

# MODIFICATION OF CONSENT REPORT - 008/11DA(S96037/14) – PROPOSAL FOR TWO ADDITIONAL REFRESHMENT ROOMS, LOT 1 DP 1171714 CAROLINE AVENUE LITHGOW NSW 2790

## 1. PROPOSAL

The application 008/11DA has the following history as below:

**Original:** Approved 20 June 2011 by the elected Council.

The approval documentation was issued on 23 June 2011. The approved development included demolition, restaurant, internal/ external playground areas, standard Hungry Jack's signage, a 37 space carpark, traffic management devices, site landscaping and beautification.

**Mod1:** Approved 12 October 2011 by the elected Council.

Removal of condition 70 requiring the left turn movement from Caroline Avenue onto the Great Western Highway be indicated by a left turn arrow on traffic signalisation.

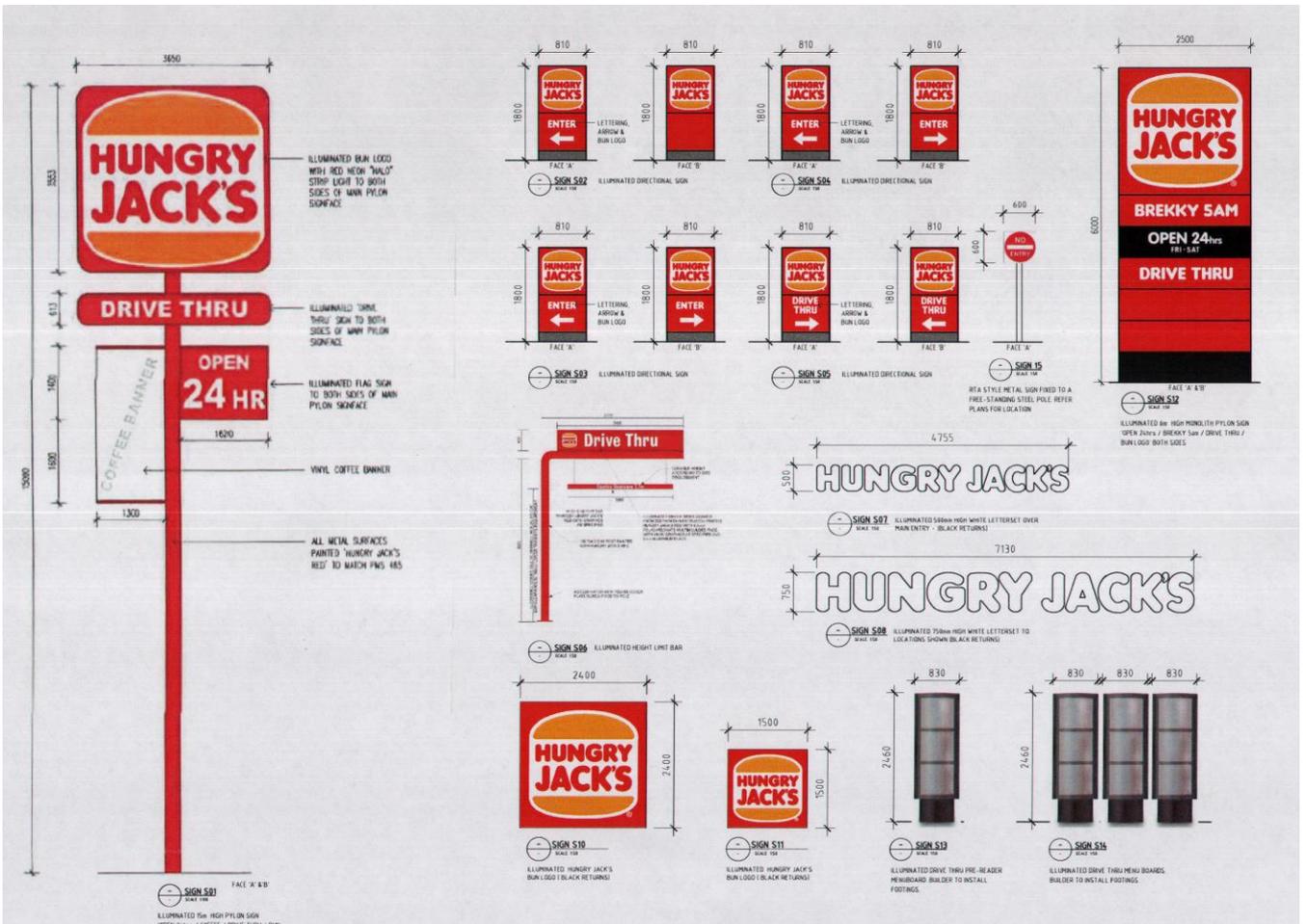
**Mod2:** Approved 24 January 2012 by the elected Council.

- Revised roof plans to the main building and drive through awning,
- Revised signage,
- New enclosed bin room to replace the outdoor fenced enclosure,
- Revised building floor plans and elevations,
- Minor adjustment to carpark with the carparking numbers to remain the same as previously approved,
- Revised landscaping plans.

**S96037/14 (Mod3):**

Council is currently in receipt of a modification of consent application from Andrew McIntosh from Martin, Morris & Jones Pty Ltd seeking to add two refreshment room tenancies, change the site layout and the floor plans as shown:





Additionally it is requested that conditions of consent be modified to clarify that carrying out of survey work will not require a Construction Certificate or notification to Council of existing damage to property controlled by Council for conditions 4 and 75. Further, the applicant requests that the individual applications for the use of the two new tenancies will be subject to separate Development Applications.

It is requested that conditions of consent be modified

The application will be assessed under Section 96 1(A) of the *Environmental Planning and Assessment Act 1979*.

## **2. SUMMARY**

To assess and recommend determination of Section 96 Modification of Consent No.S96037/14 of 008/11DA. Recommendation will be for approval subject to conditions.

## **3. LOCATION OF THE PROPOSAL**

Legal Description : Lot 1 DP 1171714  
Property Address : CAROLINE AVENUE LITHGOW NSW 2790

## **4. DETAILS OF CURRENT APPROVAL**

The current approval was determined 24 January 2012 by the elected Council for the purpose of a refreshment room and associated infrastructure for Hungry Jack's restaurant.

## **5. PERMISSIBILITY:**

The development was originally permissible in the 2(a) Residentialzone under Clause 9 of Lithgow Local Environmental Plan 1994 which indicates that a 'Refreshment Room' is permissible in the zoning. This permissibility is not proposed to change as part of this modification as the proposal was submitted prior to the gazettal of Lithgow Local Environmental Plan 2014. However, the tenancy approval for 'refreshment rooms' is being sought to allow future uses of this type within Tenancy 1 and 2, which are not permitted in the R1 General Residential zoning (defined as 'takeaway food and drink premises') of Lithgow Local Environmental Plan 2014.

The application was originally submitted under LEP1994 and therefore this assessment remains given the proposal is to change the use into three separate tendencies for the same capacity instead of just for the Hungry Jack's tenancy.

### **5.1 POLICY IMPLICATIONS (OTHER THAN DCP's)**

The original application was called in under Policy 7.7 – Calling in of Development Applications by Councillors. Accordingly, the modification also requires determination by the elected Council.

## 5.2 FINANCIAL IMPLICATIONS (eg Section 94)

### Planning Agreement

A planning agreement was made as part of the original application. The proposed modification will not impact upon the recuperation of finances from this agreement, as the agreement is based on \$10,000 for the use of Council owned land for access from the Great Western Highway.

## 5.3 LEGAL IMPLICATIONS

### 5.3.1 Environmental Planning and Assessment Act 1979- Section 96 (1A)

**(1A) Modifications involving minimal environmental impact**

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:
  - (i) the regulations, if the regulations so require, or*
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and**
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1), (2) and (5) do not apply to such a modification.*

### **Comment:**

Council is satisfied that the addition of two tenancies does not change the overall use of the site being 'refreshment rooms' as it is allowing the site to be used by 3 businesses instead of 1. It is considered that the development is of a minimal environmental impact and similar to that as previously approved.

Although the Regulation does not require the notification of the modification, Council undertook notification to adjoining and adjacent landowners with no submissions received. Further, the modification is considered to be of a minor nature and will not impact further on any nearby residents. Additionally the application has been referred to Roads and Maritime Services, Water NSW, Council's Engineer and Council's Building Officer for commenting with their responses detailed later in this report.

