

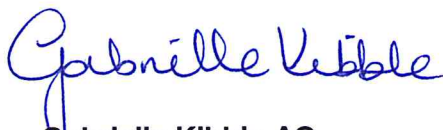
Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

Under delegation of the Minister for Planning and Infrastructure executed on 14 September 2011, the Planning Assessment Commission determines to give approval to Modification 2 as specified in Schedule 1, pursuant to section 75W of the *Environmental Planning and Assessment Act 1979*, subject to the modified conditions referred to in Schedule 2

These modified conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance; and
- provide for the ongoing environmental management of the project.



Gabrielle Kibble AO
Chair of the Commission

Sydney

8 August 2012

SCHEDULE 1

Project Approval: 07_0179

For the following: Part 3 and 4 storey mixed use development comprising the following:

- ground level commercial component encompassing a 2310m² supermarket and 1106m² of retail speciality shops
- 40 upper level residential units (shop top housing)
- ground level public forecourt
- pedestrian thoroughfare
- landscaped podium
- site landscaping
- basement and surface car parking for 204 vehicles
- loading bay
- three access points from Hastings Road
- excavation works, and
- signage

as modified by Mod 1 approved on 21st December 2011 and the following:-

Modification 2: Amendment of the approval conditions for permitted delivery times and hours of operation for approved supermarket and other commercial uses.

SCHEDULE 2

The approval described in Schedule 1 is modified as follows:

1. Delete Condition G3:

~~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.~~

2. Insert new condition G3A:

G3A Delivery Hours, Loading and Unloading

- (1) Delivery vehicles may service the site only between the hours of 7am and 6pm, Monday to Saturday, inclusive.
- (2) Notwithstanding part (1), the proponent may seek approval from the Director General, or his delegate, to allow delivery vehicles to service the site on Sundays or public holidays between the hours of 10am and 12noon. Such approval may only be sought following a three (3) month trial period of such deliveries, commencing after occupation of the supermarket and following written notification of the commencement of the trial to the Director General. During the trial the proponent 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.
- (3) Immediately following the trial, the proponent shall submit the registers to the department. The continuation of Sunday deliveries during the time the department is considering the registers is at the Director General's discretion. The Director General may require the proponent 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 Director General may agree. Deliveries on Sundays and public holidays may not continue on a permanent basis unless prior written approval has been given by the Director General.
- (3) Deliveries to the loading dock shall be restricted to small rigid vehicles (maximum 12.5m), and deliveries by semitrailer 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 Tweed Heads balance of this bond shall be refunded 12 months after the date of occupation.

3. Delete Condition G5: ***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	

4. Insert new Conditions G5A, G5B, G5C and G5D: ***G5A – Hours of Operation***

Subject to the requirements of G5D, the hours of operation of the commercial component including the supermarket shall be restricted to between 7.30am to 9.00pm 7 days per week, including Sundays and public holidays.

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 dB(A) when measured at the boundary of the allotment.

G5C Idling of Delivery Vehicles

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

G5D Noise Compliance Test

- (1) Within 3 months of commencement of the operation of the supermarket, a noise compliance test of the development shall be undertaken by a suitably qualified person that demonstrates that the hours of use complies with the NSW Industrial Noise Policy (NSW INP). Details of the noise testing procedure and results shall be reported to the department for consideration or approval, whereupon the Director General may, if the requirements of NSW INP are not met, require further tests or alter the provisions of the Table in Condition G5A, if such is warranted to meet the requirements of the NSW INP and taking into account any recommended mitigation measures in the report.
- (2) In relation to the consideration of the procedure and results of the noise test, a further noise test may be required to be carried out at a time when the development is fully occupied by commercial tenants, including the supermarket, if the initial test identifies that there are more than two vacant tenancies (not including the supermarket) when the supermarket noise test is conducted.

- End -