

This section expands on the contextual description of the physical environment provided in Section 2.0 and provides an analysis of the environmental interactions applicable to the proposed development with specific reference to the site planning objectives specified in Section 3.0 of the report.

The proposed development relates to the use of a unit/tenancy within a proposed multi-unit/tenancy bulky goods retail complex that is expected to be approved under the terms and conditions of DA 2009/435 (as amended).

Section 79C(1) of the EP & Act 1979 requires consideration of the likely impacts of the development on the natural and man-made environment. Environmental impacts likely to result from the proposed development are summarised in the table below.

Potential Environmental Impacts	Impact of Project and Ameliorative Measures (Where Applicable)
Flora	
- Loss of vegetation – native or exotic	As a consequence of the granting of consent to DA 2009/435 (as amended), the site will be a developed urban lot upon which a bulky goods retail complex will exist.
Fauna	
- Effect on native species of fauna	The proposed use of Unit/Tenancy 4 will not impact native fauna species.
- Habitat loss	The proposed use of Unit/Tenancy 4 will not result in the loss of any habitat.
Soils	
- Sediment & erosion control	Sediment and erosion controls will be implemented and managed during any site works as required under the terms and conditions of DA 2009/435 (as amended).
- Contamination of site soils	No contamination is anticipated given that the site will be a newly created industrial lot (per DA 2009/258 as amended).
- Acid sulfate soils	The proposed use of Unit/Tenancy 4 will not result in the disturbance of acid sulfate soils.
Hazards	
- Slip	The land is not identified as being affected by slip.
- Subsidence	The land is not identified as being affected by subsidence.

Potential Environmental Impacts	Impact of Project and Ameliorative Measures (Where Applicable)
- Bushfire	The site is not identified on the Ballina LGA Bushfire Prone Land Map (dated 21 March 2007) as being bushfire prone.
- Flooding	Site filling and minimum floor levels are proposed and will be required under the terms of DA 2009/258 and 2009/435 (as amended) to ameliorate flooding.
Water	
- Water Quality	The proposed use of Unit/Tenancy 4 will not adversely impact the quality or quantity of water entering downstream receiving environments.
Visual Considerations	
- Visually prominent land	The subject land is not visually prominent in the local context due to the local topography and setting. The strategic planning for the land is for industrial purposes (bulky goods retail).
- Impact on scenic qualities	The proposed use of Unit/Tenancy 4 will not have any impact upon the scenic qualities of the locality or streetscape.
Adjoining Land Uses	
- Solar access, privacy	The proposed use of Unit/Tenancy 4 will not result in any overshadowing or loss of privacy of adjoining properties.
- Dust, fumes etc. during construction	The works associated with the proposed use are not such that will generate dust, fumes and the like.
- Noise during construction	Standard controls will be implemented to limit potential noise impacts during any construction works.
- Noise during operations	The proposed use does not generate significant noise. All activities will be conducted from within the building and are quiet in nature.
Scale & bulk	
- Relationship to adjoining development	The building proposed under the terms of DA 2009/435 (as amended) is for a bulky goods retail complex which is consistent with the strategic planning for the land. The proposed use is compatible with and sympathetic to such use.
- Design, siting, scale, bulk and character	The design, siting, scale, bulk and character of the existing building will remain unchanged.
Heritage	
- Aboriginal heritage	No known Aboriginal heritage issues affect the site.
- European heritage	No known European heritage issues affect the site.
Social & Economic Considerations	
- Social and economic impacts or benefits	The development of the subject land (proposed Lot 1) is expressly planned for bulky goods retail. The GPPW will provide the local community with a unique service and range



Potential Environmental Impacts	Impact of Project and Ameliorative Measures (Where Applicable)
	of product that is not offered by traditional pharmacies. The premises will also provide direct and convenient access for the workforce in the industrial estate and the Northlakes Estate.
Traffic	
- Impact on local traffic	The proposed land use will not adversely impact local traffic. The traffic generation of the proposed use would be comparable to that of the bulky goods tenancy.
- Road system capacity	The local road system will have sufficient capacity to service the proposed development. Sufficient parking will be provided on the site and will be available in the local street system (as approved by DA 2009/435 as amended).
Transport, access	
- Public transport	Public transport (bus service) exists in the locality and is satisfactory to accommodate the proposed development.
- Pedestrian access	The proposed use of Unit/Tenancy 4 will not impact any existing or proposed pedestrian accesses.
Utility Services	
- Water, electricity, sewer	Reticulated water, sewer and electricity services exist in the locality and will be connected to the proposed building.

This section of the report identifies and addresses the applicable environmental planning instruments (EPIs) and policy planning documents that must be considered by the consent authority in the consideration of this application.

5.1 Environmental Planning Instruments (EPIs)

This section identifies and provides comment on the EPIs and EP & A 1979 provisions that are of relevance to the proposed development.

5.1.1 Local Environmental Plans (LEPs)

The Ballina Local Environmental Plan 1987 (BLEP) is the only LEP applying to the subject land.

The subject land is zoned 4 – Industrial Zone under the provisions of the BLEP. The objectives of the zone are as follows:

- A. *The primary objectives are -*
 - (a) *to regulate the subdivision and use of land to permit its use for industrial purposes and other uses specified in clause 27 and Schedule 3;*
 - (b) *to allow detailed provision to be made, by means of a development control plan, to set aside specific areas within the zone for different industry types and intensities of development; and*
 - (c) *to ensure industrial development creates areas which are pleasant to work in, safe and efficient in terms of transportation, land utilization and service distribution.*
- B. *The exception to these objectives is development of land within the zone for public works and services, outside the parameters specified in the primary objectives.*

The proposal relates to a unit/tenancy within an approved bulky goods retail complex which is a permissible use pursuant to Clause 27. The land upon which the bulky goods retail complex

is approved is on a lot that is to be expressly created for such a purpose.

Clause 27 relates to the retailing of bulky goods in Zone No. 4 and defines bulky goods as *"large goods which are, in the opinion of the council, of such a size and shape as to require –*

- (a) a large area for handling, storage or display; and*
- (b) easy and direct vehicular access to enable the goods to be collected by customers after sale."*

Sub-clause (4) provides that Council shall not consent to an application for bulky goods retail unless it is satisfied that:

- (a) suitable land for the development is not available in any nearby business centre;*
- (b) to grant consent would not, by reason of the number of retail outlets which exist or are proposed on land within Zone No. 4, alter the predominantly industrial nature of the zone; and*
- (c) the proposed development will not detrimentally affect the viability of any business centre.*

The subject land has been identified by the Southern Cross Precinct Master Plan as a bulky goods retail precinct. The tenancy within which the GPPW is to be situated is part of a proposed bulky goods retail complex.

Further to Clause 27, Primary Objective A(a) expressly permits the use of industrially zoned land for a number other specific uses which are listed in Schedule 3 of the BLEP, viz:

**Newsagency*

Shops used for the sale of –

Hardware;

Medical and surgical supplies and equipment;

Smallgoods and sandwiches;

Other premises used for –

Banking facilities;

Brothels;

Accounting and computing facilities;

Refreshment rooms.

Any other use which closely resembles a use identified above."