It is considered the proposed modification complies with this provision.

### 5.3.2 Environmental Planning and Assessment Act 1979- Section 96 (3)

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.*

## Any Environmental Planning Instruments

### ***Lithgow City Local Environmental Plan 1994***

LEP 1994 – Compliance Check		
	<b>Clause</b>	<b>Compliance</b>
<b>4</b>	Covenants, agreements. Etc	Yes
<b>9</b>	2(a) zoning table	Yes
<b>21</b>	Notification of certain development and development in Residential and Village Zones	Yes

#### **Comment:**

The original application was assessed in accordance with the provisions of Lithgow's Local Environmental Plan 1994, and is found to be compliant. The modification does not require any further assessment under the LEP.

### ***State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011***

SEPP(Sydney Drinking Water Catchment) 2011 – Compliance Check		
	<b>Clause</b>	<b>Compliance</b>
<b>10</b>	Development consent cannot be granted unless neutral or beneficial effect on water quality	Yes
<b>11</b>	Development that needs concurrence of the Chief Executive	Yes

#### **Comment:**

The development was referred to Water NSW for assessment, with comments detailed further in this report. Water NSW has no objection to the proposal subject to conditions of consent to comply with this SEPP.

Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

### ***Draft Lithgow City Local Environmental Plan***

Compliance Check		
	<b>Clause</b>	<b>Compliance</b>
<b>Land Use Table</b>	R1 General Residential	No
<b>7.5</b>	Groundwater Vulnerability	Yes

#### **Comment:**

The original application was assessed in accordance with the provisions of Lithgow's Local Environmental Plan 1994, and is found to be compliant. The proposed modification was submitted while the Lithgow Local Environmental Plan 2014 was in draft form, and is assessed as below:

The development is defined as a 'take away food and drink premises' and is not permissible in the R1 General Residential zone. Therefore the development does not comply with the provisions of the draft LEP. The land is also within an area known to have groundwater vulnerability, however an assessment by Water NSW has found that the development will have a 'neutral or beneficial effect' on water quality. It is considered that the development will have no effect on groundwater.

The development was originally assessed under LEP1994 and therefore the modification is to be assessed under that plan. Given that the draft LEP is now

gazetted however, certain weight of assessment is required to be afforded to the new plan. Whilst this assessment does not attempt to prohibit the proposed changes, it is considered that the use of the spaces/new tenancies must not be for all uses previously permissible under LEP1994. New uses need to be restricted to only those as originally approved. The approved use is now more narrowly defined as a 'take away food and drink premises'. A condition of consent is proposed in this regard.

Any Development Control Plan

The original application was assessed in accordance with the provisions of the relevant DCP's, and was found to be compliant. However, the modification requires further assessment under the carparking DCP given the change in the floor plans for the proposal. The assessment is below:

**Off Street Carparking Development Control Plan**

Off Street Carparking DCP – Compliance Check		
	Clause	Compliance
3	Objectives	Yes
5	Development Applications	Yes
6	Carparking Standards	Yes

In relation to the carparking standards, the proposal would be classed as a 'refreshment room' with the following requirements:

1. 1 space per 6.5m<sup>2</sup> of GFA or 1 space per 3 seats (whichever is greater)
2. Plus queuing area for a minimum of 5 cars if drive through facility is provided.

- The GFA for the entire development is:

$$148.2\text{m}^2 + 75\text{m}^2 + 75\text{m}^2 + 138.5 = 427 / 6.5\text{m}^2 = 65.5 = 66 \text{ spaces}$$

Hungry Tenancy Tenancy Common  
Jack's 1 2 seating

- The seating arrangements are:

$$20 + 58 = 78 / 3 = 26 \text{ spaces}$$

Outdoor Seating Common Seating

**Comment:** The development meets the objectives of the Development Control Plan and has supplied adequate information for the development application assessment. The development complies with the queuing requirements (10 spaces provided), but does not meet the requirements for the GFA calculation as only 37 of the 66 spaces have been provided onsite.

However, previous calculations for the site have used the Roads and Maritime Services (RMS) Guide to Traffic Generating Developments which is based on extensive survey and analysis. The RMS criteria reflect very robust circumstances because:

- Patronage from fast food restaurants has decreased on a per site basis due to increased choice

- The criteria was derived from McDonald's restaurants which trade at a much higher level than Hungry Jack's.

Therefore the calculations from the guide have been applied as below:

Land Use	Parking Requirements
<b>Refreshments</b>	
Drive-in take-away food outlets	Developments with no on-site seating: 12 spaces per 100m <sup>2</sup> GFA  Developments with on-site seating: 12 spaces per 100m <sup>2</sup> GFA <u>or greater of:</u> 1 space per 5 seats (internal and external), or 1 space per 2 seats (internal)  Developments with on-site seating and drive through facilities: <u>greater of:</u> 1 space per 2 seats (internal), or 1 space per 3 seats (internal and external) plus queuing area for 5 to 12 cars (see 5.8.1)

Developments with onsite seating and drive through facilities:

- $58 \text{ (internal seating)} / 2 = 29 \text{ spaces}$  **or**  $78 \text{ (all seating)} / 3 = 26 \text{ spaces}$
- Plus queuing area for 5 to 12 cars.

A total of 37 spaces was originally approved and is not proposed to change with this modification and this is considered to be adequate with a queuing area for 10 car spaces. Therefore, it is considered that the car parking requirements are met by the development.

Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F?

A current planning agreement is in place for the development which provides that the developer will pay \$10,000 for the use of Council owned land for the provision of access from the Great Western Highway in the Lithgow Local Government Area. The proposed modification does not impact upon the implementation of this agreement.

Any matters prescribed by the Regulation that apply to the land

The original application was assessed in accordance with the provisions of the Regulation, and was found to be compliant. The modification does not require any further assessment under the Regulation.

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

**Carparking:**

There has been no change to carparking proposed for the site being 37 spaces. As discussed this will meet requirements of the development.

**Adjoining land uses:**

The adjoining land uses are for residential purposes, however the conflicts between these uses has been previously addressed through assessment and conditions of consent. It is considered that the change to include two extra tenancies will not have any significant increased impact compared to previous assessments.

**Condition changes:**

It is requested that conditions of consent be modified to clarify that carrying out of survey work will not require a Construction Certificate or notification to Council of existing damage to property controlled by Council for conditions 4 and 75. It is considered that these changes can be accepted as they will have no impact on the surrounding area or to Council's infrastructure.

Further, the applicant requests that the individual applications for the fit out of the two tenancies be subject to separate Development Applications. It is considered that this is acceptable given that Council does not have any information on the future use other than for a 'refreshment room' and most internal works can be assessed as a Development Application/ Construction Certificate at a later date in accordance with this development, if approved.

The Suitability of the site for the development

The original application was assessed in terms of site suitability and was found to be suitable. The modification does not require any further assessment of suitability.

Any submissions made in accordance with this Act or the Regulation

Although the Regulation does not require the notification of the modification, Council undertook notification to adjoining and adjacent landowners with no submissions received. The application was referred to Roads and Maritime Services, Water NSW, Council's Engineer and Council's Building Officer for commenting with their responses detailed below.

**ROADS AND MARITIME SERVICES**

"The information submitted in support of the application has been reviewed. As the modification will not impact on the design of the Caroline Avenue access driveway, Roads and Maritime make no further submission for the modification."

**WATER NSW**

"Based on Water NSW's site inspection and the information provided, including that previously provided, the proposed modification has been assessed by Water NSW as being able to achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented.

If, after receipt of this letter, revisions are made to any of the DA plans, Council does not need to refer the plans to Water NSW if the revisions do not impact on water

quality. Council is requested to amend the relevant Water NSW condition/s to reference the revised plans, and notify the assessing officer by email.

Water NSW therefore does not object to the modification subject to the following conditions being imposed. This advice replaces Water NSW's previous concurrence advice to Council (dated 20 April 2011).

### ***General***

1. The site layout and works shall be as shown on the Revised Site and Floor Levels Plan prepared by Ramakers Architects Pty Ltd (Dwg. No. 2521/SK09; Rev A; dated 5 March 2015). Any revision to the site layout or works that may impact water quality shall be agreed to by Water NSW.

