

## ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT

**JUDGMENT NAME:** NEW STATE DEVELOPMENTS PTY LTD V CITY OF PORT ADELAIDE ENFIELD

**CITATION:** [2003] SAERDC 40

**PARTIES:** **Appellant(s)**  
NEW STATE DEVELOPMENTS PTY LTD

**Relevant Authority**  
CITY OF PORT ADELAIDE ENFIELD

**FILE NUMBER(S):** 750 OF 2002

**HEARD BY:** Commissioner Green

**SUMMARY:** *Development Act 1993 – application to develop retailing premises for display and sale of camping goods and outdoor furniture and associated items – Local Centre Zone – refused by the Council – nature of development found to be “shop” – proposal to limit nature of retailing to that sought – expert witness found not to be independent – nature, scale and location of retailing use in relation to zone provisions and centres hierarchy, considered – existing zone objective of limited relevance – the existing use for restaurant/takeaway food not a local, but a district catchment – other off-setting factors considered – safety of access to arterial road considered – reduction of one access point and relocation and widening of other considered to be adequate – adequacy of parking for lower turnover retail type, applicability of policies and guidelines, and parking survey analysis considered – parking numbers including off-street and on-street parking availability relative to total floor area initially found to be inadequate – amended plan refining access, reducing floor area and increasing off-street parking numbers submitted and found to be adequate – proposal marginal but sufficiently in accord with Development Plan to warrant conditional provisional development plan consent – appeal upheld on amended plan, Council decision reversed – conditions limiting nature of retail goods and areas incorporated.*

**LEGISLATION CITED:** **Development Act 1993, Development Regulations 1993**

**CASES CITED:**

**HEARING DATE(S):** 13-14 March 2003; 6 May 2003

**JUDGMENT DATE:** 8 May 2003

**REPRESENTATIVES:**

<b>Appellant(s)</b> MR G MANOS	<b>Solicitors</b> MANOS & ASSOCIATES
<b>Relevant Authority</b> MS A NICHOLLS	<b>Solicitors</b> NORMAN WATERHOUSE

**NEW STATE DEVELOPMENTS PTY LTD**  
v  
**CITY OF PORT ADELAIDE ENFIELD**  
**ERDC NO. 750 of 2002**  
**[2003] SAERDC 40**

**THE COURT DELIVERED THE FOLLOWING JUDGMENT:**

1 This matter comprises an applicant appeal (appellant name was changed from prospective tenant Ray's Outdoors, to developer proponent New State Developments Pty Ltd), against the decision of the City of Port Adelaide Enfield ("*the Council*"), to refuse Development Application No. 040/02161/02, for the erection of a shop for the display and sales of camping supplies and outdoor furniture and associated items, at Enfield.

2 The Council gave as its reasons for refusal:

- "1. The development fails to comply with the Development Plan Port Adelaide Enfield (City Council Wide Objectives 1, 4, 27, 29, 51, 52(a), (d) & (e), Council Wide Principles of Development Control 4, 100, 101, 107(b) & (c), 109(f), 110, 114(a), (d), (h)(i) & (i) [sic], 115(a), (b), (c), (d), (e), (h) & (i), 116, 119(a), 138, 139, 140, 141(a), (b), (c) & (e), 150, 154, 155, 156, 157(a), (b), (c), (e) & (h) in that:*
- (a) The proposal fails to provide suitable on-site parking and access arrangements to service the needs of both employees and visitors to the site and minimise potential vehicle conflict;*
  - (b) The proposal impacts unreasonably on the character and amenity of the locality in particular the residential area to the east;*
  - (c) The development fails to integrate with the relevant zone provisions in terms of building floor area limitations;*
  - (d) Inadequate landscape areas are incorporated into the proposed development to adequately screen carparking and improve the overall amenity of the locality;*
  - (e) The proposal does not represent orderly or economic development; and*
  - (f) The proposal represents overdevelopment of the site."*

3 A summary of some of the relevant details in this matter is as follows:

Date of application:	9 August 2002 (registered)
Subject land address:	399-405 Main North Road, Enfield
Existing use:	Pizza restaurant and takeaway food outlet and vacant land (northern parcel)
Proposal:	Demolish existing buildings and erect a shop for the display and retail sale of camping goods and outdoor furniture and associated goods with ancillary car parking, landscaping and advertising displays
Relevant authority:	City of Port Adelaide Enfield
Appropriate Development Plan:	Port Adelaide Enfield (City) consolidated version 29 March 2001
Relevant zone/area:	Local Centre (MAP PAdE/34) and on MAP PAdE/1 (Overlay) Part B
Date of decision:	4 December 2002
Appeal lodged:	19 December 2002

4 The required pre-trial conference was not successful in settling the matter and it proceeded to hearing.

5 Evidence was given by Mr P Donato, a representative of the developer appellant, regarding the proposal and intentions of Ray's Outdoors (proposed tenant), and of its outlets and operations in Victoria. Expert evidence was provided by Mr P Weaver (Exhibit A5), and Mr A Short (Exhibit R2), both experienced traffic engineers and by Mr G Morias from Transport SA, a person experienced in transport engineering matters. Evidence was also given by Mr D Hutchison (Exhibit A4), and Mr R McBryde (Exhibit R3), both MPIA and experienced town planners, and the Court noted that Council's professional planning staff recommended refusal (Exhibit R1, page 54).

6 The Court viewed the subject land and the locality on 13 March 2003 in the presence of the parties and it received amended plans (Exhibit A1), experts' statements and reports, copy documents, photographs, and much parking and traffic material. I am also familiar with like premises referred to in evidence, such as Snowy's Outdoor, Richmond Road, Keswick and Barbecue's Galore, Anzac Highway, Keswick, with regard generally to product ranges and parking generation and provision.

### **The Subject Land**

7 The subject land is regular in shape with a frontage to Main North Road of approximately 60.36 metres and depth of 40.08 metres providing a site area (excluding a generous corner cut-off) of some 2,400 square metres. The land comprises six allotments, Lots 24-29, DP2976 contained in two Certificates of Title Volume 5365, Folio 96 and Volume 5740, Folio 521. In addition to fronting Main North Road, the site fronts Fitzgerald Avenue along its southern boundary and an unnamed public road (laneway) of some 4 metres in width along its eastern boundary.

8 The site falls generally from south-east to north-west and erected on the southern part of the land is a building formerly used as a Pizza Hut Restaurant and takeaway food facility. It is now unoccupied. That building is constructed on a concrete podium supported by concrete columns with a floor area of some 200 square metres and with undercroft car parking for some 16 cars, together with rear parking for 21 cars, providing a total parking area for 37 cars. The northern part of the subject land is vacant.