As is detailed in **Section 3.0** and **Attachment 5** of this report, a large proportion of the floorspace of the tenancy will be used for the sale by retail and wholesale of bulky goods (comprising medical, invalid and home health care related aids and equipment) which require large areas for display, testing and handling as well as convenient vehicular access to enable collection after purchase.

Further to the above, a substantial proportion of the product offered for sale and on display in the tenancy will comprise medical supplies and equipment and other products that closely resemble such products.

A significant component of the floor area of the tenancy will also be used for warehousing purposes for the wholesale of product to service other retailers in the region.

Having regard to the circumstances of the case, there is sound and persuasive argument that the proposed use of the tenancy is such that constitutes bulky goods retail and would be permitted on the basis that the use is such that would satisfy the provisions of Primary Objective A(a) of the 4 – Industrial Zone (being a use permitted by Schedule 3) and Clause 27 of the BLEP.

Chapter 1 of the Ballina Shire Combined DCP 2006 applies to the subject land and was adopted in compliance with Objective A(b).

The proposed development is considered to be such that is consistent with the relevant zone objectives.

5.1.2 Draft Ballina Local Environmental Plan 2010

The Draft Ballina LEP 2010 is on public exhibition for the period 15 March to 4 June 2010.

The subject land is proposed to be zoned IN1 – General Industrial. The objectives of the IN1 zone are:

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable non-industrial land uses that are compatible with the industrial nature of the locality..*
- *To provide for the efficient use of industrial land.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*
- *To ensure that development does not expose adjoining uses to hazard risks.*

The proposed development is consistent with the provisions and objectives of the proposed IN1 zone and is to be situated within a recently approved bulky goods retail complex.

Clause 5.5 relates to development within the coastal zone. These matters are effectively replicated in SEPP 71, commentary on which is provided in **Section 5.1.4** of this report.

5.1.3 Regional Environmental Plans (REPs)

The North Coast Regional Environmental 1988 (NCREP) is the only REP applying to the subject land.

Division 4 relates to commercial and industrial development. The objective of the plan in relation to commercial and industrial development is to *"..encourage an adequate supply of zoned land located where there are planned growth areas foreshadowed and where essential services can be provided with minimal environmental damage."*

There are no express development control provisions relating to the proposed development. The subject land is situated within a planned bulky goods retail precinct.

5.1.4 State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)

SEPP 71 applies to this proposal as the land is situated within the "coastal zone" (Clause 4). The site is not classified as a "Sensitive Coastal Location".

The proposed development is not a development to which Part 3 – Significant Coastal Development applies.

Clause 8 provides matters for consideration by a consent authority when it determines a development application to carry out development to which SEPP 71 applies. The following is a brief précis of these matters:

- as a consequence of the granting of consent to DA 2009/435 (as amended), the proposal involves the use of a unit/tenancy within an approved building – the environmental impact assessment of the building and site development has been undertaken as part of the assessment of DA 2009/435 (as amended)
- the proposal does not involve any site works including clearing, filling, draining, new buildings etc – all works will be within the confines of the approved building
- the proposal will not impair the existing or future public access to the foreshore of any coastal area of waterway – the land is physically and spatially separated from the coastal foreshore
- the proposal will not have any significant impacts upon flora and fauna
- the proposal will not have any impacts upon the scenic qualities of the locality and will not impact upon the environment of any coastal foreshore

The development will not result in the impeding or diminishing, to any extent, of the physical, land-based rights of access of the public to or along any coastal foreshore (Clause 14).

The complex will be connected to a reticulated sewerage system (Clause 13).

The development will not discharge untreated stormwater into any downstream receiving environment (Clause 16).

As the proposed development will be undertaken within the confines of an approved building, there will be no modifications to the coastal zone.

5.2 Ballina Shire Combined Development Control Plan

5.2.1 Chapter 1 – Urban Land

Part 3 – Control Plan Areas

The subject land is designated I2 – General Industry. The control plan area objectives are:

"To encourage the establishment and expansion of general industries, service trades and selected retail and commercial activities in accessible locations reasonably separated from existing and proposed living areas.

To provide a range of allotment sizes within Industrial Estates to accommodate different industrial needs."

The preferred land uses are "Light industry, showrooms and other businesses which require relatively large indoor or outdoor display and sales areas."

The proposed development is considered to be consistent with the control plan area objectives ("selected retail and commercial activities") and preferred land uses ("require relatively large indoor display and sales areas").

Policy Statement No. 2 – Car Parking and Access

The car parking assessment undertaken in support of DA 2009/435 reported that a total of 301 on-site car parking spaces were required to service the bulky goods retail complex. A total of 363 spaces have been provided (inclusive of 8 disabled spaces) which are sufficient to service the proposed development.

Policy Statement No. 5– Industrial Development

Section 4.5 relates to bulky goods retailing and effectively replicates Clause 27 of the BLEP which is addressed in Section 5.1 above.

The other matters detailed in Policy Statement No. 5 were duly considered in the assessment of DA 2009/435 (as amended).

Policy Statement No. 11 – Flood Levels

The subject land is identified as being likely to be subject to the 1 in 100 year flood event. The minimum fill requirement for this land (as prescribed by Section 4.1) is RL 2.0m AHD. The minimum floor level requirement is RL 2.5m AHD.

The finished fill and floor levels proposed by DA 2009/435 (as amended) exceed these minimum requirements.

5.2.2 Chapter 14 – Advertising Signage

An integrated signage scheme will be implemented for the whole of the bulky goods complex and will be strictly enforced by the complex owner/manager.

This scheme is detailed in Section 5.2.3 of the Development Application report accompanying DA 2009/435 (as amended). The proposed tenant of Unit/Tenancy 4 will be bound to comply with the integrated signage scheme.

This section of the report provides a detailed conclusion of the development proposal.

As has been articulated in this Statement of Environmental Effects, the proposed use is for a bulky goods retail and wholesale showroom/warehouse which is described in detail in **Section 3.2** and **Attachment 5**.

The proposal involves the occupation/use of a tenancy within a recently approved bulky goods retail complex (DA 2009/435 as amended).

The proposed development is permissible with consent within, and is consistent with the objectives of the 4 – Industrial Zone under the Ballina LEP 1987.

As has been articulated in the specialist retail industry consultant's report provided at **Attachment 5**, the dominant floor space uses/zones by area are bulky goods health care equipment at 258m² (33.08%) to which the ancillary restricted area containing warehouse/on-line orders/packing and distribution/prescriptions/medications/office/amenities at 238m² (30.51%) giving a sub-total of 496m² (63.59%) for the combined dominant use zones.

The proposed use is permitted in the zone having regard to the uses listed in Schedule 3 and Clause 27. The proposal is also consistent with the North Coast REP 1988 and other relevant environmental planning instruments, codes and policies.

The proposed development has been assessed under all relevant environmental planning instruments having regard to all relevant environmental, social and economic considerations.

In conclusion and having regard to the particular circumstances of this case, it is respectfully requested that consent be granted to this application.

This report has been prepared by Ardill Payne & Partners (APP) at the request of the Good Price Pharmacy Warehouse Pty Ltd for the purpose of the lodgment of a development application with Ballina Shire Council and is not to be used for any other purpose or by any other person or corporation.

This report has been prepared from the information provided to us and from other information obtained as a result of enquiries made by us. APP accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this document for a purpose other than that described above.