*Reason for Condition 1 - Water NSW has based its assessment under the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.*

### ***Stormwater Management***

2. All stormwater treatment and management measures shall be implemented, as specified in the MUSIC Model Assessment Report (dated 28 April 2015) and Drainage Design Layout Plans (Dwg. No. 201978 E01 and 201978 E02; Issue D; dated 30 April 2015 and Dwg. No. 201978 E03; Issue C; dated 24 February 2015) both prepared by LandTeam Australia Pty Ltd, or as elaborated or varied by the conditions below.
3. A bioretention basin shall be located and constructed as specified in the MUSIC Model Assessment Report (dated 28 April 2015) and Drainage Design Details Plan (Dwg. No. 201978 E02; Issue D; dated 30 April 2015) both prepared by LandTeam Australia Pty Ltd, and shall incorporate the following specifications and requirements:
  - be designed consistent with Adoption Guidelines for Stormwater Biofiltration Systems (FAWB 2009)
  - a minimum surface area and a minimum filter area of 35 square metres
  - a gross pollutant trap (Humegard HG12 or Water NSW endorsed equivalent) installed at the main inlet point
  - an extended detention depth of 300 mm
  - a filter depth (excluding transition layers) of 600 mm above the underdrains
  - a filter media consisting of a clean sandy loam with a certified median particle diameter of 0.5 mm, a maximum orthophosphate concentration of 40 mg/kg and a maximum total nitrogen concentration of 400 mg/kg
  - be planted with appropriate deep-rooted, moisture-tolerant vegetation protected by rock mulch (grass and turf is not appropriate vegetation and organic mulch is not suitable)
  - direct all discharge and overflow to Council's stormwater drainage system
  - be permanently protected from vehicular damage by bollards, fences, castellated kerbs or similar structures, with a sign to be erected to advise of its nature and purpose in water quality management, and
  - be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised.
4. The bioretention basin shall be constructed after all hardstand areas have been paved or sealed and all ground surfaces have been stabilised.

5. A rainwater collection and reuse system for the building roof shall be installed that incorporates the following specifications and requirements:
  - rainwater tanks with a minimum total capacity of 10,000 litres above any volume required for mains top-up
  - roofs and gutters designed so as to maximise the capture of rainwater in the tanks
  - the tanks plumbed to toilets, and other areas for non-potable use including use landscape watering, and
  - all rainwater tank overflow shall be directed to the bioretention basin on the site.
6. No variation to stormwater treatment or management that will impact on water quality shall be permitted without the agreement of Water NSW.
7. A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.

***Operational Environmental Management Plan***

8. An Operational Environmental Management Plan (OEMP) shall be prepared in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans. The OEMP shall include but not be limited to:
  - details on the location, description and nature of stormwater management structures such as pits, pipes, gross pollutant trap, bioretention basin, and rainwater collection system
  - an identification of the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
  - the identification of the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
  - checklists for recording inspections and maintenance activities.

*Reason for Conditions 2 to 8 – To ensure appropriate stormwater treatment and quality control measures are designed, implemented and maintained so as to achieve a sustainable neutral or beneficial impact on water quality, particularly during wet weather, over the longer term.*

***Other***

9. Conditions 2 to 8 above shall be carried out prior to the issuance of an Occupation Certificate.

*Reason for Condition 9 – To ensure there is an overall and sustainable neutral or beneficial impact on water quality during all stages of the proposed development.*

***Construction Activities***

10. A Soil and Water Management Plan shall be prepared by a person with knowledge and experience in the preparation of such plans for all works proposed or required as part of the development. The Plan shall meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual - the "Blue Book". The Plan shall be

prepared prior to the commencement of construction works and shall be to the satisfaction of Council.

11. Effective erosion and sediment controls shall be installed prior to any construction activity including site access, and shall prevent sediment or polluted water leaving the site or entering any stormwater drain or natural drainage system. The controls shall be regularly maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.

*Reason for Conditions 10 & 11 - To manage adverse environmental and water quality impacts during the construction phase of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase."*

#### **COUNCIL ENGINEERS**

"It is recommended that the applicant acknowledges and complies with the suggestions put forward by the Roads and Maritime Services. Aside from these comments, there are no further comments on the proposed alterations."

#### **COUNCIL'S BUILDING OFFICER**

"Please note that the previous referral comments / conditions of approval will satisfactorily address the revised design".

#### The public interest

The original application was assessed in terms of the public interest. The proposed modification does not change whether the development is within the public interest.

## **6. DISCUSSION AND CONCLUSIONS**

The application has been assessed under Section 96 1(A) of the *Environmental Planning and Assessment Act 1979* and is appropriate for the recommendation of approval subject to conditions.

## **7. ATTACHMENTS**

Schedule A- Conditions of consent.

## **8. RECOMMENDATION**

**THAT** the Section 96 Modification of Consent application S96037/14 associated with 008/11DA be approved subject to the following deleted, amended and/or added conditions below and outlined in Schedule A:

#### **DELETED:**

#### ***Rainwater Tanks***

- 55 Rainwater tanks with a minimum total capacity of 10,000 litres must be installed to collect roof runoff from the restaurant building and shall meet the following specific requirements:
  - the rainwater tanks must be plumbed to toilets, the hot water system and areas of non potable use, including landscape irrigation;

- roof and gutters must be designed such that roof runoff is captured in the rainwater tanks;
- overflow from the rainwater tanks shall be directed to the site stormwater drainage system;

### **Bioretention Basin**

- 56 A bioretention basin is to be located and constructed as shown on the Drainage Design Layout Plan (Drawing No. 2019798 E01; Issue B; dated 21.02.11) according to the following specifications:
- the bioretention basin is to be hydraulically sized and designed as shown on the Drainage Design Details Plan (Drawing No. 2019798 E02; Issue B; dated 21.02.11), and must also be consistent with Chapter 6 of *WSUD Engineering Procedures: Stormwater* (Melbourne Water 2005);
  - the bioretention basin is to have a minimum filter area of 35 square metres and a minimum filter depth of 600 mm above the underdrain;;
  - the basin is to have a minimum extended detention depth of 300mm;
  - the filter media must be a sandy loam with a median particle diameter of 0.45mm;
  - the overflow and final drainage discharge from the bioretention basin shall be directed to the Council's stormwater drainage system;
- 57 The bioretention basin must be protected by erosion and sediment control measures during any construction and post-construction period until the ground surface is revegetated or stabilised;
- 58 The bioretention basin must be permanently protected from vehicular damage by fences, bollards, slotted kerbs or similar permanent structures, with signs to be erected to advise of the nature and purpose of their water quality management function;
- 59 Any variation to stormwater treatment, management and devices is to be agreed to by the Sydney Catchment Authority;

*Reason for Conditions 54 to 59 – To ensure appropriate stormwater treatment and quality control measures are in place so as to achieve a sustainable neutral or beneficial impact on water quality, particularly during wet weather over the longer term;*

### **Operational Environmental Management Plan**

- 60 An Operational Environmental Management Plan (OEMP) detailing the requirements and responsibilities for the inspection and maintenance of all stormwater structures, including rainwater tanks, stormwater drains, pits and pipes, and the bioretention basin is to be developed in consultation with the Sydney Catchment Authority and Council prior to the issuance of an occupation certificate for the restaurant;

*Reason for Condition 60 – To ensure that the stormwater quality management works associated with the development are designed and maintained so as to have a sustainable neutral or beneficial impact on water quality over the longer term;*

### **Construction Activities**

- 61 A Soil and Water Management Plan (SWMP) is to be prepared for all works proposed or required for the development by a person with knowledge and experience in the preparation of such plans. The SWMPs must be prepared

prior to any construction commencing, and are to meet the requirements outlined in Chapter 2 of NSW Landcom's *Soils and Construction : Managing Urban Stormwater* (2004) manual - the "Blue Book", and be to the satisfaction of Council;

- 62 Effective erosion and sediment controls are to be installed prior to all construction works including site access and earthworks for the building. The controls must prevent sediment and contaminated water leaving the construction site, and are to be regularly maintained and retained until works have been completed and groundcover established or ground stabilized.

