corporations Act:



Thomas Pockett  
Director

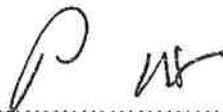


Peter John Horton  
Company Secretary

**EXECUTED by Fabcot Pty Limited**  
in accordance with section 127(1) of the  
Corporations Act:



Thomas Pockett  
Director



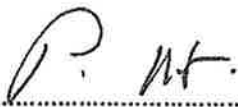
Peter John Horton  
Company Secretary

# AUTHORITY

Fabcot Pty Limited (ABN 55 002 960 983) authorises Paul Oates Property Development Manager Woolworths Limited, to sign on behalf of Fabcot Pty Ltd Development, Building Permits or Applications or any related documentation required to be lodged by Fabcot Pty Ltd with any relevant Approving Authorities

Dated: 31 - 8 - 2010

~~THE COMMON SEAL OF~~ EXECUTED BY  
FABCOT PTY LIMITED PURSUANT TO s127 of the CORPORATIONS Act  
is affixed in the presence of:


  
.....  
Signature of authorised person

Company Secretary

.....  
Position held

Peter Horton

.....  
Name of authorised person

  
.....  
Signature of authorised person

Finance Director

.....  
Position held

Tom Pockett

.....  
Name of authorised person