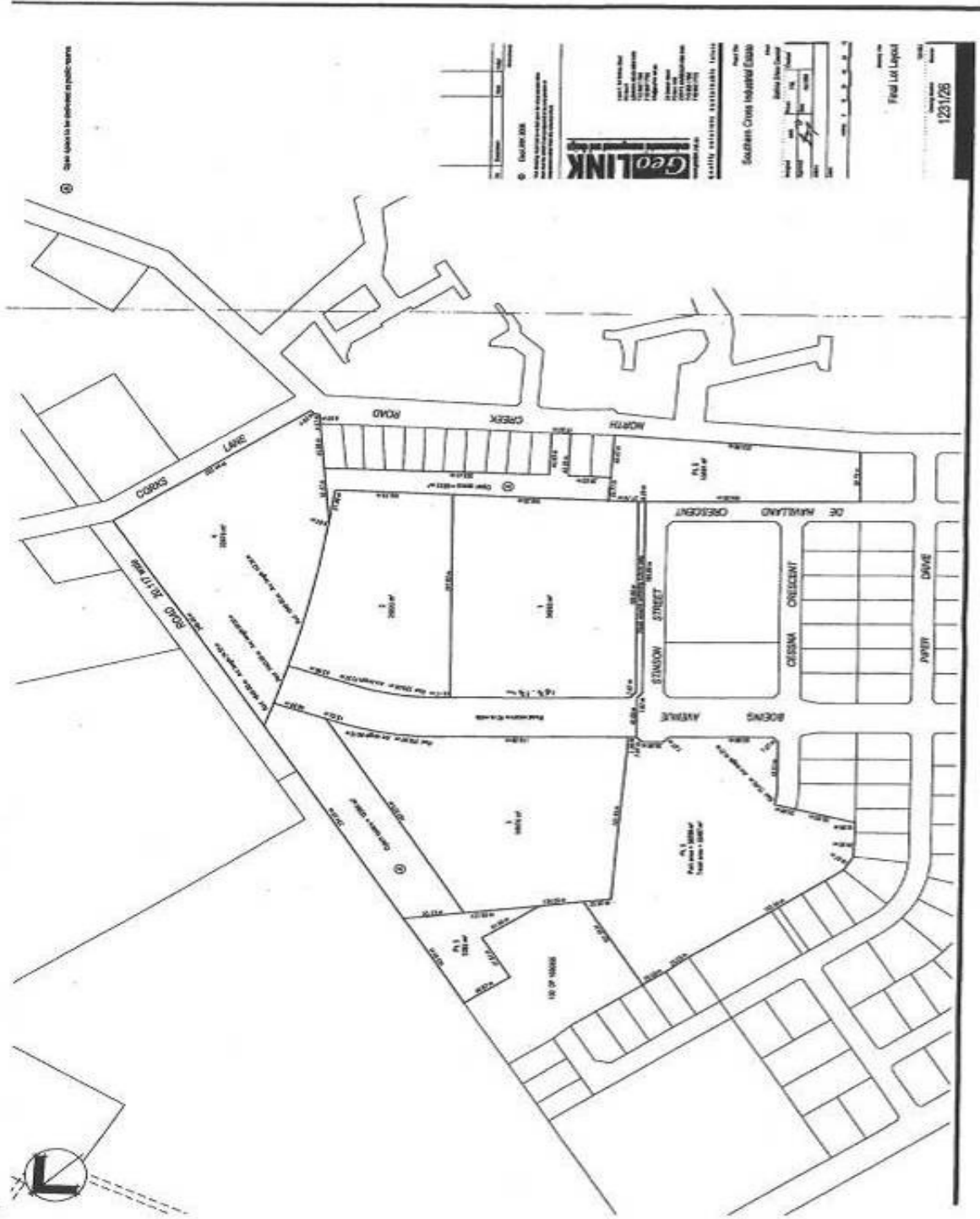
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APP declares that it does not have, nor expects to have, a beneficial interest in the subject project.

To avoid this advice being used inappropriately it is recommended that you consult with APP before conveying the information to another who may not fully understand the objectives of the report. This report is meant only for the subject site/project and should not be applied to any other.

Attachment 1	Plan of proposed Lot 1
Attachment 2	Locality plan
Attachment 3	Aerial photograph of subject and adjoining land
Attachment 4	Site plan of approved bulky goods retail complex (per DA 2009/435) identifying Unit/Tenancy 4
Attachment 5	Submission from Remnus Pty Ltd (Retail Industry Consultants)
Attachment 6	Justification for development having regard to local planning provisions

Attachment 1
Plan of proposed Lot 1



Open spaces to be developed as public parks

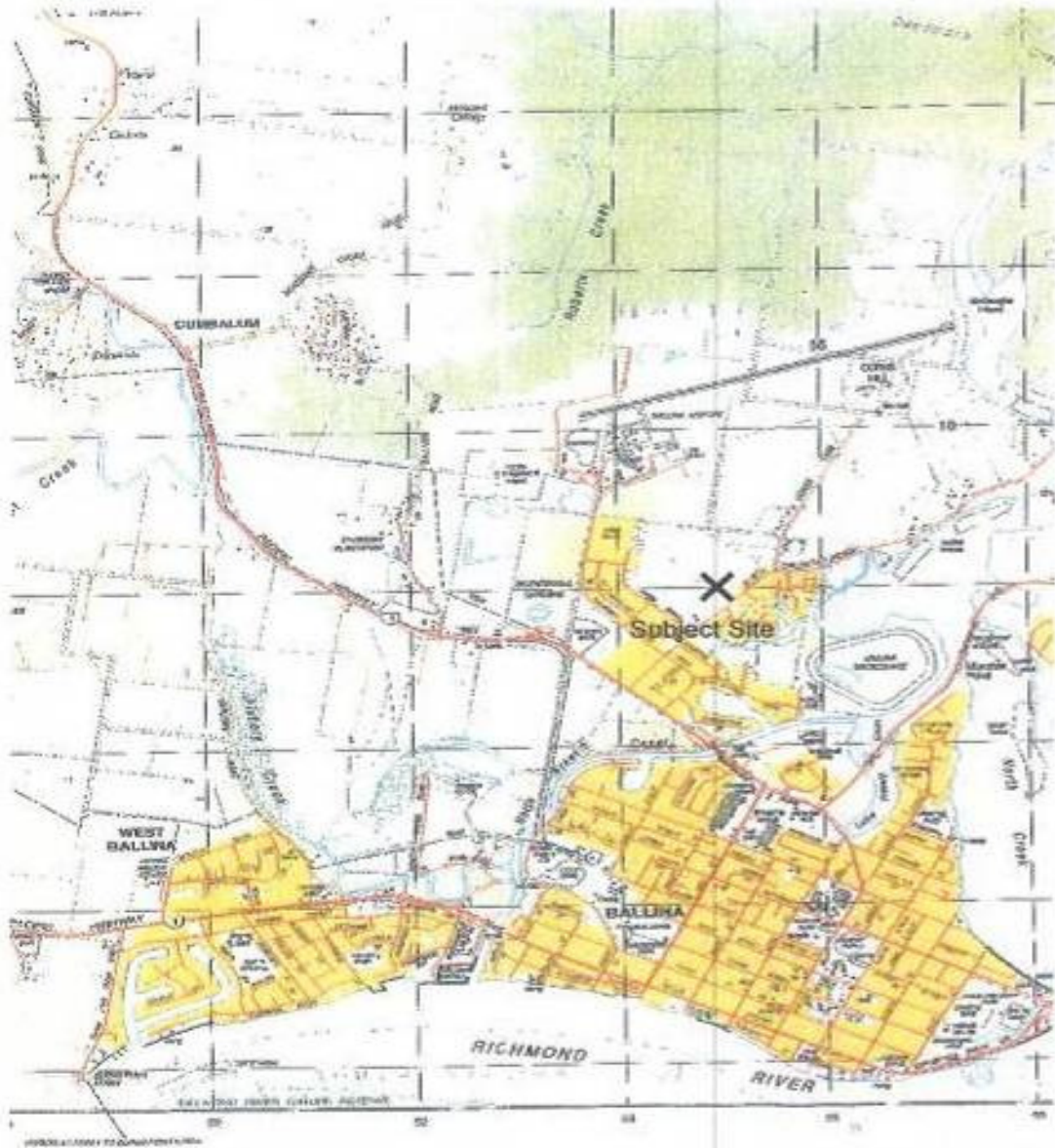
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 Website: www.southern-cross.com.au