*Reason for Conditions 61 & 62 – To manage adverse environmental and water quality impacts during the construction stage of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase.*

**AMENDED:**

- 2 That the development be carried out in accordance with the application, Statement of Environmental Effects, accompanying information, plans submitted with the application, and Section 96 modifications of consent and any further information provided during the process unless otherwise amended by the following conditions. Including the following plans:

Drawing Name	Drawing No.	Dated
Revised <b>Concept Site Plan to suit original approved DA</b>	<del>SK6</del> <b>SK04 Rev B</b>	<del>19/10/2011</del> <b>13/12/2014</b>
<b>Concept Site Signage Plan Dimensioned Setout Plan</b>	<b>SK07 Rev B</b>	<b>3/12/2014</b>
<b>Revised Site Levels to Suit New layout</b>	<b>SK09 Rev A</b>	<b>5/3/2015</b>
<b>Drainage Design Details and layout</b>	<b>E01, E02 &amp; E03</b>	<b>24/2/2015</b>
Revised <del>Site Signage and carparking plan</del> <b>Details</b>	<del>SK9</del> <b>SK08 Rev A</b>	<del>19/10/2011</del> <b>14/9/2014</b>
Revised Roof Plan	A105	6/10/2011
Elevations 1	A300	6/10/2011
Elevations 2	<del>A301</del> <b>SK06 Rev A</b>	<del>6/10/2011</del> <b>14/9/2014</b>
Landscaping Plan	LA01	24/11/2011

(Amended Mod 2 dated 24 January 2012)

***(Amended as per S96037/14 dated XXXX)***

- 4 Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense. **This condition**

**does not need to be complied with prior to the carrying out of survey work.**

***(Amended as per S96037/14 dated XXXX)***

- 75 A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier. **A Construction certificate is not required prior to the carrying out of survey work.**

***(Amended as per S96037/14 dated XXXX)***

### ***General***

- 53 ~~The site layout and works are to be as shown on the Site Layout Plans prepared by Wbp Architects (Drawing No. SK6; Rev: 8; dated 18.02.11). Any revision to the site layout or works is to be agreed to by the Sydney Catchment Authority;~~

~~*Reason for Condition 53—The Sydney Catchment Authority has based its assessment under the Drinking Water Catchments Regional Environmental Plan No. 1 on this version of the development;*~~

**The site layout and works shall be as shown on the Revised Site and Floor Levels Plan prepared by Ramakers Architects Pty Ltd (Dwg. No. 2521/SK09; Rev A; dated 5 March 2015). Any revision to the site layout or works that may impact water quality shall be agreed to by Water NSW.**

***(Amended as per S96037/14 dated XXXX)***

### ***Stormwater Management***

- 54 A stormwater drainage system including pits, pipes, a 31 cubic metre on-site detention basin and all stormwater treatment and management measures are to be implemented as specified in the MUSIC Model Assessment Report ~~(dated 30 March 2011)~~ **(dated 28 April 2015)** and the Drainage Design Layout Plans ~~(Drawing No. 201978 E01 & E02; Issue B; dated 21.02.11)~~ **(Dwg. No. 201978 E01 and 201978 E02; Issue D; dated 30 April 2015 and Dwg. No. 201978 E03; Issue C; dated 24 February 2015)** both prepared by LandTeam Australia Pty Ltd, in particular ~~or~~ as elaborated or varied **by the** in the following conditions below.

***(Amended as per S96037/14 dated XXXX)***

### **ADDITIONAL:**

- Approval for the use of Tenancy 1 and 2 for 'takeaway food and drink premises' is given as a result of this modification with further development consents for the fit outs required. Therefore, prior to the use of Tenancy 1 and Tenancy 2 separate development applications and subsequent approvals will be required prior to their use as no internal, or fit out, detail has been provided.

### **Water NSW**

- A bioretention basin shall be located and constructed as specified in the MUSIC Model Assessment Report (dated 28 April 2015) and Drainage Design Details Plan (Dwg. No. 201978 E02; Issue D; dated 30 April 2015) both prepared by LandTeam Australia Pty Ltd, and shall incorporate the following specifications and requirements:
  - be designed consistent with Adoption Guidelines for Stormwater Biofiltration Systems (FAWB 2009)
  - a minimum surface area and a minimum filter area of 35 square metres

- a gross pollutant trap (Humegard HG12 or Water NSW endorsed equivalent) installed at the main inlet point
  - an extended detention depth of 300 mm
  - a filter depth (excluding transition layers) of 600 mm above the underdrains
  - a filter media consisting of a clean sandy loam with a certified median particle diameter of 0.5 mm, a maximum orthophosphate concentration of 40 mg/kg and a maximum total nitrogen concentration of 400 mg/kg
  - be planted with appropriate deep-rooted, moisture-tolerant vegetation protected by rock mulch (grass and turf is not appropriate vegetation and organic mulch is not suitable)
  - direct all discharge and overflow to Council's stormwater drainage system
  - be permanently protected from vehicular damage by bollards, fences, castellated kerbs or similar structures, with a sign to be erected to advise of its nature and purpose in water quality management, and
  - be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised.
- The bioretention basin shall be constructed after all hardstand areas have been paved or sealed and all ground surfaces have been stabilised.
  - A rainwater collection and reuse system for the building roof shall be installed that incorporates the following specifications and requirements:
    - rainwater tanks with a minimum total capacity of 10,000 litres above any volume required for mains top-up
    - roofs and gutters designed so as to maximise the capture of rainwater in the tanks
    - the tanks plumbed to toilets, and other areas for non-potable use including use landscape watering, and
    - all rainwater tank overflow shall be directed to the bioretention basin on the site.
  - No variation to stormwater treatment or management that will impact on water quality shall be permitted without the agreement of Water NSW.
  - A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.

### ***Operational Environmental Management Plan***

- An Operational Environmental Management Plan (OEMP) shall be prepared in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans. The OEMP shall include but not be limited to:
  - details on the location, description and nature of stormwater management structures such as pits, pipes, gross pollutant trap, bioretention basin, and rainwater collection system
  - an identification of the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
  - the identification of the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
  - checklists for recording inspections and maintenance activities.

***Other***

- Conditions 54 to 60 above shall be carried out prior to the issuance of an Occupation Certificate.

***Construction Activities***

- A Soil and Water Management Plan shall be prepared by a person with knowledge and experience in the preparation of such plans for all works proposed or required as part of the development. The Plan shall meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual - the "Blue Book". The Plan shall be prepared prior to the commencement of construction works and shall be to the satisfaction of Council.
- Effective erosion and sediment controls shall be installed prior to any construction activity including site access, and shall prevent sediment or polluted water leaving the site or entering any stormwater drain or natural drainage system. The controls shall be regularly maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.

Report prepared by:..... Supervisor:.....

Signed:..... Signed:.....

Dated:..... Dated:.....

**REASONS FOR CONDITIONS**

The conditions in Schedule A have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instruments
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To ensure that adequate road and drainage works are provided.
- To ensure access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To ensure lots are adequately serviced.
- To ensure there is no unacceptable impact on the water quality.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

## Schedule A

### Conditions of Consent (Consent Authority) and General Terms of Approval (Integrated Approval Body)

(**Please Note:** It should be understood that this consent in no way relieves the owner or applicant from any obligation under any covenant affecting the land).

- 1 That negotiation with the applicant and Council to enter into a Planning Agreement to contribute towards the cost of maintenance to the footway and strip of land on the Great Western Highway and community facilities be entered into and all particulars of the Planning Agreement be finalised prior to final occupation.
  