9 Vehicular access to the subject land is obtained from an ingress only immediately north of the traffic signal controlled pedestrian lights on Main North Road and from an existing crossover toward the eastern boundary of the subject land, onto Fitzgerald Avenue. The northern, vacant part of the site has a separate vehicle crossover constructed near to the northern boundary, immediately opposite Audrey Avenue. It appears to have had only limited use in recent years given the vacant land parcel it serves.

10 The northern boundary abuts a McDonald's Restaurant, takeaway food and drive through facility, fenced with a 1.8 metre high green "Colorbond" panel fence. Minor landscaping exists along the Main North Road and Fitzgerald Avenue frontages of the subject land.

### **The Proposal**

11 The proposed development is shown on plans amended post-Council decision, contained within Exhibit A1, together with an advertising display on the upper fascia shown on Exhibit R1, page 20 and the proposal would appear indicatively like a similar one at Geelong shown in photographs marked Exhibit A2. It involves the construction of a substantial building comprising a ground floor area of 1,213 square metres (display, sales, store, change rooms, amenities), with a mezzanine floor of 540 square metres (display) providing a total floor area of 1,753 square metres.

12 The following are the general goods categories to be displayed and sold:

- tents;
- outdoor furniture;
- canoes and small inflatable boats;

- camping furniture including tables, beds, chairs, gas stoves and cylinders, portable fridges, eskies and the like; together with general barbeque equipment; and
- a wide range of camping gear such as backpacks, swags, sleeping bags, and accessories, as well as fishing gear, clothing and footwear (including sub-elements such as Trims and RM Williams).

13 There was a good deal of consideration given to defining, categorising or describing the proposal given the specific nature, size and floor space intended for the goods to be displayed and sold. It could be said to partly embrace three types of retailing as defined in the Development Regulations, namely “*retail showroom*” (the furniture element), a “*service trade premise*” (tents and boats element), and a “*shop*” (which incidentally includes retail showroom). Such discussion and determination has some bearing on car parking assessment, though not definitively so. It has no other bearing or significance in terms of the Development Plan.

14 In a general sense, all the item types proposed to be displayed and sold are found in many department stores (eg. Harris Scarfe), discount department stores (eg. K-Mart, Target, Big W) and so called hardware stores (eg. Bunnings, Mitre 10 and Home Hardware), all generically “*shops*” in terms of the Development Regulations and Development Plan, though in the latter, distinctions and sub-categories are frequently referred to or made.

15 I consider that the proposal is not properly described or defined as a retail showroom or a service trade premise as it is not “*primarily*” for the display and sale of the nominated classes of goods. I consider that the proposal is clearly a “*shop*” as defined, though of a particular type, theme, range and mix of goods and with a high percentage of carryout goods.

16 The appellant, with some support from the respondent, sought to limit the shop type and any approval, to that for the display and sale of camping goods and outdoor furniture and associated items. Such proposed or potential limitation is not without difficulties in terms of being definitive, for example, types of clothing, footwear or outdoor activity goods, whether fishing, hunting, skiing or other, that may or may not be envisaged. In addition, potentially limiting and fixing the approximate proportions of each given that, on the evidence, and any assessment, it has some bearing on car parking demand, is also fraught with difficulties, for enforcement by authorities and this Court and for the business and flexibility of its ongoing operations.

17 The building is of modern design, to be constructed of full height “*tilt slab*” concrete wall panels to the rear and side elevations with high glass display windows to the Main North Road and Fitzgerald Avenue elevations of the building and with several small windows to the rear, eastern elevation.

18 The building will have a curved “*Colorbond*” (“*stone*” – an off white colour from photographs in Exhibit A2) roof falling to a height of some 3.6 metres at the front of the structure, with an awning over the entry area and with a central focal building feature rising to some 9.3 metres in height. The rear of the building has a maximum height of 7.2 metres, but this is reduced in the north-eastern corner to about 5.5 metres where the site is to be excavated. In addition, there are two roof top evaporative air-conditioning units.

19 The building is to be sited approximately 14 metres from Main North Road and a similar distance from Fitzgerald Avenue property boundaries.

20 A car parking area is proposed to be accessed via an existing 5 metre wide ingress only crossover to Main North Road that is intended to be widened to 6.5 metres to provide two-way access, and via a second access (existing 6.8 metre wide driveway) from Fitzgerald Avenue to be relocated westward and widened to 7.5 metres at the property boundary to particularly accommodate commercial delivery vehicles.

21 26 car spaces are provided in the car park, including one space for disabled persons located in the south-western corner, and four spaces nominated for staff located in the south-eastern corner. Landscaping is provided to the Main North Road and Fitzgerald Avenue frontages in a nominally, 1.4 metre wide landscaped bed (0.8 metres when vehicle overhang is excluded), with a slightly larger low garden feature at the corner of the two streets. Small landscaped strips (1 metre wide) also adjoin part of the northern and eastern boundaries and alongside each of the driveways. Some eight trees (*Celtus australis* – “*nettle tree*”) are proposed within the landscaped beds. The existing freestanding pole sign is to be relocated approximately 1 metre, and a central, above fascia, illuminated sign is also proposed.

22 Delivery vehicles (occasionally up to 11 metres in length) are expected to access the site on a weekly basis and all servicing is to be within conventional trading hours. Service access is to be from Fitzgerald Avenue with trucks pulling up to the service doorway for unloading, either by hand or by small hand operated electric forklift. Trade waste bins are to be stored inside the building and also collected during conventional trading hours.

23 It is envisaged that there will be three full-time and up to five part-time staff employed on the site providing a maximum of eight staff at any one time in peak periods. It is envisaged that the facility will operate during normal shop trading hours comprising, nominally, 9 am to 6.00 pm Monday to Wednesday, Friday and Saturday, Thursday 9 am to 9 pm, and Sunday (and public holidays) 11 am to 5 pm.

### **The Locality**

24 The locality is defined as that part of the surrounding area directly influenced by the proposal to a notable degree and conversely, that influences the proposal design and development. The locality in this case is to be defined primarily on visual appearance, character, vehicle movement and noise factors.

25 The locality boundary determined by both the town planners was very similar and I find that it extends on either side of Main North Road from just north of Warwick Street, to just south of Trigg Street, for a distance of some 50-80 metres to the west of Main North Road and for some 50-80 metres to the east of the subject land up to Flint Street and including properties around the Bath Street, Fitzgerald Avenue intersection and generally as defined by Mr Hutchison. Most of the land on the western side of Main North Road is zoned Light Industry (1) Zone, and to the south on both sides it is zoned District Commercial Zone. To the east of the site and the north/south laneways, land is zoned Residential (1) Zone, and the block containing the subject land and nine allotments to the north (all being used for the McDonald’s facility) are located in the Local Centre Zone.