Final Lot Layout
 1231/26

Attachment 2
Locality plan



Site Locality Plan

ATTACHMENT 3

Attachment 3
Aerial photograph of subject
and adjoining land



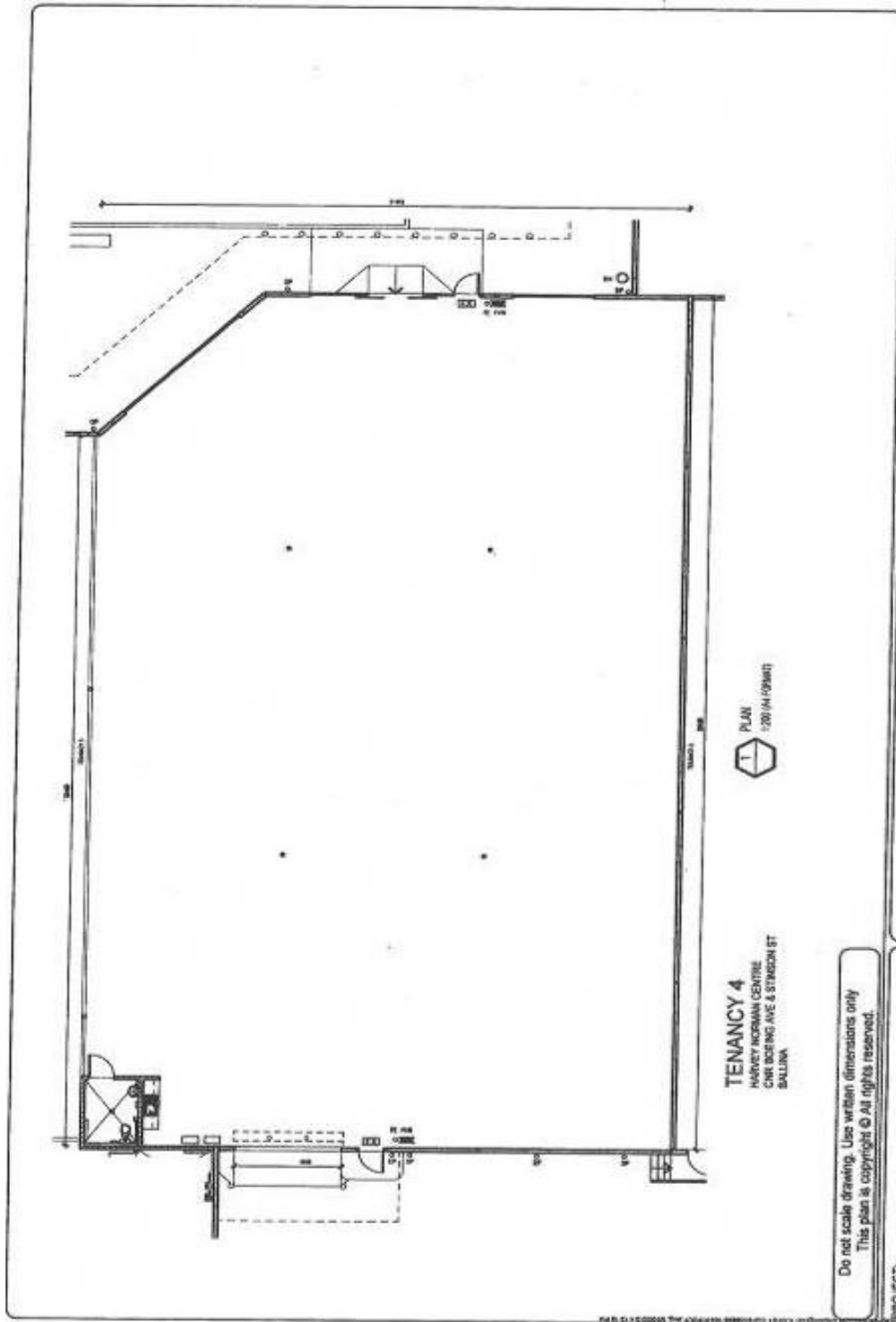
Do not scale drawing. Use written dimensions only
 This plan is copyright © All rights reserved.

Client: _____
 Title: **SUBJECT SITE & ADJOINING PROPERTIES**

ARDILL PAYNE & PARTNERS
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 Project Managers Town Planners & Surveyors
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Scale of A4	1:5000	Datum	AHD
Design	TC	Date	
Drawn	NB		
Dwg No.	Fig. 1	Job No.	

Attachment 4
Floor plan of Unit/Tenancy 4
(per DA 2009/435)

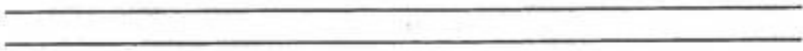


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Drawn	RB	File	6859-104.dwg
Dwg No.	FIG1	Job No.	6859

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 Website: www.ardillpayne.com.au

TITLE:	Unit/Tenancy 4 Floor Layout
CLIENT:	Good Price Pharmacy Warehouse

PROJECT:	Good Price Pharmacy Warehouse Harvey Norman Complex Ballina
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Attachment 5
Submission from Remnus
Pty Ltd (Retail Industry
Consultants)

REPORT & ANALYSIS

PROPOSED USE

Unit 1, Highway 94, 1000m north of the intersection of Highway 94 & Highway 90,
Ballina NSW

3000sqm Retail & Wholesale Warehouse/Office/Residential

REMNUM PTY LTD

Retail Industry Consultants

P.O. Box 88

VIRGINIA Q4014

Tel: (07) 32655353

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INTRODUCTION & CONSULTANT'S STATEMENT:

- (a) This Report & Analysis was commissioned by Good Price Pharmacy Warehouse Pty Ltd for the purpose of an Annexure to a Development Application to be lodged with Ballina Shire Council in relation to the property described on the cover of this Report.
- (b) This Report & Analysis was prepared by the undersigned Robin F Curtis, Retail Industry Consultant and Director of Remnus Pty Ltd, Retail Industry Consultants of Brisbane.
- (c) I have had in excess of forty (40) years with the Retail Sector including the Pharmaceutical Wholesale Distribution industry and Pharmacy & Health Care profession at both private sector and Government levels. Annexed hereto and marked **APPENDIX "C"** is a copy of my Curriculum Vitae.
- (d) My instructions are to address this Report to the history and current structure and operation of "Discount Pharmacy Warehouses" and to analyse the proposed use of the total GLA of the subject premises. The analysis of floor space usage will take the form of a Zoned Colour Scheme Floor Plan (with commentary).
- (e) I am known to most major retail Pharmacy Groups operating throughout Australia and have provided professional services to a wide cross-section of them over the years, without bias or favour.
- (f) This Report & Analysis is prepared by me as an independent consultant, without bias or favour and is based on my personal knowledge of and expertise in this particular field.
- (g) I have not been instructed by nor have I accepted instructions from any person as to the contents or outcome of this Report & Analysis other than the basic subjects headings of History of "Discount Pharmacy Warehouses" and Floor Space Use Analysis of the subject premises.