- 1A Approval for the use of Tenancy 1 and 2 for a 'takeaway food and drink premises' is given as a result of this modification with further development consent for the fit outs required. Therefore, prior to the use of Tenancy 1 and Tenancy 2 separate development applications will be required**  
**(Inserted as per S96037/14 dated *Insert Issue date of consent*)**

### GENERAL CONDITIONS

- 2 That the development be carried out in accordance with the application, Statement of Environmental Effects, accompanying information, plans submitted with the application, and Section 96 modifications of consent and any further information provided during the process unless otherwise amended by the following conditions. Including the following plans:

Drawing Name	Drawing No.	Dated
Revised <b>Concept Site Plan to suit original approved DA</b>	<del>SK6</del> <b>SK04 Rev B</b>	<del>19/10/2011</del> <b>13/12/2014</b>
<b>Concept Site Signage Plan Dimensioned Setout Plan</b>	<b>SK07 Rev B</b>	<b>3/12/2014</b>
<b>Revised Site Levels to Suit New layout</b>	<b>SK09 Rev A</b>	<b>5/3/2015</b>
<b>Drainage Design Details and layout</b>	<b>E01, E02 &amp; E03</b>	<b>30/4/15 and 24/2/2015</b>
Revised <del>Site Signage and carparking plan</del> <b>Details</b>	<del>SK9</del> <b>SK08 Rev A</b>	<del>19/10/2011</del> <b>4/9/2014</b>
Revised Roof Plan	A105	6/10/2011
Elevations 1	A300	6/10/2011
Elevations 2	A301 <b>SK06 Rev A</b>	<del>6/10/2011</del> <b>4/9/2014</b>
Landscaping Plan	LA01	24/11/2011

(Amended Mod 2 dated 24 January 2015)

**(Amended as per S96037/14 dated *Insert Issue date of consent*)**

- 3 Recommendations for Acoustic treatment and noise minimisation detailed under CI7.1 of the Acoustic Report (ref 41.6599.R1:CFCD5) from Atkins Acoustics dated February 2011 are to be carried out by the applicant.

A report from the Acoustic Engineer is to be provided to Council prior to occupation of the site stating that works recommended in the report have been carried out in a satisfactory manner.

- 4 Prior to the commencement of any works on site, the applicant shall advise Council of any damage to property controlled by Council which adjoins the site including kerbs, gutters, footpaths, walkways, reserves and the like. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense. **This condition does not need to be complied with prior to the carrying out of survey work.**  
***(Amended as per S96037/14 dated Insert Issue date of consent)***
- 5 The applicant shall comply with all reasonable requests from Council with regard to any complaints received during the construction works.
- 6 Allotments 61-65 in DP 36295 are to be consolidated into one allotment prior to issue of an Occupation Certificate.
- 7 The restaurant proprietors shall accept full responsibility for the behaviour of patrons while on the premises, and will employ a security company/guard as necessary to control behaviour during night periods.
- 8 To minimise the impact of noise from the development on the surrounding environment, the restaurant proprietor/manager shall take all steps necessary to ensure that no noise nuisance occurs from persons entering or leaving the premises.

## **DEMOLITION**

- 9 Demolition works are to be carried out in accordance with Australian Standard 2601- "Demolition of structures". **Note:** Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carried on a business of such removal work in accordance with a licence under clause 318 of the Occupational Health and Safety Regulation 2001.
- 10 The works shall be executed, by competent persons with due regard at all times for safe working practices and in accordance with the approved work plan, a copy of which shall be kept on site. Any modifications to the work plan, which may be necessary as the work progresses, shall be made by a competent person in accordance with Clause 2.1 AS2601. The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work.
- 11 That minimal disturbance is caused to the site during construction works
- 12 Security fencing shall be provided around the perimeter of the demolition site to prevent unauthorised entry into the demolition area and protect public and employees from injury. Warning notices displaying the words "WARNING DEMOLITION IN PROGRESS" shall be fixed to fencing to warn the public.

- 13 The demolition area is to be illuminated and clearly visible at all times.
- 14 No demolition activity shall cause damage to or adversely affect the structural integrity of adjoining buildings.
- 15 The structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work.
- 16 Precautions shall be taken to ensure that the stability of all parts of the structure, and the safety of persons on and outside the site will be maintained in the event of sudden and severe weather changes.
- 17 All demolished material and excess spoil from the site shall be disposed of at the Lithgow Waste Management facility in a location and in a manner approved of by Council. No material is to be burnt on site.
- 18 Approval must be obtained from Council's Environmental and planning Division prior to the disposal of any waste (including VENM) at any Council owned facility. Certification of the classification of the waste in accordance with the Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-liquid Wastes and quantities will be required to be submitted. Also, waste receipts will need to be obtained and provided to Council prior to issue of an Occupation Certificate.

## **HOURS OF OPERATION**

- 19 Hours of Operation are restricted to the following:
 

Drive-thru:	24hour 7 days
Restaurant:	6.00am to midnight 7days

The applicant is to submit for review for Council assessment, 12 months after the commencement of 24 hour trading. This review is to detail if any complaints or submissions that were received by Hungry Jack's or Council in regards to the 24 hour operation, and is to detail any measures undertaken to rectify any relevant issues raised. Upon submission of this review Council will assess and recommend ameliorative measures if necessary.

## **SEWERAGE AND WATER**

### ***Administrative***

- 20 A detailed hydraulic plan for water and sewerage services prepared by an accredited engineer is to be provided before the construction certificate is issued.
- 21 A detailed works as executed plan for water and sewerage services prepared by an accredited engineer is to be provided before the Interim/Occupation Certificate is issued for the project.

### ***Sewerage***

- 22 Single sewer service tie (junction) is to be provided to service the whole of the development. This may be achieved by using an existing service tie remaining from existing dwelling. All redundant service ties are to be removed from the sewer main and the pipe section replaced.

- 23 Should a new service tie be required the following will apply;
- A service tie connecting to a sewer outside a residential block should generally be at right angles to the sewer. Where a service is a maintenance hole (manhole) or "dead-end", the service shall be at an angle between 90° and 180° from the downstream sewer to ensure a smooth flow of entry into the main line.
  - Service ties shall be located clear of all authorities easements, driveways and retaining walls.
  - Where the sewer main is located outside of the residential block, the service tie shall extend inside the property boundary and an inspection shaft extended vertically upward to the surface ground level to form a shaft. The tie should generally be located on the sewer main line at 1.0 metre from the lowest corner of the property and extend 1 metre into the boundary.
  - Sewer service ties are normally 150mm solvent welded pipes or rubber ring (in mine subsidence areas).
  - In calculating the depth the designer should be familiar with the requirements for grade and depth provided in *AS/NZS 3500.2 sections 3.4 and 3.7*.

An acceptable design will have the following minimum depths of cover to the service tie:

- calculated on the basis of minimum cover with a property of 300mm and a maximum possible length of drain at a grade of 1 in 60
- calculated on the basis of minimum cover with in the property, if subject to vehicular traffic, of 500mm and a maximum possible length of drain at a grade of 1 in 60.
- The service tie shall have a minimum grade of 1.0 % and a maximum of 20 %. For ties to deep sewers, a buried vertical riser is to be used.
  - On deep sewers that are near boundaries it may be necessary to use a BVR. These are to be noted on work-as-executed drawings. It is absolutely critical that BVR's are installed on a compacted trench base with suitable concrete support

### ***Sewer pipe materials and construction methods***

- 24 Sewers shall be constructed from materials proven to be structurally sound and durable, and shall have satisfactory jointing systems. The use of two or more types of pipe material on a single run of pipe between adjacent maintenance holes is not acceptable.

Materials approved for use in sewers are:

- Vitrified Clay - VC
- Reinforced Concrete - RC, see notes 1, 2 and 3
- Ductile Iron - DI/CL, see notes 1, 2
- Unplasticised Poly Vinyl Chloride – uPVC (Equivalent to class SEH, solid wall or approved structured wall), see note 1
- Glass Reinforced Plastics - GRP, see note 4 (Polyester Based)
- Polyethylene – HD-PE, see note 4

### **Notes**

1. Not to be used within, nor up to 1 km downstream of industrial areas or hospitals.

2. Concrete shall be made with Type "SR" sulphate resisting cement with a tri-calcium aluminate content not greater than 5%, or Type "LH" low heat cement. Concrete pipes intended for other than trunk sewers shall be manufactured with a minimum 10mm sacrificial layer on the inside of the pipe.
3. Concrete pipes are not acceptable for DN150 and DN225 sewers.
4. Subject to special conditions and only with written approval of Lithgow City Council.

Proposals for the use of other materials will be considered if supported by adequate technical and performance data.

Where the pipe material is known it shall be shown on the drawings. Where the pipe material is not known prior to submission for detailed design acceptance, the drawings are to contain notes ensuring that the above requirements are satisfied.