26 Land uses comprise:

- mostly detached but some attached dwellings of one and two storeys located to the east across the laneway, together with a hall for hire, an RSL Club, and a light industry, all located in the Residential (1) Zone;
- a two-storey motel, car yards, light-service industries, and consulting rooms all to the south in the District Commercial Zone;
- a chemist shop, dry cleaner, service station (with shop, bakery, ATM), motorcycle sales and repairs, auto and boating sales and service, and vacant site (former petrol station and then landscape supplier – apparently approved for a food shop), all located opposite to the east and generally in the Light Industry (1) Zone; and
- McDonald’s Restaurant and takeaway, drive-through food facility adjoining the site to the north.

27 The locality is dominated by Main North Road, a primary arterial road under the control of Transport SA, which in the vicinity of the land carries some 40,600 annual average daily traffic movements (2003) – refer Exhibit R5.

28 Fitzgerald Avenue is a wide street generally operating as a local collector road and it is sufficiently wide to accommodate angled parking within the road reserve (11 spaces adjoining the RSL Club, some 50-80 metres to the south-east) and parallel parking (approximately six spaces) between Main North Road and the laneways.

29 The character of the locality is primarily mixed commercial, retail, service industrial in nature and particularly vehicle related land uses, with residential use to the east. The main road corridor has buildings located on or close to the front boundaries, with minimal landscaping and dominance of signage and overhead infrastructure. The character is therefore mixed but predominately non-residential and transport dominated and with all sensory amenity levels from either a residential or public realm perspective, being quite low and with considerable negative impacts (visual, noise, fumes, vibration, dust).

### **Relevant Development Plan Provisions**

30 I have considered the various provisions referred to by the Council and the expert town planners and I find the following to be the relevant provisions in the appropriate Development Plan, for the assessment of this matter:

#### **COUNCIL WIDE**

**Objectives:** 1, 2, 4, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 51, 52, 54, 55, 60, 61, 90, 91 and 92; and

**Principles of development control:** 3, 4, 5, 8, 24, 25, 26, 27, 28, 29, 30, 92, 93, 99, 100, 101, 104, 105, 107, 108, 109, 110, 114, 115, 116, 118, 119, 120, 138, 139, 140, 141, 145, 150, 154, 155, 156, 157, 158, 159, 160, 166, 167, 171, 173, 243, 245, 246 and 327.

#### **LOCAL CENTRE ZONE**

**Objective:** 1; and

**Principles of development control:** 1, 2, 4, 6, 7, and 8.

#### **RESIDENTIAL (1) ZONE (Adjoining to the east)**

**Objectives:** 1, 2 and 3; and

**Principles of development control:** 1, 2, 4 and 5.

#### **TABLES PAde/3, 7 and 8**

## Processing

31 The proposal was determined by the Council to be a Category 2 development, I assume that the appropriate public notification was undertaken and the evidence shows that no representations were received.

32 Pursuant to Development Regulation 24(1) and Schedule 8, clause 3, the proposal was referred to the Commissioner of Highways seeking advice and the responses to an original and amended proposal (Exhibit A1) are contained in Exhibit R1 at pages 31, 32, 46 and 47. That advice was not supportive of any access to Main North Road.

## The Evidence

33 Firstly, with regard to the evidence of Mr Hutchison, the appellant called him as an independent expert town planner witness, however, the exhibits and the evidence show that he has had a close involvement with the developers and designer, with lodging the application, acting on behalf of the applicant, lodging the appeal and acting generally in a project co-ordination role, as well as providing planning advice. He is clearly not independent and therefore the value of his evidence and the weight to be given to his opinion by this Court is very limited. With regard to traffic engineering aspects and car parking adequacy, he formed his own opinions based on policy guides and surveys of similar outlets in Victoria.

34 Mr McBryde provided written evidence (Exhibit R3) and was not required by either party (or the Court) to be orally examined on his opinion. Some of his concerns were addressed by the amended plans Exhibit A1. On the questions of access, parking, layout and servicing, he relied on the evidence of expert traffic engineers. He found the proposal to be acceptable in-principle (land use, type of retailing, floor size) within the Local Centre Zone.

35 Mr Morias, a person experienced with traffic engineering and planning advice concerning the main road and adjacent land use environment, sought improvement to current access and safety conditions on Main North Road and preferred no access to be gained from that road (with all access from the side street), or as a second preference, removal of the northern access and maintenance of the central ingress only (as is). He could not support widening, upgrading and converting that access for two-way movement.

36 Messrs Weaver and Short differed, mainly with regard to carparking demand and provisions for the proposal and to a lesser extent on access, carpark layout and loading layout arrangements. Mr Weaver's approach was to have regard to the Development Plan guidelines, other policy and public guidelines, to compare and consider survey analysis results of the particular development and type, in this case from Victorian sites and surveys undertaken by others, and to survey himself, and consider the closest similar form of development in Adelaide. The Victorian surveys and arguably the local surveys, generally produced lower parking demand and requirements than most (though not all) of the policies/guidelines/standards. Mr Short had difficulty accepting or relying on the Victorian surveys, relied on a survey of his own of the Snowy's Outdoor facility at Keswick, relied more heavily on policy standards and guidelines and held a more conservative view on parking adequacy, need and shortfall likely to arise. He also placed more limited reliance on the availability of some 6 on-street car parking spaces on Fitzgerald Avenue adjoining and opposite the subject land to the south. In summation, Mr Weaver (and Mr Hutchison) accepted the 26 car spaces proposed (and use of 6 on-street spaces) as being adequate for the proposed 1,753 square metres total floor area at a rate of some 1.48 car spaces/100 square metres total floor area. On the other hand, Mr Short sought 2.5 car spaces/100 square metres (or 44 cars), a shortfall of some 18 or at the very least a rate of two car spaces/100 square metres (35 car spaces required) with a shortfall of 9 spaces on the proposal floor area. Mr Weaver supported a single, widened two-way access to Main North Road, and subject to certain conditions, Mr Short raised no objections to it.

## Planning Assessment

37 In accord with case law as I understand it, noting there to be some variation, I have approached decision making in this matter mindful of the following:

- considering the Development Plan as a whole and all relevant provisions to the matter in question;
- considering the Development Plan as a flexible, advisory planning policy document, not as a mandatory, legal statute; as a practical guide for practical application, superimposed upon an existing state of development;
- considering the merits of the proposal as a whole, the pros and cons (points of clear compliance with guidelines or departures from them) and the position that scarcely any proposal however good, is likely to meet every provision such that no legitimate objection can be taken to it;
- considering the proposal in question and its alignment with the Development Plan, not comparing it with or testing it against other alternatives or a so called ideal design solution or planning outcome;
- integrating the various criteria, reconciling inconsistencies between them and not considering them in isolation of each other;
- distilling the overall intent, purpose and desired character of the Zone sought to be achieved via the Development Plan and the context of the characteristics and facts about the locality and the subject land (both historical and current) as well as the proposal details and whether it is conducive to achievement of the desired character and amenity of the Zone; and
- assessing the proposal on the above basis, balancing up all relevant considerations, including the evidence, what is seen on the view and the public and private interests, in determining, on a fact and degree basis in each case, whether the proposal is sufficiently in accord with the Development Plan to warrant consent.