ROBIN F CURTIS
Retail Industry Consultant

3 May 2010

REPORT & ANALYSIS

GOOD PRICE PHARMACY WAREHOUSE, HARVEY NORMAN CENTRE, BALLINA BULKY GOODS RETAIL & WHOLESALE SHOWROOM/WAREHOUSE

FLOOR SPACE USE ANALYSIS – UNIT 4

SUMMARY OF REPORT & ANALYSIS

I have examined plans and other material relative to the proposed internal layout of Unit 4 and using scaled dimensions of the premises and I have performed my own calculations and assessments of the various use categories of the total GLA of the subject premises. A Summary of my findings is as follows:-

1. The internal layout of the premises is consistent with a typical modern day "Discount Pharmacy Warehouse".
2. The primary role of "Discount Pharmacy Warehouses" is to provide the public with easy and convenient access to low cost Pharmaceutical and Health Care products, particularly in provincial and rural areas
3. In the case of Good Price Pharmacy Warehouse their range of available products is the most comprehensive available "under one roof" in the "Discount Pharmacy Warehouse" sector. The major difference between GPPW and its competitors is the fact that they stock a large range of bulky goods in the form of Home Health Care and Medical Equipment and ancillary products. GPPW's competitors are not known to stock a range of bulky goods of this nature
4. The functional categories of products and services to be provided by GPPW at the subject premises are:-
 - The display and sale by retail and wholesale of bulky goods consisting of Home Health Care Equipment and Medical Aids and ancillary Health Care Products
 - The dispensing of Pharmaceutical Benefits Scheme prescriptions and ancillary products (including bulky goods where applicable)
 - On-line ordering (Internet, Facsimile and Telephone) of all the above products and picking, packing and distribution of same to customers (Public and Trade) predominately by Australia Post, excluding bulky goods which will be distributed by courier/carrier
5. The *National Health Act 1953* and related Legislation and Regulations (at both Federal and States levels) require that where the storage, handling, dispensing and sale of PBS items take place, the particular premises must be Licensed Premises under the Act and subject to stringent controls and guidelines. Included in these controls is the mandatory requirement that the premises must be accessible to the Public and all products and services are available to all classes of persons
6. I have calculated and split the total GLA of the premises into four (4) Use Zones categories as follows:-
 - (a) Bulky Goods Health Care Equip – 258 m2 (33.08%)
 - (b) Restricted Area: Warehouse/On-line Orders/Packing & Distribution/Office/Amenities/Prescriptions/Medications – 238 m2 (30.51%)
 - (c) Shared Warehouse Shelving – Wholesale/Retail Mixed Products – 249 m2 (31.92%)
 - (d) Secure Entry/Exit/P.O.S. – 35 m2 (4.49%)**TOTAL GLA 780 m2 (100.0%)**
7. The dominant Use Zone by area is Bulky Goods Health Care Equipment at 258 m2 (33.08%) to which I have added the ancillary Restricted Area containing Warehouse/On-line Orders/Packing & Distribution/Prescriptions/Medications/Office/Amenities at 238 m2 (30.51%) giving a sub-total of 496 m2 (63.59%) for the combined dominant Use Zones

8. A Colour Scheme Floor Plan of the Use Zones (prepared by me) is shown at Figure 1 on page 5
9. A history of the origin and emergence of the modern day "Discount Pharmacy Warehouses" of today is located in the body of this Report & Analysis
10. With the emergence of the "Discount Pharmacy Warehouses" came the consequential need for premises with larger floor areas (ideally 500 m2 to 1000 m2). In keeping with the primary objective of the "Discount Pharmacy Warehouse" concept of providing the public with access to the widest possible range of Pharmaceutical and Health Care products and services at the lowest possible prices "under one roof", it swiftly became apparent that locations within traditional shopping centres were unsuitable, particularly in regard to size of available premises, high occupancy costs defeating the low cost objective and the difficulties associated with the multi-operational Uses of the businesses if located in shopping centres
11. It naturally followed that operators of "Discount Pharmacy Warehouses" gravitated towards premises in Planning Scheme zones such as Fringe Zones, Bulky Goods Retailing Zones, Industrial/Warehouse Zone and the like
12. The description "Discount Pharmacy Warehouse" is a generic named coined by Pharmacists and it has tended to confuse or mislead at Planning Scheme level to the extent that in many instances premises have declared by Planning Authorities to be a non-conforming "Shop" notwithstanding the multi-Use operational functions of a true full-line "Discount Pharmacy Warehouse"
13. With the diverse provisions, Codes, Definitions and Interpretations in the multitude of Planning Schemes throughout Australia it has taken some time for Planning Authorities to recognise and acknowledge the operational functions of a true "Discount Pharmacy Warehouse", mainly, I believe, to the fact that no such definition has existed in those Planning Schemes. However, there have been recent "breakthroughs" in this regard as follows:-
 - QUEENSLAND – in 2008 the Redcliffe City Council (a Division of the Moreton Bay Regional Council) took the initiative and amended its Planning Scheme Definition of "Showroom/Super Store" to include the specific designated use of "Discount Pharmacy"
 - VICTORIA – On 15 October 2009 the Wodonga City Council, using its discretionary powers, issued Planning Permit No. 2009/156 to Good Price Pharmacy Warehouse Pty Ltd on land zoned Business 4 for "Use of land for wholesale and retail distribution of pharmaceutical supplies and equipment and ancillary dispensary". The premises commenced trading in March 2010. The operational layout Use zones in these premises are virtually identical to those proposed at Ballina (further details are within the body of this Report)
 - VICTORIA – In January 2009 the Victorian Civil and Administrative Tribunal (Planning & Environment List) overturned a decision by Maribyrnong City Council to refuse a Development Application for a "Chemist Warehouse" on Industrial 3 zoned land at Maidstone and issued a Declaration that the subject premises were a "Warehouse (including distribution) with ancillary shop". The case reference is:- *Highpoint Commercial Property Group v Maribyrnong City Council [2009] VCAT 16 (8 January 2009)*
 - VICTORIA – In November 2005 VCAT overturned a decision by Wyndham City Council to refuse a Development Application for a "Chemist Warehouse" on Industrial 3 land at Hoppers Crossing and issued a Declaration that the subject premises were a "distribution centre and epharmacy with ancillary retailing". The case reference is:- *Tauman v Wyndham City Council [2005] VCAT 2444 (22 November 2005)*. This Decision was used as a precedent in the January 2009 Maribyrnong City Council decision cited above