### **Class of pipes**

- Sewerage pipes must be of adequate strength to meet overburden and traffic loads. Loads are to include loads created from likely construction and maintenance activities;
- VC pipes shall be Class 4 or stronger;
- Class 2 (X), 3 (Y) and 4 (Z) reinforced concrete pipes manufactured in accordance with the latest version of AS 4058 are acceptable if used in accordance with the requirements of AS 3725;

### ***Water***

- 25 The purchase of special maintenance equipment and plant requires considerable lead times, special approvals and funding. As a consequence, no design incorporating the need for special or unusual equipment should be prepared without the prior written approval of Lithgow City Council.

This requirement also extends to the need to use special techniques or hired equipment. To ensure that maintenance personnel can respond and overcome operational problems consistent with service objectives, it is essential that maintenance of the system is not dependent on non-standard techniques or equipment

- 26 The minimum cover to water mains shall normally be 750mm in roadways or traffic areas and 600mm elsewhere. The minimum cover to water services shall be 450mm in roadways or traffic areas and 375mm elsewhere. Provision shall be made for transient loads such as construction equipment where cover is reduced during the construction phase.
  - A pipeline shall be lowered when cover is removed from existing pipelines for new works (such as roads). If this is physically impossible then consideration shall be given to protection by a suitably designed reinforced concrete relieving slab; extending at least 500mm into natural ground beyond existing pipe trench lines.  
This slab shall be segmented by construction joints into maximum 1.0 metre long easily removed segments, and separated from the pipe obvert by no less than 25mm of granular or compressible material.

- Thrust or anchor blocks of plain or reinforced concrete, which have been designed to resist unbalanced hydraulic forces, shall be provided at all bends, tees, tapers, in-line stop valves and dead ends.

To limit the scouring effect arising from water flow within the pipe bedding material, and also to anchor the pipe, special bedding, trench stops and scour stops may be required. Scour stops shall be provided along inclined mains where the slope is 5 to 30%. Trench stops can be regarded as an alternative to scour stops and may be provided along inclined mains where the slope is 5 to 15%. To enable easy location, trench and scour stops shall be placed at intervals of equal length with spacing not exceeding that which is specified

27 Water service connections works are to be undertaken under the provisions of *Section 152 of the Local Government (General) Regulations 2005*

- Water services should be of single service drawn copper pipe, Type A, manufactured in accordance with *AS 1432*. Services are to be a minimum of 20mm diameter, with 1.4mm wall thickness or DN 25 PE with a minimum PN 12.5 rating and compliant with *AS 4130*
- Brass or copper capillary fittings are to be installed at all joints, branches, and bends. Meter boxes, meters, maincocks and elbows are to be of a type approved by the Water and Wastewater Manager or alternatively these fitting can be provided by Council at full cost recovery.
- Separate metered water services are to be provided to every allotment, as well as parks, reserves and landscaped roundabouts.
- The meter box for each lot should be located approximately 500mm outside the front and side property boundaries. Services should be located in pairs at side property boundaries. Note that the stop valve should be located no more than 450mm from the water meter, measured from the road alignment.
- All service connections should cross the road perpendicular to the road centreline. Non-detectable marking tape to *AS 2648* shall be laid 150mm above all water services. Such connections should be marked on each kerb with a "W"
- A Work as Executed plan (WAE) **MUST** be submitted to council prior to the the Occupation Certificate being issued, outlining the following:
  - Service meter location
  - Allotment number that meter is assigned to
  - Serial number of water meter

28 Fire hydrants of an approved type are to be installed along the water main at such convenient distances, and at such places, as may be necessary for the ready supply of water to extinguish fires accordance with *AS/NZS 2419*.

29 All maincocks, tees, hydrants, stop valves, scour valves, and air valves should be located within the public footway and shall be of type approved by Council.

### **GRAFFITI & VANDALISM**

30 Any vandalism and graffiti are to be removed from the proposed building at the earliest possible time during the life of the approval.

### **TRADE WASTE REQUIREMENTS (only if the proponent undertakes food preparation)**

- 31 A Liquid Trade Waste Application is to be completed and submitted to and approved by Councils Environmental Health Officer prior to the commencement of the external drainage/grease arrestor installation.
- 32 Dry basket arrestors are to be installed in all floor wastes located in food handling and food preparation areas.
- 33 Sink screens are to be installed to all sinks located in the food handling and food preparation areas.

### **LIGHTING**

- 34 Any proposed external and security lighting should be directed and shielded to avoid light spillage to adjoining residential areas.
- 35 That external lighting shall be adjusted or hooded to prevent glare nuisance.

### **ROADS & TRAFFIC AUTHORITY**

- 36 Each access into the development must be sufficient to accommodate the largest class of vehicle permitted access via that driveway and shall be designed in accordance with the RTA *Guide to Traffic Generating Developments* and to meet turning circle requirements.
- 37 The maximum size vehicle permitted access to the development via the Great Western Highway access driveway is an 8.8 metre rigid vehicle, with the exception of a 10.2 metre long refuse vehicle.
- 38 The maximum size vehicle permitted access to the development via the Caroline Avenue access driveway is a 10 metre long rigid vehicle.
- 39 Service vehicle access to the site is to be outside of peak operating hours and at such times so as not to cause queuing on the Great Western Highway.
- 40 The proposed combined access on Stewart Street is to be not less than 9 metres wide with 1 metre splays at the kerb line. The centre of the access is to be defined by longitudinal delineation.
- 41 Heavy vehicles are not permitted access into the development via the Stewart Street access driveway.
- 42 All traffic movements into and out of the development are to be in a forward direction.
- 43 All activities, including loading and unloading of goods, associated with the development are to be carried out on site.
- 44 Advertising signage is to be contained wholly within the development and not prove a hazard or nuisance to road users on public roads.

- 45 Signage is not to flash, move or be objectionably glaring or luminous. Luminosity is to be in accordance with the *Transport Corridor Outdoor Advertising Signage Guidelines* for Zone 3.
- 46 Lighting is to be in accordance with Australian Standards and is not to be a distraction or a nuisance to road users through light spillage onto the road corridor.
- 47 Landscaping and vegetation of the site is not to interfere with driver or pedestrian sight lines.
- 48 The pavement and seal of widened sections of the Great Western Highway are to be consistent with the existing pavement and seal on the highway. In this regard a pavement design is to be forwarded to the RTA for approval. The approved layout and pavement design will form part of the Works Authorisation Deed.
- 49 As works are required on the Great Western Highway the developer will be required to undertake private financing and construction of the works on a road in which the RTA has a statutory interest. A formal agreement in the form of a Works Authorisation Deed is required between the developer and the RTA.
- 50 The Works Authorisation Deed is to be entered with the RTA before a Construction Certificate is issued.
- 51 A Road Occupancy Licence is required prior to any works commencing within three metres of the travel lanes of the Great Western Highway. This can be obtained by contacting Mr Paul Maloney on (02) 6861 1686. Submission of a Traffic Management Plan incorporating a Traffic Control Plan is required as part of this licence.
- 52 All works associated with the development are to be at no cost to the RTA.

## **~~SYDNEY CATCHMENT AUTHORITY WATER NSW~~**

### ***General***

- 53 ~~The site layout and works are to be as shown on the Site Layout Plans prepared by Wbp Architects (Drawing No. SK6; Rev: 8; dated 18.02.11). Any revision to the site layout or works is to be agreed to by the Sydney Catchment Authority;~~

~~*Reason for Condition 53—The Sydney Catchment Authority has based its assessment under the Drinking Water Catchments Regional Environmental Plan No. 1 on this version of the development;*~~

**The site layout and works shall be as shown on the Revised Site and Floor Levels Plan prepared by Ramakers Architects Pty Ltd (Dwg. No. 2521/SK09; Rev A; dated 5 March 2015). Any revision to the site layout or works that may impact water quality shall be agreed to by Water NSW.**

***(Amended as per S96037/14 dated **Insert Issue date of consent**)***

### ***Stormwater Management***

- 54 A stormwater drainage system including pits, pipes, a 31 cubic metre on-site detention basin and all stormwater treatment and management measures are to be implemented as specified in the MUSIC Model Assessment Report (~~dated 30 March 2011~~) **(dated 28 April 2015)** and the Drainage Design Layout Plans (Drawing No. 201978 E01 & E02; Issue B; dated 21.02.11) **(Dwg. No. 201978 E01 and 201978 E02; Issue D; dated 30 April 2015 and Dwg. No. 201978 E03; Issue C; dated 24 February 2015)** both prepared by LandTeam Australia Pty Ltd, in particular ~~or~~ as elaborated or varied **by the** in the following conditions **below**.  
**(Amended as per S96037/14 dated *Insert Issue date of consent*)**