38 I have noted the reasons for refusal of the application adopted by the Council, however on appeal, this Court effectively becomes the planning authority for the application and it hears evidence and determines the matter “*de novo*” – that is afresh. Hence, the Court needs to be satisfied with all aspects about the development, not just those relied upon by the Council in refusing the application.

39 The first issue to be addressed is the in-principle question of land use, retail type and floor size in the particular Local Centre Zone and in the location proposed. There are many relevant Development Plan clauses to this question and those of particular assistance are:

### **“COUNCIL WIDE OBJECTIVES**

.....

**Objective 19:** *The rational, economic and convenient provision of shopping, office, administrative, cultural, community, entertainment, educational, religious and recreational facilities located in integrated centres, distributed rationally within the City of Port Adelaide Enfield.*

.....

**Objective 21:** *Centres established and developed in accordance with a hierarchy based on function, so that each type of centre provides a proportion of the total requirement of goods and services commensurate with its role.*

.....

**Objective 25:** *District centres served by public transport and including shopping facilities that provide mainly ‘convenience’ goods and a sufficient range of ‘comparison’ goods to serve the major weekly shopping trips, as well as a*

*comparable range of other community facilities. [Note: Discount department store and specialty shop envisaged in list following.]*

**Objective 26:** *Neighbourhood centres to include shopping facilities that provide mainly 'convenience' goods to serve the day-to-day needs of the neighbourhood, and a limited range of more frequently required 'comparison' goods as well as a narrow range of facilities. There are not likely to be administrative facilities in neighbourhood centres. [Note: Specialty shop envisaged in list following.]*

**Objective 27:** *Local centres should include shopping, office, consulting rooms and community facilities to serve the day-to-day needs of the local community. The maximum gross leasable floor area of a shop or group of shops in a local centre should be limited to 650 square metres provided that any shop or group of shops exceeding 150 square metres gross leasable area should not be created except within local centre zones. [Note: Local convenience shops expressly envisaged.]*

**Objective 28:** *Retail showroom development should only be allowed outside of designated centres if it can be clearly demonstrated that it could be undesirable or impractical to locate them in the vicinity of designated centres.*

*Retail showrooms, trading in furniture, floor coverings, household appliances and other similar articles of bulky merchandise, require expensive indoor areas for the display of products and exhibit a lower parking demand than convenience shops. Retail showrooms complement the overall provision of facilities in centres and should be located on the periphery of those centres.*

.....

**Objective 29:** *Retailing not consistent with facilities envisaged in a centre located and operated so as not to adversely affect any designated centre, commercial, business or residential, zones, or areas, and traffic movements on local, primary, and primary arterial roads.*

*The diversification of locations for retailing providing goods and services not compatible with the grouping of facilities envisaged for regional, district, and neighbourhood, centres may be considered so long as the integrity of the centre hierarchy is not compromised and the development is compatible with land uses in the locality.*

*Retail development of this kind should be evaluated having regard to:*

- (a) its locational and operational compatibility with existing shopping, business, commercial zones, or areas, including the nature of the goods and materials to be stocked, and the noise levels of vehicles and plant used on, and servicing, the site;*
- (b) its effect on adjacent residential development;*
- (c) the increased use of local and arterial roads;*
- (d) the adequacy of vehicular access and car parking; and*
- (e) the maintenance of building and site development standards required for centres.*

**Objective 30:** *The redevelopment and consolidation of existing shopping, business, community and other appropriate centre development so as to be compatible with the desired character of each centre.*

.....

#### **PRINCIPLES OF DEVELOPMENT CONTROL**

.....

**99** *Shopping, administrative, cultural, community, entertainment, educational, religious and recreational facilities should be located in business, centre and shopping zones.*

**100** *The total gross leasable area of shops in a local centre zone should not exceed 650 square metres.*

.....

**108** *Development or redevelopment within business, centre, and shopping zones, or areas, should have regard to the following:*

(a) *Their location and assigned role in the centre hierarchy of designated centres and designated centre zones, or areas.*

(l) *Provision of retail showrooms for the trading of bulky goods on the periphery of centres, or in designated service retail zones in inner areas.*

**118** *Shopping development should be located as follows:*

(a) *A shop or group of shops with a gross leasable area greater than 150 square metres should be located in a business or centre zone.*

#### **LOCAL CENTRE ZONE**

**Objective 1:** *A zone accommodating a range of shopping, office and community facilities to serve the day-to-day needs of the local community.*

#### **PRINCIPLES OF DEVELOPMENT CONTROL**

**1** *Development undertaken in the Local Centre Zone should be, primarily, a range of local shopping and community facilities which cater for the day-to-day needs of people living or working in the locality.*

**6** *No development is **complying** either absolutely or conditionally in the Local Centre Zone."*

40 Whilst neither of the town planners who gave evidence, nor the Council in its case (not arguing refusal ground 1(c) – refer above, which touches on this point), took issue with the proposal on this important first, threshold question, I have reservations on the following basis:

- the nature of retailing proposed is not for convenience goods but for speciality goods, and this does not meet the Local Centre Zone intent, though it remains for consideration on merit;
- retailing of the kind proposed, or similar, is encouraged in higher order district or regional centres or their periphery, or in specially defined zones, and not in a linear fashion along arterial roads;
- the floor size and overall scale (though not height – with two-storey being envisaged in some circumstances in the Local Centre Zone), not meeting the guidelines for a shop/retail development in local centre zones; and
- visual impacts from a building of the size and general bulk proposed (46 metres long and 5.5-7.2 metres high), on residential development in residential zoning adjoining to the east, not minimised by any setback or landscaping proposed on the subject land.