14. To my knowledge, GPPW is the only "Discount Pharmacy Warehouse" operating in the eastern States of Australia which provides a full range of products and services "under one roof". I am unaware of any competitor of GPPW (such as "Chemist Warehouse") which currently stocks a comprehensive range of Bulky Goods Home Health Care Equipment
15. It is my assessment and opinion that the dominant use by area at the proposed premises is that of Bulky Goods Retail & Wholesale Showroom/Warehouse/Distribution Centre in addition to sale by retail & wholesale of ancillary Pharmaceutical and Health Care Products (on-site and by on-line orders)



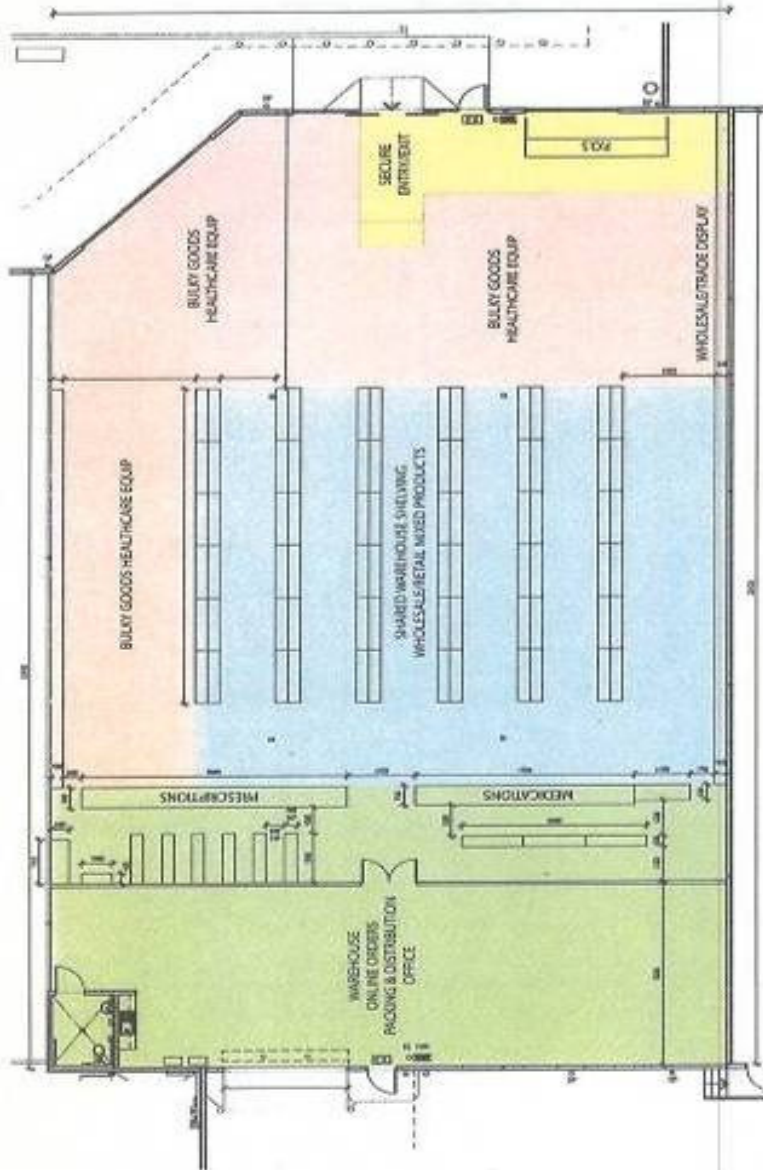
ROBIN F CURTIS
Retail Industry Consultant

3 May 2010

Figure 1

USE ZONES – COLOUR SCHEME FLOOR PLAN

UNIT 4, HARVEY NORMAN CENTRE, CNR STINSON ST & BOEING AVE, BALLINA NSW



TENANCY 4
 HARVEY NORMAN CENTRE
 CNR BOEING AVE & STINSON ST
 BALLINA

FLOOR USE CATEGORIES

Bulky Goods Health Care Equip	256 m ²	(33.88%)
Shared Warehouse Shelving - Wholesale/Retail Mixed Products	288 m ²	(37.51%)
Shared Warehouse Shelving - Wholesale/Retail Mixed Products	408 m ²	(53.39%)
Shared Warehouse Shelving - Wholesale/Retail Mixed Products	248 m ²	(32.18%)
Secure Entry/Equip O/S	35 m ²	(4.52%)
TOTAL GFA	730 m²	(100.00%)

HISTORY OF "DISCOUNT PHARMACY WAREHOUSES":

- 1.00** In 1971, on behalf of Drug Houses of Australia Ltd, I designed and developed a concept of self-service depots for wholesale pharmaceuticals and health care products distribution which were subsequently established throughout all States and Territories of Australia. There was a total of 15 depots opened in the Queensland Division (Queensland, NSW Northern Rivers and Darwin) for which I was responsible.
- 1.01** The depots traded under the banner "BuyWise" (although wholly owned by DHA) and were solely for servicing registered members of the Pharmacy profession. Entry by the public was strictly prohibited. The primary purpose of the "BuyWise" concept was to reduce the high cost of distribution of Pharmaceuticals and Health Care Products from central warehouses to individual pharmacies throughout each State.
- 1.02** The "BuyWise" concept later became the model for the modern day "Discount Pharmacy Warehouses" as they are described today.
- 1.03** In the period 1980 to 1985 the Federal Government was increasingly concerned by the high costs of provision of Pharmaceutical Benefits under the National Health Act 1953. The Government was particularly concerned at the proliferation of traditional "community pharmacies" throughout Australia and embarked on a rationalisation program to reduce the number of pharmacies. The "Pharmacy Restructure Authority" was created in 1985 and over the following five years offered \$50,000 incentives to pharmacists for each pharmacy which was closed and its Approval Number surrendered. By the end of the "restructure" period at the end of June 1990, the number of "community pharmacies" throughout Australia was substantially reduced.
- 1.04** At the beginning of 1990 the first of a series of Agreements between The Commonwealth of Australia and The Pharmacy Guild of Australia was negotiated. The initial Agreement was titled "The First Community Pharmacy Agreement between The Commonwealth of Australia and The Pharmacy Guild of Australia" which came into effect on 1 July 1990. The current Agreement is the Fourth Issue and as at the time of writing this Report the Fifth Agreement (not yet published) has been negotiated and will take effect from 1 July 2010.
- 1.05** Over the ensuing 15 years the provision of pharmaceutical products and services direct to the public continued to be per medium of the traditional small "community pharmacies".
- 2.00** **Statutory requirements – Location and Approval of Particular Premises**
- 2.01** The dominant Act is the *National Health Act 1953* which prescribes through subordinate Legislation and Regulations (at both Commonwealth and States levels), various Statutory Regulations and controls in relation to the sale, supply, preparation, storage, handling and distribution of pharmaceutical and health care products covered under the Pharmaceutical Benefits Scheme (PBS) and the locations and Approvals of "particular premises" for that purpose.
- 2.02** In order for premises to obtain approval, they must become Licensed Pharmacy Premises in accordance with *Section 90 of the National Health Act 1953*. Approval is required to be granted by the following subordinate Statutory bodies:
- Australian Community Pharmacy Authority
 - Pharmacy Board of New South Wales.
 - Medicare Australia.