### ***Rainwater Tanks***

- 55 ~~Rainwater tanks with a minimum total capacity of 10,000 litres must be installed to collect roof runoff from the restaurant building and shall meet the following specific requirements:~~
- ~~• the rainwater tanks must be plumbed to toilets, the hot water system and areas of non-potable use, including landscape irrigation;~~
  - ~~• roof and gutters must be designed such that roof runoff is captured in the rainwater tanks;~~
  - ~~• overflow from the rainwater tanks shall be directed to the site stormwater drainage system;~~
- (Deleted as per S96037/14 dated *Insert Issue date of consent*)**

### ***Bioretention Basin***

- 56 ~~A bioretention basin is to be located and constructed as shown on the Drainage Design Layout Plan (Drawing No. 2019798 E01; Issue B; dated 21.02.11) according to the following specifications:~~
- ~~• the bioretention basin is to be hydraulically sized and designed as shown on the Drainage Design Details Plan (Drawing No. 2019798 E02; Issue B; dated 21.02.11), and must also be consistent with Chapter 6 of *WSUD Engineering Procedures: Stormwater* (Melbourne Water 2005);~~
  - ~~• the bioretention basin is to have a minimum filter area of 35 square metres and a minimum filter depth of 600 mm above the underdrain;;~~
  - ~~• the basin is to have a minimum extended detention depth of 300mm;~~
  - ~~• the filter media must be a sandy loam with a median particle diameter of 0.45mm;~~
  - ~~• the overflow and final drainage discharge from the bioretention basin shall be directed to the Council's stormwater drainage system;~~
- (Deleted as per S96037/14 dated *Insert Issue date of consent*)**

- 57 ~~The bioretention basin must be protected by erosion and sediment control measures during any construction and post construction period until the ground surface is revegetated or stabilised;~~
- (Deleted as per S96037/14 dated *Insert Issue date of consent*)**

- 58 ~~The bioretention basin must be permanently protected from vehicular damage by fences, bollards, slotted kerbs or similar permanent structures, with signs to~~

be erected to advise of the nature and purpose of their water quality management function;

***(Deleted as per S96037/14 dated Insert Issue date of consent)***

~~59— Any variation to stormwater treatment, management and devices is to be agreed to by the Sydney Catchment Authority;~~

~~*Reason for Conditions 54 to 59— To ensure appropriate stormwater treatment and quality control measures are in place so as to achieve a sustainable neutral or beneficial impact on water quality, particularly during wet weather over the longer term;*~~

***(Deleted as per S96037/14 dated Insert Issue date of consent)***

#### ***Operational Environmental Management Plan***

~~60— An Operational Environmental Management Plan (OEMP) detailing the requirements and responsibilities for the inspection and maintenance of all stormwater structures, including rainwater tanks, stormwater drains, pits and pipes, and the bioretention basin is to be developed in consultation with the Sydney Catchment Authority and Council prior to the issuance of an occupation certificate for the restaurant;~~

~~*Reason for Condition 60— To ensure that the stormwater quality management works associated with the development are designed and maintained so as to have a sustainable neutral or beneficial impact on water quality over the longer term;*~~

***(Deleted as per S96037/14 dated Insert Issue date of consent)***

#### ***Construction Activities***

~~61— A Soil and Water Management Plan (SWMP) is to be prepared for all works proposed or required for the development by a person with knowledge and experience in the preparation of such plans. The SWMPs must be prepared prior to any construction commencing, and are to meet the requirements outlined in Chapter 2 of NSW Landcom's *Soils and Construction : Managing Urban Stormwater* (2004) manual—the "Blue Book", and be to the satisfaction of Council;~~

***(Deleted as per S96037/14 dated Insert Issue date of consent)***

~~62— Effective erosion and sediment controls are to be installed prior to all construction works including site access and earthworks for the building. The controls must prevent sediment and contaminated water leaving the construction site, and are to be regularly maintained and retained until works have been completed and groundcover established or ground stabilized.~~

~~*Reason for Conditions 61 & 62— To manage adverse environmental and water quality impacts during the construction stage of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase.*~~

***(Deleted as per S96037/14 dated Insert Issue date of consent)***

**55 A bioretention basin shall be located and constructed as specified in the MUSIC Model Assessment Report (dated 28 April 2015) and Drainage Design Details Plan (Dwg. No. 201978 E02; Issue D; dated 30 April 2015) both prepared by LandTeam Australia Pty Ltd, and shall incorporate the following specifications and requirements:**

- be designed consistent with Adoption Guidelines for Stormwater Biofiltration Systems (FAWB 2009)
- a minimum surface area and a minimum filter area of 35 square metres
- a gross pollutant trap (Humegard HG12 or Water NSW endorsed equivalent) installed at the main inlet point
- an extended detention depth of 300 mm
- a filter depth (excluding transition layers) of 600 mm above the underdrains
- a filter media consisting of a clean sandy loam with a certified median particle diameter of 0.5 mm, a maximum orthophosphate concentration of 40 mg/kg and a maximum total nitrogen concentration of 400 mg/kg
- be planted with appropriate deep-rooted, moisture-tolerant vegetation protected by rock mulch (grass and turf is not appropriate vegetation and organic mulch is not suitable)
- direct all discharge and overflow to Council's stormwater drainage system
- be permanently protected from vehicular damage by bollards, fences, castellated kerbs or similar structures, with a sign to be erected to advise of its nature and purpose in water quality management, and
- be protected by sediment and erosion control measures during any construction and post-construction phase until the ground surface is revegetated or stabilised.

*(Inserted as per S96037/14 dated **Insert Issue date of consent**)*

- 56 The bioretention basin shall be constructed after all hardstand areas have been paved or sealed and all ground surfaces have been stabilised.

*(Inserted as per S96037/14 dated **Insert Issue date of consent**)*

- 57 A rainwater collection and reuse system for the building roof shall be installed that incorporates the following specifications and requirements:

- rainwater tanks with a minimum total capacity of 10,000 litres above any volume required for mains top-up
- roofs and gutters designed so as to maximise the capture of rainwater in the tanks
- the tanks plumbed to toilets, and other areas for non-potable use including use landscape watering, and
- all rainwater tank overflow shall be directed to the bioretention basin on the site.

*(Inserted as per S96037/14 dated **Insert Issue date of consent**)*

- 58 No variation to stormwater treatment or management that will impact on water quality shall be permitted without the agreement of Water NSW.

*(Inserted as per S96037/14 dated **Insert Issue date of consent**)*

- 59 A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council that all stormwater management

structures have been installed as per these conditions of consent and are in a functional state.

*(Inserted as per S96037/14 dated **Insert Issue date of consent**)*

***Operational Environmental Management Plan***

**60** An Operational Environmental Management Plan (OEMP) shall be prepared in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans. The OEMP shall include but not be limited to:

- details on the location, description and nature of stormwater management structures such as pits, pipes, gross pollutant trap, bioretention basin, and rainwater collection system
- an identification of the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
- the identification of the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and
- checklists for recording inspections and maintenance activities.

*(Inserted as per S96037/14 dated **Insert Issue date of consent**)*

***Other***

**61** Conditions 54 to 60 above shall be carried out prior to the issuance of an Occupation Certificate.

*(Inserted as per S96037/14 dated **Insert Issue date of consent**)*

***Construction Activities***

**62** A Soil and Water Management Plan shall be prepared by a person with knowledge and experience in the preparation of such plans for all works proposed or required as part of the development. The Plan shall meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual - the "Blue Book". The Plan shall be prepared prior to the commencement of construction works and shall be to the satisfaction of Council.

*(Inserted as per S96037/14 dated **Insert Issue date of consent**)*

**62A** Effective erosion and sediment controls shall be installed prior to any construction activity including site access, and shall prevent sediment or polluted water leaving the site or entering any stormwater drain or natural drainage system. The controls shall be regularly maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.