41 However, there are certain offsetting factors that need to be balanced up and they are:

- the Local Centre Zone in this location, at least for the last few decades, has not developed or functioned as a local centre, with both the former Pizza Hut restaurant – takeaway food and McDonald's – takeaway food facilities, having a district wide catchment and heavily reliant on passing trade from the busy Main North Road arterial as well as local trade;
- local convenience goods, services and facilities are found in the locality (convenient shop, bakery, ATM in the BP Service Station opposite; chemist, dry cleaner, consulting rooms opposite to the south-west; local hall for hire and RSL located nearby to the east and south-east), in both District Commercial, Light Industry (1) and Residential (1)

zoning, and with reasonable proximity and public transport to a District Centre 1.3 km to the south and a Neighbourhood Centre 0.9 km to the north, both on Main North Road;

- whilst the Objective for the Local Centre Zone could still be achieved (acknowledged by Mr Hutchison), it is considered that this is highly unlikely, with the range of retail, administrative, commercial and community developments along Main North Road and hence little weight should now be placed on this Objective. The evidence also was that the Council has been considering a review of such zoning for some time, though no weight is placed on this fact;
- no other centre, commercial zone or development therein, within a considerable distance, is likely to be prejudiced by the development if it were to be located on the subject land, there being limited opportunity for development of this scale without significant redevelopment, in those zones;
- direct visual impact on adjoining residential use to the east is limited to oblique views from upper level windows of a few dwellings only, with others having screened rear yards by fencing or double garaging to the lane;
- noise, odours and nuisance impacts from the proposed development, on residential use to the east is likely to be much less than from the previous restaurant-takeaway food use and with its trading into late evening hours;
- conditions of consent can ensure the roofing colour will not cause glare nuisance to adjoining residents; and
- conditions of consent could limit and fix the general goods types to be displayed and sold, and the proportion/floor area of key bulkier items, to control intensity and parking demand and ensure in the future that any overflow parking impacts are acceptable.

42 On balance, noting the local planning authority's position, the degree of relevance of the zoning and the locality circumstances, I consider that the proposal may be acceptable in principle, notwithstanding the specific Development Plan provisions, subject to more detail design considerations discussed hereafter, and that it should not be rejected on the basis of failure to comply with a number of the above listed guidelines. However, this position needs to be considered, integrated with and weighed up against, the other considerations set out below. On its own, if all other matters are appropriately addressed and found to be acceptable in terms of the Development Plan guidelines, it would be insufficient to reject the application.

43 Turning now to the next important issue, that of access modifications and provision, particularly to Main North Road. With a full redevelopment of a combined site (two titles and six allotments in all), a fresh opportunity arises to re-assess existing features that may be less than desirable, such as existing access and having regard to the Development Plan guidelines, to seek an improvement to access design, thereby improving safety and reducing hazards, rather than to further entrench a less desirable arrangement.

44 There are also many Development Plan clauses relevant to this issue, particularly:

***“COUNCIL WIDE  
OBJECTIVES***

.....

***Objective 29:*** *Retailing not consistent with facilities envisaged in a centre located and operated so as not to adversely affect any designated centre, commercial, business or residential, zones, or areas, and traffic movements on local, primary, and primary arterial roads.*

.....

*Retail development of this kind should be evaluated having regard to:*

.....

- (c) the increased use of local and arterial roads;*
- (d) the adequacy of vehicular access and car parking; and*

.....

**Objective 51:** *A compatible arrangement between land uses and the transport system which will:*

.....

- (c) provide adequate access; and*
- (d) ensure maximum safety.*

.....

**Objective 52:** *A form of development adjoining main roads which will:*

.....

- (e) provide limited and safe points of access and egress.*

.....

#### **PRINCIPLES OF DEVELOPMENT CONTROL**

.....

**8** *Development in localities having a bad or unsatisfactory layout, or unhealthy or obsolete development should improve or rectify those conditions.*

.....

**110** *Centres should have a minimal adverse impact on traffic movements on primary, or primary arterial, roads.*

.....

**114** *Provision for the movement of people and goods within business, centre, and shopping zones, or areas, should comply with the following:*

.....

- (d) Access to car parking areas should be designed not to cause congestion or detract from the safety of traffic on abutting roads.*

.....

**115** *Development within centre zones should conform to the following access and car parking principles:*

- (a) Development should provide safe and convenient access for private cars, cyclists, pedestrians, service vehicles, emergency vehicles and public utility vehicles.*
- (b) Access points onto public roads should be located and designed in such a way as to minimize traffic hazards, queuing on public roads and intrusion into adjacent residential areas.*

- (c) *The number, location and design of access points on to the arterial roads shown on Maps PAdE/1 (Overlay) Part A and Part B should be such as to minimize traffic hazards, queuing on the roads, right turn movements and interference with the function of intersections, junctions and traffic control devices.*

.....

**138** *Development and associated points of access and egress should not create conditions that cause interference with the free flow of traffic on adjoining roads.*

**139** *Development should provide safe and convenient access for private vehicles, cyclists, pedestrians, service vehicles, emergency vehicles and public utility vehicles.*

...

**141** *Access and egress points to development should be located and designed so as to:*

- (a) *minimize traffic hazards and the free flow of traffic on adjoining roads;*
- (b) *avoid vehicle queuing on public roads;*
- (c) *avoid the generation of traffic into adjacent residential areas;*
- (d) *minimize right turn movements onto arterial roads; and*
- (e) *minimize interference with the function of intersections, junctions and traffic control devices.*

.....

**157** *Car parking areas should be located and designed in a manner that will:*

.....

- (e) *minimize the number of access points to public roads;*

.....

### **LOCAL CENTRE ZONE**

.....

### **PRINCIPLES OF DEVELOPMENT CONTROL**

.....

- 4** *Development should limit direct vehicular access to arterial roads wherever practicable, and share existing vehicular access points."*

45 Transport SA for the Commissioner of Highways and Mr Morias in particular, provided advice and opinion regarding the proposal (Exhibit R1, pages 31, 32, 46 and 47 and oral evidence), and recommended that widening of the central ingress only access point on Main North Road, and converting it to two-way movement (egress also) should not be accepted by the Council or this Court. Mr Weaver's opinion was to the contrary and Mr Short envisaged some deficiencies and aspects requiring improvement. Due to its proximity to the pedestrian activated crossing and lights, a relocation of this access some 3-6 metres to the north, and widening/splaying the driveway both externally and internally, were options and improvements envisaged. Mr Morias preferred no access to Main North Road (and full reliance on Fitzgerald Avenue for all access), or in the alternate, maintenance of the status quo (ingress only).

46 The access solution has important ramifications for carparking circulation and efficiency and convenience of use, particularly the length of a so-called “blind” aisle at the front and to the northern side boundary. A blind aisle with greater than 6 spaces (9 proposed), according to the Australian Standard 2890.1 (1993) and the evidence, should be provided with a turnaround at the end. Reducing that length to 6 spaces only, by a northern relocation of the access point and approval to two-way movement, would overcome that deficiency and shortcoming. Deletion of an egress to Main North Road would mean vehicles in the car park travelling north from the southern corner, would enter an even longer blind aisle of some 14 spaces, in search of any empty space, and if unsuccessful, would cause congestion through reversing/turning around movements, to drive back to the Fitzgerald Avenue access. An end turnaround would mean a loss of at least 1 car space at the end of the blind aisle.