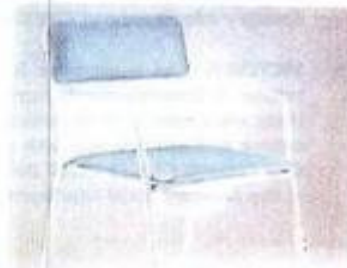
- 2.03** These Government bodies are concerned with a number of fundamental issues, which include:
- i. Licensed Pharmacy Premises must be owned by a registered pharmacist.
 - ii. All dispensing of medications are conducted by a pharmacist and that substantial supervision is maintained by a pharmacist.
 - iii. There must be public access to the premises, giving rise to the retail component within the site.
 - iv. The proposed premises meets the required criteria in respect to size, space, facilities, safety, storage, security and temperature.
- 2.04** Approval as a Licensed Pharmacy Premises under the *National Health Act 1953* requires that all Pharmacy Board of NSW criteria are met. The Pharmacy Board of N.S.W. is one of the governing bodies that must give their approval before premises can be approved as a Licensed Pharmacy Premises under the *National Health Act 1953*.
- 3.00** Progression to "On-Line" Sales and Distribution (1996)
- 3.01** In approximately mid-1996, "Pharmacy Direct" commenced operations from "Industrial" zoned warehouse premises located in the Sydney inner-western suburb of Silverwater. Initially their trading activities were predominately by way of on-line retail sales and distribution of pharmaceutical products to the public but this soon extended to granting access to the premises by consumers for on-site self-service purchases. "Pharmacy Direct" has continued to operate from the same premises and was recently acquired by the Terry White Group of pharmacies.
- 3.02** Over the ensuing four years, a number smaller "community pharmacies" entered the On-Line sales field on a small scale by operating at and from their traditional pharmacies spread throughout (mainly) the eastern States of Australia.

OPERATIONAL STRUCTURE OF THE MODERN "DISCOUNT PHARMACY WAREHOUSE":

- 4.00** In 2001 I designed the operational concepts for the first three (3) modern day "Discount Pharmacy Warehouses" in Queensland (including co-ordination of compliance with Statutory requirements and fitout of premises)
- 4.01** These projects were performed on behalf of "ePharmacy" now trading as "Chemist Warehouse". The premises were located at Virginia, Carseldine and Townsville with Virginia and Townsville located on "Light Industry" land and Carseldine on "Bulky Goods" multi-purpose (MP4) land
- 4.02** Primary purpose of these businesses was to provide the public with "On-Line" access to discounted pharmaceuticals and health care products via Internet, Facsimile and Telephone ordering. Due to the requirements of the *National Health Act 1953* the services extended to on site self-service by the Public
- 4.03** Within two years the "Discount Pharmacy Warehouse" concept had been emulated by others which has led to today's broad spread of these business throughout Australia. There are currently approximately 200 of these businesses (ranging in size from 500 m2 to 1,000 m2) spread throughout all State and Territories. Major players in this field (in order of market share) are "Chemist Warehouse", "Good Price Pharmacy Warehouse", "Pharmacy Direct" and "Healthy Pharmacy"
- 4.04** Standard functional layout of these premises are:-
- **REAR:** Office; Amenities; Dispensary; On-Line Ordering; Packing & Distribution; Warehouse; Deliveries & Despatch (all restricted areas)

- **CENTRE:** Warehouse shelving (On-Line/wholesale/retail stock)
- **FRONT:** Point of sale counter

4.05 **Good Price Pharmacy Warehouse** has taken its range of products and services available at and from its premises to the ultimate level by inclusion of a comprehensive range of Home Health Care Aids & Equipment which fall into the Bulky Goods category. None of GPPW competitors include these bulky goods in their product range. Examples of some of the GPPW range of bulky goods are illustrated below:-



PLANNING ISSUES:

Whilst the distinction between a traditional "Community Pharmacy" and a "Discount Pharmacy Warehouse" is clear to members of the Pharmacy profession, there have been some difficulties at Town Planning levels where the relative Planning Schemes do not contain updated provisions or amendments to accommodate a particular classification for the emergence of the now common "Discount Pharmacy Warehouse" concept

However, in 2008, Redcliffe City Council (a Division of the Moreton Bay Regional Council) took the initiative and addressed this issue by amending its Planning Scheme Definition of "Showroom/Super Store" to include the specific designated use of "Discount Pharmacy"

There have been other recent events which demonstrate a rapid rate of increased recognition of the role of "Discount Pharmacy Warehouses" at both Local Authority and Planning Tribunal levels. Some examples are:-

- **WODONGA:** On 15 October 2009 (using their discretionary powers) Wodonga City Council issued Planning Permit No: 2009/156 to GPPW for the "Use of land for wholesale and retail distribution of pharmaceutical supplies and equipment and ancillary dispensary". The subject premises are located on land zoned B4 on which use as a "Shop" is prohibited. The subject premises opened for trade at the end of February 2010. Although slightly (80 m2) smaller than the proposed Ballina premises, Wodonga and Ballina are essentially identical in layout, have the same broad product range and have similar percentages of floor use categories. A copy of the Planning Permit No: 2009/156 is shown at APPENDIX "A" of this Report and photographs of parts of the internal layout and operations of Wodonga are shown at APPENDIX "B"
- **VICTORIA** – In January 2009 the Victorian Civil and Administrative Tribunal (Planning & Environment List) overturned a decision by Maribyrnong City Council to refuse a Development Application for a "Chemist Warehouse" on Industrial 3 zoned land at Maidstone and issued a Declaration that the subject premises were a "Warehouse (including distribution) with ancillary shop". The case reference is:- *Highpoint Commercial Property Group v Maribyrnong City Council [2009] VCAT 16 (8 January 2009)*
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ROBIN F CURTIS

Retail Industry Consultant

3 May 2010

APPENDIX "A"

WODONGA CITY COUNCIL PLANNING PERMIT No: 2009/156



PLANNING PERMIT

PERMIT No: 2009/156
PLANNING SCHEME: Wodonga Planning Scheme
RESPONSIBLE AUTHORITY: Wodonga City Council
PO Box 523, WODONGA 3690
ADDRESS OF THE LAND: Shop 8, 285 Victoria Cross Parade, Wodonga
VIC 3690 (Lot 1 PS 529108)
THE PERMIT ALLOWS: Use of land for wholesale and retail
distribution of pharmaceutical supplies and
equipment and ancillary dispensary

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Endorsed Plan - Use

1. The use must be in accordance with the endorsed plans and information submitted with and forming part of this permit and must not be altered without the prior written consent of the Responsible Authority.

Satisfactory Continuation of Use

2. Once the use has started it must be continued to the satisfaction of the Responsible Authority.

Advertising Signage

3. a) Signage must be restricted to the endorsed plans accompanying this permit.
b) Additional signage of the same theme may be erected in the fixed signage panel without further planning approval.
c) No signage other than business name, hours and trading hours are to be specified on the automatic sliding doors so as to maintain transparency into the premises.