*(Inserted as per S96037/14 dated **Insert Issue date of consent**)*

**TRAFFIC AREA LOCAL COMMITTEE/COUNCIL ENGINEERING REQUIREMENTS**

**63** All developments to be constructed in accordance with Lithgow City Council's "Subdivision and Development Code" adopted by Council 28 September 1992, Minute No. 1439.

- 64 Prior to the issue of Construction Certificate the applicant shall undertake a dilapidation survey of Caroline Avenue from the Great Western Highway to Stewart Street and for the section of Stewart Street adjacent to the development to determine its condition. Such dilapidation survey shall be provided to Council.
- 65 Prior to the issue of a Final Occupation Certificate, the applicant shall provide an updated dilapidation survey to Council. The applicant and the Council shall then agree on an appropriate compensatory amount being paid to Council for damage to the road during construction attributable to the development, having regard to traffic count information obtained during construction.
- 66 No stopping signs are to be erected for the entire length of the proposed development in Stewart Street on both sides of the street.
- 67 No stopping signs are to be erected for the full length of the property on both sides of Caroline Avenue.
- 68 Traffic lanes in Caroline Avenue are to be clearly marked, one with a left turn arrow and one with a through arrow, and similarly, on the departure side there is to be a through lane and a left turn lane clearly marked in Caroline Avenue.
- 69 The centre line of Caroline Avenue requires the construction of a median strip to prevent any right turn vehicles making a manoeuvre into the entry driveway of Hungry Jack's.
- ~~70~~ (Removed as per Mod 1 dated 12 October 2011, all conditions below renumbered)
- 70 The store is to operate 24 hours. Internal lighting on the site is to be subdued to the point where there is no spill over into the residential areas in Caroline Avenue and Stewart Street.
- 71 Stop signs are to be installed at the intersection of Caroline Avenue and Stewart Street.
- 72 All driveways are to be constructed to ensure that the proposed traffic movements only are permitted at those locations, that is, the left turn into the site from Caroline Avenue will be constructed to ensure that there are no vehicle movements leaving this particular driveway and similarly, the left turn driveway into the site from the Great Western Highway.
- 73 All work is to be carried out at the expense of the applicant and in accordance with the requirements of the Group Manager Operations.

## **BUILDING REQUIREMENTS**

### ***General Requirements***

- 74 All building work must be carried out in accordance with the provisions of the Building Code of Australia.

- 75 A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier. **A Construction certificate is not required prior to the carrying out of survey work.**  
**(Amended as per S96037/14 dated *Insert Issue date of consent*)**
- 76 Your attention is drawn to the existence of the Disability Discrimination Act. A construction certificate is required to be obtained for the proposed building/s, which will provide consideration under the Building Code of Australia, however, the development may not comply with the requirements of the Disability Discrimination Act. This is the sole responsibility of the owner, builder and applicant.
- 77 The garbage storage area shall be provided with a concrete base and provided with a concrete base and tap adjacent to the bin area. Landscaping is to be provided to conceal the bins from view from the road or carparking area.

***Requirements during construction***

- 78 To ensure structural integrity, the maintenance of minimum health standards, the management of the buildings surrounds and the protection of the environment, compliance certificates are to be issued at significant stages throughout the construction period. These stages are:
- Pier holes/pad footings before filling with concrete.
  - Trenches complete with reinforcing and prior to filling with concrete.
  - Internal drainage carried out by licensed plumber prior to covering
  - Reinforcing steel in position and before concrete is poured (slabs, footings, lintels, beams, columns, floors, walls and the like.
  - Slab base if no piers required and prior to placement of the membrane.
  - Floor frame, dampcourse, antcapping, foundation walls before floor material is laid.
  - Framing when external wall and roof cladding is in place and prior to internal linings.
  - External drainage (including onsite waste disposal system) installed by a licensed plumber and prior to covering.
  - Wet area flashing prior to tiling or covering.
  - Stormwater drainage between building and discharge point (drainage pipes, soakage pits and the like) prior to covering.
  - Completion of the development and sign off to all conditions of the consent including landscaping, prior to occupation and use.
- At each inspection, erosion and sediment control measures and site management will be inspected.
- 79 All construction work on site shall only occur between the following hours:
- |                            |                  |
|----------------------------|------------------|
| Monday to Friday           | 7.00am to 6.00pm |
| Saturday                   | 7.30am to 5.00pm |
| Sunday and public holidays | No work          |
- 80 That the male and female toilets be provided with artificial light and mechanical ventilation in accordance with Part F4 of the Building Code of Australia (volume 1).

- 81 That the rainwater drains are connected to the water storage tank.  
**Note: Overflow pipes are to be directed to the site drainage system in accordance with Sydney Catchment Authority requirements.**
- 82 That all "wet area" floors, including concrete, shall be flashed to walls with approved material so as to effectively prevent moisture entering the structure. Particular attention is to be paid to the flashing of the shower recess. Any wet area flashing shall comply with AS 3740 "Waterproofing of Wet Areas within Residential Buildings".
- 83 That applications to carry out sewer drainage in sewered areas and connection to Council's water supply must be lodged prior to commencement of any work on site.
- 84 That all plumbing and drainage work be carried out by a licensed plumber and drainer and inspected by Council officers.
- 85 Access for disabled persons and the provision of sanitary facilities shall be in accordance with the Building Code of Australia and Australian Standard 1428 "Design for Access and Mobility".

***Commercial Kitchen Requirements (only if the proponent undertakes food preparation)***

- 86 All food preparation, storage, and handling areas are to be constructed in accordance with Australian Standard 4674 - 2004 *Design, construction and fit-out of food premises*. The fit out must be able to meet the operational requirements of the Australian New Zealand Food Standards Code (FSANZ 2008)
- 87 To ensure emissions from cooking processes are effectively removed and to avoid air pollution mechanical exhaust ventilation must be provided above cooking appliances and constructed in accordance with Australian Standard 1668.2 – 1991 – "The use of Mechanical Ventilation and Air Conditioning in Buildings – Part 2: Mechanical Ventilation for Acceptable Indoor-air quality".

***Requirements prior to issue of the Occupation Certificate***

- 88 Prior to the use/occupation of the structure an Occupation Certificate must be issued by the Principal Certifying Authority.
- 89 Upon completion of the building and prior to issue of an Occupation Certificate, all of these services must be certified on a Fire Safety Certificate as required and submitted to Council stating that the essential fire and other safety measures have been installed and comply with the relevant standard specified below.  
Once the building is occupied, an Annual Fire Safety Statement must be submitted to Council and the NSW Fire Brigades, PO Box A249, SYDNEY SOUTH NSW 2001, and a copy retained on site certifying that:
- (i) The essential fire and other safety measures have been maintained and serviced at regular intervals in accordance with the appropriate maintenance specified below and are still operable; and
  - (ii) That the path of travel is clear of anything which would impede free passage of any person at any time.

### **Fire Safety Requirements**

- 90 Illuminated exit signs (*complying with Australian Standard AS 2293 – Emergency Evacuation Lighting in Buildings and E4.8 of the Building Code of Australia*) must be installed over each required exit.
- 91 Exit signs are to be provided on all access doors. These are to be designed and installed in accordance with AS2293.
- 92 In accordance with the Building Code of Australia, portable fire extinguishers must be installed within the building in accordance with the requirements of Australian Standard AS 2444. A 3.5kg carbon dioxide portable fire extinguisher and 1.2m x1.2m fire blanket are to be installed within the kitchen area of the building.
- 93 All doors forming required exits or on paths of travel to required exits shall be readily opened by single handed action on a single device without recourse to a key from the side facing the person seeking egress from the building. Two-leaf doors are to be fitted with panic bars located between 900mm and 1.1m from the floor.
- 94 Fire hazard properties of floor, walls, ceiling linings/coverings, sarking and the like are to comply with Specification C1.10/C1.10a.
- 95 The essential fire and other safety measures applicable to this building are to be listed in a Fire Safety Schedule on issue of the Construction Certificate.
- 96 The applicant shall ensure a regime of regular (at least daily) off site litter patrols is established and adhered to so as to ensure that roadsides and other properties are not adversely impacted upon by any litter that emanates from the site or from patrons that have purchased products at the site. The details of the regime are to be provided to Council for the approval of the General Manager prior to the issue of an Occupation Certificate.