47 I consider acceptable and the best solution from a public safety, convenience and efficiency of carparking operations perspective, that the central access be upgraded for two-way movement on the following basis and for the following reasons:

- the two-way driveway is widened to 8 metres at the property boundary (in the light of Mr Morias’ opinion and turning paths shown in Exhibit R4 and having regard to the guide in Australian Standard 2890.1 (Exhibit A8)), splayed at the kerb for ingress and egress, and relocated some 6 metres to the north, away from the pedestrian crossing, and without breaching the Australian Standard for access points opposite a T-junction road intersection (Audrey Avenue). It is noted that this will require a relocation of the street light/pole and reinstatement of the existing central crossover; repositioning of landscaping strip on the southern side and, desirably, introduction of a pedestrian strip on the northern side of the access way could occur; and with 6 spaces in the blind northern aisle, this would obviate the need for a turnaround at the end and loss of a car space.
- it is considered appropriate and reasonable that a combined site of this size and frontage have a single dual crossover to Main North Road, in the light of the safety improvements gained by removing an existing northern access point in a position not meeting the Australian Standards for driveways opposite or near to T-junction intersection;
- relocating an access further away from the pedestrian crossing and widening/splaying, exceeds current day standards and improves conditions;
- vehicle movements will be spread between Main North Road access and Fitzgerald Avenue access and intersection to Main North Road, rather than concentrated at the latter only, causing potentially greater congestion and risks to driver and pedestrian safety at that corner;
- the nearest/eastern lane width of Main North Road is wide enough to cater for left in/left out movements, without encroaching on through movement and still allows use of both lanes for such movement; and
- combined with a much lower traffic generation use than previously existing on most of the subject land, an overall improvement in public safety is likely to result.

48 By Memorandum dated 1 April 2003, I invited and afforded the appellant the opportunity to make further amendments to the proposal, particularly concerning access, parking design and floor space to car park numbers, and at the resuming hearing on 6 May 2003, amended plans (Exhibits A9 and A10) and a letter from Mr Weaver (Exhibit A11) were tendered.

49 With respect to access, amendments were made along the lines set out in paragraph 47 and referred to Council and Transport SA staff. The latter and Mr Morias, maintained its earlier position and opinion.

50 The amended plan, Exhibit A9, also includes and proposes access to the rear, narrow public road (lane) near to its corner with Fitzgerald Avenue, to facilitate occasional movement and forwards

egress of an 11 metre long truck, although it would also enable other vehicle use of that access point and greater traffic within the lane. Such an amendment and access was not the subject of input from neighbours on the eastern side of the land. I consider that this amendment is unnecessary (the 11 metre long trucks can reverse into the loading area and then egress via the Fitzgerald Avenue access) and undesirable as it would increase the potential for interface impacts with the adjoining residential area. That part of the boundary not taken up by building length, should be fenced or bollarded to prevent such access and the staff car parks shifted 0.75 metres to the eastern boundary, to facilitate a landscape strip of 0.75 metres on the eastern side of the Fitzgerald Avenue access.

51 Adequacy of car parking, both on-site and on-street, was the central issue to the respondent's decision and to assessment and decision making on this matter.

52 The Development Plan clauses relevant to this issue are:

***“COUNCIL WIDE  
OBJECTIVES***

***Objective 29:*** *Retailing not consistent with facilities envisaged in a centre located and operated so as not to adversely affect any designated centre, commercial, business or residential, zones, or areas, and traffic movements on local, primary, and primary arterial roads.*

.....

*Retail development of this kind should be evaluated having regard to:*

.....

*(d) the adequacy of vehicular access and car parking; and*

.....

***Objective 52:*** *A form of development adjoining main roads which will:*

.....

*(d) provide for adequate off-street parking; and*

.....

***PRINCIPLES OF DEVELOPMENT CONTROL***

.....

***114*** *Provision for the movement of people and goods within business, centre, and shopping zones, or areas, should comply with the following:*

.....

*(h) On-site parking shall be determined having regard to:*

*(i) the amount, type and timing of movement generated by the use;*

*(ii) the design, location and configuration of parking spaces;*

*(iii) the ability of the site to accommodate the parking spaces;*

*(iv) the potential for shared use of parking spaces;*

*(v) the effect on surrounding activities;*

- (vi) *specific in requests of cyclists; and*
- (vii) *the availability of appropriate on-street parking.*

.....

**115** *Development within centre zones should conform to the following access and car parking principles:*

.....

- (e) *Car parking areas should be located and designed in such a way as to ensure safe and convenient pedestrian access from vehicles to facilities, safe and convenient traffic circulation, minimal conflict between customer and service vehicles and should include adequate provision for manoeuvring into and out of parking bays.*
- (f) *The layout of all parking areas should be designed so as to obviate the necessity for vehicles to back onto public roads.*

.....

- (i) *Shopping development should provide for separate parking spaces for the disabled.*

.....

**119** *Shopping development should be provided with:*

- (a) *A paved or sealed parking area at the rate of one car parking space for each 15 square metres of the gross leasable area of the shop or series of shops and, in addition, one car parking space for every three seats or sitting spaces provided in a cafe or restaurant where food is consumed.*

.....

- (c) *Separate parking spaces for the disabled.*

.....

**140** *Development should include appropriate provision on the site to enable the parking, loading, unloading, manoeuvring and fuelling of vehicles.*

.....

**155** *Development should provide sufficient off-street car parking to meet its anticipated parking demand for resident, visitor, customer, employee and service vehicles. In particular the car parking requirement contained in Table PAdE/3 should be met for those kinds of development specified..*

**156** *Off-street car parking should be developed in accordance with the appropriate Australian Standard AS2890.1 as approved by the Standards Association of Australia and in accordance with the requirements established in Table PAdE/3.*

.....

## **LOCAL CENTRE ZONE**

.....

## **PRINCIPLES OF DEVELOPMENT CONTROL**

.....

### **7 Compliance with the conditions set out in Table PAdE/3 where applicable.”**

53 Having considered all that was put in evidence and by submissions, particularly the evidence of Mr Weaver and Mr Short (Exhibit A5 and Exhibit R2), and standards/guidelines/policies for car parking provision (Exhibits A6, A7, the Development Plan and others), and from my broad experience, I concluded in my Memorandum of 1 April 2003, that there was inadequate off-street parking (26 spaces in conjunction with 6 on-street spaces in Fitzgerald Avenue), for the extent of floor area and the retailing use proposed (even if limited generally to camping and outdoor furniture and associated goods).

54 I came to that conclusion having careful regard to the following:

- the Development Plan guideline for a generic shop development is 7 car spaces/100 square metres gross retail floor area (Zone Principle 7 and Table PAdE/3) or 1 car space/15 square metres gross leasable area (Council Wide Principle 119) – and with relevant floor area of 1,753 square metres a requirement of 123 or 117 car spaces would arise; noting also that the guideline for a retail showroom of 1 car space/40 square metres total floor area would require 44 spaces for the floor area proposed, or for a retail hardware outlet (said to be similar to the proposal) of 1 car space/20 square metres total floor area, would require 88 spaces for the floor area proposed;
- the “*Planning Bulletin: Parking Provisions for Selected Land Uses (suburban metropolitan Adelaide)*”, 2001, Planning SA, identifies a standard of between 2-4 car spaces/100 square metres for hardware and other retail showroom developments and this would require between 35 and 70 spaces, noting that the lower rate may be acceptable where proven adequate through surveys and analysis by a proponent;
- “*Car Parking Standards for Centres*”, July 1996, SP Foley, for Department of Housing and Urban Development (Exhibit A7), from surveys undertaken in 1986 and 1994, identifies for differing bulky goods outlets (none the same as the proposal, with hardware the most similar), a range depending on type and size from 0.7-3.8 spaces/100 square metres total floor area, which would require between 13-67 spaces for the proposed floor area;
- the “*Guide to Traffic Generating Developments*”, 1993, Roads and Traffic Authority NSW (Exhibit A6), has a guide of between 0.3-5.1 car spaces/100 square metres gross leasable area for bulky goods retail stores – a very wide range – which would require between 6 and 90 spaces for the proposed floor area;
- some of the above “*policy guidelines*” may be shown to be less than reasonable or required based on survey results. Such work was undertaken and results provided by persons who were not called to give evidence, for similar Ray’s Outdoors outlets in Victoria (and relied on by Mr Weaver to an extent) as contained in Exhibits A4 and A5, showing a range of parking provisions from 0.7-1.26/100 square metres total floor area (so that parking required by the proposal would range from 13 to 22 spaces), and of the most similar outlet in Adelaide (Snowy’s Outdoors, Keswick, though noting that it does not enjoy any significant independent parking area and relies heavily on on-street parking and shared parking, limiting comparability of the survey results), surveyed by both Messrs Weaver and Short, showing a rate of approximately 1.1-1.7 car spaces/100 square metres total floor area, which would see a parking requirement for this proposal of some 20-30 car spaces;
- exercising caution regarding the results for a variety of reasons, including, varied locational and contextual characteristics of developments, minimal sample size, the range and timing of surveys, seasonal trading patterns and irregularities, the influence of sale versus non-sale periods and other factors;

- staff parking peak of 8 people for the proposal and potentially 8 cars, leaving 18 on-site car spaces for customers, would occur at peak trading periods when customer parking demand is also the greatest;
- acceptance that parking areas need not cater for the 100<sup>th</sup> percentile occurrence, but for a lesser amount usually in the order of the 90<sup>th</sup> percentile, but noting that overflow parking would impact at peak periods (eg. pre-Christmas, pre-Easter, pre-long weekends and discounted price sales periods etc.), on dwellings located to the east in Bath Street and Fitzgerald Avenue and potentially jeopardise safety on Main North Road, and in addition, be less convenient for users of the proposed retail outlet;
- there is little if any on-street parking opportunities on Main North Road in the near vicinity of the subject land;
- parking rates include provision for staff parking, though it is appropriate to designate specific spaces more suited to staff, due to location or accessibility reasons;
- rather than adopting a bare minimum approach (perhaps that of Mr Weaver), a somewhat conservative approach is considered more appropriate to cover the range of eventualities with any business and this one in particular, including over time, staff number and customer number fluctuations, success with customer promotions, change of product mix (which could see substitution of large bulky items floorspace, generating less parking demand, with smaller carry out items floorspace that could create higher parking demand), without change of use or further development approval being required; and
- considering all of the above factors, that a minimum of 2 car spaces/100 square metres gross leasable or total floor area (1,753 square metres), and 35 on-site car spaces are required. This is also in acknowledgment of some use of on-street parking (6 spaces in Fitzgerald Avenue), which would then provide a rate of 2.33 car spaces/100 square metres total floor area. Even that provision is likely to be marginally inadequate at peak periods referred to above. A shortfall of some 9 spaces on the proposed site layout (Exhibit A1) would arise.

55 The proponent was amenable to revising the balance between floor area and car parks and the opportunity was taken up to amend the plans (Exhibit A9) and to reduce the extent of building on the southern side and substitute it with additional car parking. The proposal became one for 1,647 square metres total lettable area (a reduction of some 100 square metres) and the provision of 33 car spaces (7 additional) providing a ratio of 2 car spaces/100 square metres. Six car spaces on Fitzgerald Avenue would also be available for casual use. At the same time, provision was also made for bicycle racks (approximately 8 bikes), a disabled person's car space relocated closer to the building entrance, a footpath connection from Main North Road included and a reduction in the length of the blind aisle to now provide for six spaces and with a reversing offset at the end.

56 I have briefly considered above, amenity impacts for residential use to the east. Whilst visual amenity is likely to be reduced for a few near dwellings to the east (from upper level windows viewing to the north-west), noise and odour impacts are reduced from the previous restaurant-takeaway food use and roof glare can be minimised to acceptable levels, providing the roof colour is changed from "*stone*" a light off-white colour, to a darker colour (eg. beige, fawn or light green or other). An alternate colour of '*Colorbond beige*', Solver Paints swatch 103 and panel 1053, was offered by the appellant at the resumed hearing.

57 Whilst the rear wall (length and height) of the building will be significant and a setback of a few metres and landscaping screening would have been desirable, it is partially set down below the lane level (which is lower than ground floor level for the dwellings adjoining to the east), is separated by a 4 metre public road (the lane), rear fencing and garaging exists along the eastern side of the lane at the back of residential sites, and some tree screening exists in those rear yards. On balance, further amendments to set back the building and provide landscaping screening on the eastern boundary are not considered to be essential.

58 I also consider that the proposed flat, fascia signs located above the main entrance of the proposed building and on three elevations now shown on Exhibit A10, is acceptable in design and in this Local Centre Zone and the particular locality context.

59 The further amended proposal plan Exhibit A9, also included a further amendment effectively reducing the landscaping strip along Main North Road from 1.458 to 0.9 metres (of which 0.6 metre is vehicle overhang), and increasing commensurately, the east-west width of the building, no doubt to minimise floor area reduction. This solution is not acceptable and would leave an inadequate and unsatisfactory provision of landscaping to the main front boundary thereby not enhancing visual amenity as is necessary and appropriate. A condition of consent can ensure 0.5 of a metre is reinstated, so that the landscape strip is a total of 1.4 metres in width. This can be readily achieved by a slight reduction in the width of the footpath adjoining the proposed building, providing a finished width of 1.3m.

### Conclusions

60 Considering, integrating and weighing up all issues, all relevant factors, the Development Plan provisions, the locality context and the evidence, I initially concluded that the proposal as presented (Exhibit A1) and including the offered restriction on generic retailing type, was not satisfactory from an access and parking provisions perspective and did not sufficiently meet the Development Plan and particularly clauses:

#### **COUNCIL WIDE**

**Objectives:** 29, 51 and 52; and

**Principles of development control:** 114, 115, 119, 138, 139, 141, 155 and 156; and

#### **LOCAL CENTRE ZONE**

**Principles of development control:** 4 and 7

61 However, at the resuming hearing, after I afforded the appellant the opportunity to make further amendments to the proposal, amended plans Exhibits A9 and A10 were tendered. Such amendments, excluding the proposed new access to the rear public road-lane, do not change the character or essential nature of the proposal, nor prejudice any other person not party to the appeal.

62 Draft conditions were also submitted by the respondent and in a general sense, agreed to by the appellant, although I consider that numerous refinements, amendments and additions are necessary, many of which were canvassed with counsel.

63 On the basis of the amended plans Exhibits A9 and A10, and together with various conditions, I consider that the proposal so amended, sufficiently meets the Development Plan and is worthy of conditional provisional development plan consent.

### Decision

64 The decision of the Court is that the appeal is upheld on the basis of the further amended plans, the decision of the Council reversed and provisional development plan consent is granted to the proposal to demolish the existing building and erect a shop for the storage, display and retail sale of camping goods and outdoor furniture and associated goods with ancillary car parking, landscaping and advertising displays at 399-405 Main North Road Enfield, subject to the following conditions:

1. The proposal shall be developed in accordance with amended plans numbered SK11a and SK12 (Exhibits A9 and A10) and dated 11 April 2003, except where varied by these conditions, and all works shall be completed to the reasonable satisfaction of the Council prior to the occupation and/or use of the development.

2. No vehicular access is to be provided to the rear public road (lane), with the boundary being defined by bollards – chain or fencing, to the reasonable satisfaction of the Council.
3. The five staff car parks being re-positioned 0.75 metres to the east and the area so gained on the opposite – western side, being constructed as a kerbed landscaped garden bed.
4. The landscaped garden bed to the Main North Road frontage being increased to 1.4 metres in width (including 0.6 metres for vehicle overhang), by a 0.5 metre reduction in the width of the proposed footpath adjoining the building and adjustment to the car park and driveway positions.
5. All car parks, driveways and vehicle manoeuvring areas shall be constructed, drained and paved with bitumen, concrete or paving bricks in accordance with sound engineering practice and appropriately line marked to the reasonable satisfaction of the Council, prior to the occupation or use of the development, and thereafter all maintained in good condition.
6. That reinstatement of crossovers and the construction of new – altered crossovers to Fitzgerald Avenue and Main North Road and the relocation of all relevant services and construction thereof, shall be at the cost of the proponent and to the reasonable satisfaction of the Council.
7. Driveway, car parking spaces, manoeuvring, curtilage of the building and landscaping areas shall not be used for the storage or display of materials or goods or advertising displays.
8. All materials and goods shall be loaded and unloaded within the boundaries of the subject land.
9. All loading and unloading and manoeuvring areas shall be designed and constructed to ensure that all vehicles can safely enter and exit the subject land in a forward direction.
10. The applicant shall submit a detailed landscaping plan for approval by the Council prior to the issue of Development Approval, with proposed trees in garden beds positioned at the end of the gap between vehicles and protected from potential vehicle damage. The landscaping shown on that approved plan shall be established prior to the commencement of operations of the development and shall be maintained and nurtured at all times, with any diseased or dying plants being replaced, and shall be watered by means of an automatic irrigation system.
11. The development and the site shall be maintained in a serviceable condition and operated in an orderly and tidy manner at all times.
12. All trade waste and other rubbish shall be stored in covered containers prior to removal and shall be kept within the proposed building.
13. Details of air-conditioning or air-extraction plant or ducting to be placed on the exterior of the building in association with this development, shall be submitted to and approved by the Council prior to the issue of Development Approval.
14. The air-conditioning or air-extraction plant or ducting shall be of a colour or physically screened such that it is not obtrusive to view by residents and users of properties in the locality, to the reasonable satisfaction of the Council.

15. All external lighting of the site, including car parking areas, buildings and signage, shall be designed and constructed to conform with Australian Standards and must be located, directed and shielded and of such limited intensity, that in the opinion of the Council, a significant nuisance or loss of amenity is not caused to any person beyond the site.
16. The advertisements (three on the upper fascia and one pole mounted) and supporting structures shall be designed, constructed and erected in a professional and workmanlike manner and maintained in good repair at all times, to the reasonable satisfaction of the Council.
17. Lighting associated with the advertising displays shall, in the opinion of the Council, be of an intensity not to cause any significant light overspill nuisance to adjacent occupiers, or cause a distraction to drivers on adjacent public roads.
18. The altered pole mounted sign shall not extend over the property boundary and no additional advertising displays to those shown on the approved plans Exhibits A9 and A10, comprising development, shall be displayed upon the subject land other than those identifying the parking area and access points. (If any further advertising displays are required, these shall be the subject of a separate development application.)
19. All stormwater design and construction shall be in accordance with Australian Standards and recognised engineering best practices, to ensure that stormwater does not adversely affect any adjoining property.
20. The external colours of the building shall be, walls of green-blue hue as per the photographs in Exhibit A2 and colour sample in Exhibit A3, and the roof shall be Solver Paints “*Colourbond Beige*” swatch 103, panel No.1053, or other variant to the reasonable satisfaction of the Council.
21. The trading hours of operation of the premises are limited to:
  - . Monday – Wednesday, Friday and Saturday, between 9am and 6pm;
  - . Thursday (or other designated late night trading day) between 9am and 9pm; and
  - . Sunday (and public holidays) between 11am and 5pm.
22. The proposed shop herein approved, is limited in its use and goods to be stored, displayed and sold, to only those generally comprising camping (including picnicking, bushwalking and climbing) goods and outdoor furniture and barbecue equipment and associated items including:
  1. Tents and small canoes and small inflatable boats;
  2. Camping furniture including portable tables, beds, chairs, gas stoves and cylinders, fridges, eskys;
  3. Associated camping gear including backpacks, swags, sleeping bags, lighting, cooking implements and accessories, as well as fishing gear and a limited range of clothing and footwear designed for active outdoor use;
  4. Outdoor furniture, shading and general barbecue equipment.
23. No more than 50% of the total net lettable floor area shall be used for the storage, display and sale of carry-out items set out in condition 22 clauses 2 and 3.