Time for Starting of Use

4. This permit will expire if one of the following circumstances applies:
a) The use is not commenced by 14 October 2011.
b) If commenced within two years is then discontinued for a period of two years.
The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

***** END OF CONDITIONS *****

DATED: 18 October 2009

Planning and Environment Regulations 2006 Part 4


Signature for the Responsible Authority

APPENDIX "B"

PHOTOGRAPHS GPPW – WODONGA



ORDER ON-LINE NOW
Email: wodonga@goodpricepharmacy.com.au
Fax: (02) 60242387
Telephone: (02)60568522
ASK STAFF FOR DETAILS

APPENDIX "C"

CURRICULUM VITAE – ROBIN F CURTIS

Curriculum Vitae

ROBIN FRANCIS CURTIS

**POSTAL ADDRESS: P.O. BOX 68
VIRGINIA Q 4014
TELEPHONE: (07) 3265353**

DATE OF BIRTH: 6TH.MAY,1940

OCCUPATION: RETAIL & INDUSTRY CONSULTANT

EMPLOYER: REMNUS PTY LTD (A.C.N. 059 087 231)
RETAIL INDUSTRY CONSULTANTS

OCCUPATIONAL HISTORY:

1957-1970	WORKED WAY THROUGH INSURANCE INDUSTRY TO LEVEL OF ACTING STATE MANAGER QLD (PEARL ASSURANCE CO LTD)
1970-1975	DRUG HOUSES OF AUSTRALIA LTD (DHA) – LOSS PREVENTION MANAGER – PHARMACY SERVICES MANAGER – PROPERTY DEVELOPMENT MANAGER – PERSONNEL MANAGER
1975-1980	CUT PRICE STORES RETAILERS LTD (HEAD OFFICE) - SPECIAL PROJECTS MANAGER – PROPERTY MANAGER – LOSS PREVENTION MANAGER
1980-1983	SMALL BUSINESS DEVELOPMENT CORPORATION (STATUTORY AUTHORITY) – DEPUTY CHAIRMAN & EXECUTIVE DIRECTOR
1983-Current	PRIVATE PRACTICE – RETAIL INDUSTRY CONSULTANT

OCCUPATIONAL EXPERIENCE:

1. DATA RESEARCH & ANALYSIS; DEMOGRAPHY REPORTS; SURVEYS (QUALITATIVE & QUANTITATIVE); RETAIL SPACE SURVEYS; DISTANCE SURVEYS; ECONOMIC IMPACT ASSESSMENTS; MARKET RENT ASSESSMENTS & REPORTS; ADVISOR & CONSULTANT TO FEDERAL AND STATE GOVERNMENTS (QLD, VIC, S.A., W.A. & N.T.) ON RETAIL INDUSTRY ISSUES; PREPARATION OF DRAFTS FOR STATE LEGISLATION & AMENDMENTS INCLUDING RETAIL SHOP LEASES ACT 1984;PREPARATION AND DELIVERY OF SUBMISSIONS TO THE TRADE PRACTICES COMMISSION (A.C.C.C.) ON BEHALF OF THE NEWSAGENCY INDUSTRY AND INDEPENDENT GROCERY INDUSTRY; CONSULTANT AND ADVISOR TO NEWSAGENCY INDUSTRY (A.N.C.O.L. & QLD NEWSAGENTS FEDERATION) INCLUDING SUBMISSIONS TO THE NEWSAGENCY COUNCIL OF QUEENSLAND; CONSULTANT TO THE INDEPENDENT GROCERY INDUSTRY (QUEENSLAND RETAIL TRADERS

2.

& SHOPKEEPERS ASSOCIATION AND ASSOCIATED MEMBER GROUPS), HARDWARE RETAILERS ASSOCIATION OF QLD, MOTOR TRADES ASSOCIATION OF QLD, MEAT & ALLIED TRADES ASSOCIATION OF QLD, PHARMACY GUILD OF QUEENSLAND, VICTORIAN CHAMBERS OF COMMERCE & INDUSTRY (SENIOR BODY), SOUTH AUSTRALIAN MIXED BUSINESSES ASSOCIATION AND VARIOUS CHAMBERS OF COMMERCE & INDUSTRY THROUGHOUT QUEENSLAND AND OTHER STATES; QUEENSLAND LAW SOCIETY INC (SMALL BUSINESS SUB-COMMITTEE); RETAIL PROPERTY DEVELOPMENT FEASIBILITY STUDIES; BUSINESS AND TRADING ANALYSES ON BEHALF OF INDIVIDUAL BUSINESSES (SPECIALISING IN NEWSAGENCIES, PHARMACIES INCLUDING DESIGN AND DEVELOPMENT COORDINATION OF DISCOUNT PHARMACY WAREHOUSES, SUPERMARKET/GROCERY STORES); LEASE AND OTHER NEGOTIATIONS ON BEHALF OF TENANTS

2. **GUEST LECTURER ON A NUMBER OF OCCASIONS AT UNIVERSITY OF QUEENSLAND DEPARTMENT OF REGIONAL & TOWN PLANNING AND QUT (FORMERLY QIT) DEPARTMENT OF BUILT ENVIRONMENT & ENGINEERING**
3. **ADVOCATE BEFORE THE STATE INDUSTRIAL COMMISSION, RETAIL SHOP LEASES TRIBUNAL, QUEENSLAND CIVIL & ADMINISTRATIVE APPEALS TRIBUNAL, ADMINISTRATIVE APPEALS TRIBUNAL AND LOCAL GOVERNMENT (PLANNING & ENVIRONMENT) COURT OF QUEENSLAND**
4. **EXPERT WITNESS ON NUMEROUS OCCASIONS ON RETAIL INDUSTRY MATTERS BEFORE THE SUPREME COURT OF QUEENSLAND, LOCAL GOVERNMENT (PLANNING & ENVIRONMENT) COURT, STATE INDUSTRIAL COMMISSION, ADMINISTRATIVE APPEALS TRIBUNAL AND THE RETAIL SHOP LEASES TRIBUNAL**



DATED AT BRISBANE THIS 18th. DAY OF JANUARY, 2010

ROBIN F. CURTIS

Attachment 6
Justification for development
having regard to local
planning provisions

Justification for development having regard to local planning provisions

Proposed Operation

The proposed use of Tenancy/Unit 4 is for a bulky goods retail and wholesale showroom/warehouse that will be occupied by the Good Price Pharmacy Warehouse (GPPW).

These modern day operations require large floor areas (500-1000m²) in order to accommodate the broad and diverse range of services and products that are offered and sold within.

The proposed operation contains a number of component parts which include:

- display and sale by retail and wholesale of bulky goods consisting of home health care and sports equipment, medical and invalid aids, home care equipment and ancillary health care products – due to the provision of a large amount of floor stock, customers are also able to trial such equipment in the store under the supervision of trained staff
- warehousing of pharmaceutical and cosmetic products
- dispensing of Pharmaceutical Benefits Scheme prescriptions and ancillary products
- sale of traditional pharmaceutical and related products
- on-line ordering (internet, facsimile and telephone) of all of the above products and picking, packing and distribution of such to customers (public and trade)

The large display of health, sports and invalid related products on the floor also provides the unique ability for people to test/trial the products under the guidance of control of trained staff prior to purchase.

Local Planning Provisions

The land is zoned 4 – Industrial Zone under the Ballina LEP 1987. Primary Objective A(a) of the zone expressly permits those uses specified in Clause 27 and Schedule 3 of the LEP.

Clause 27 permits the retailing of bulky goods which comprise large goods that are of such a size and shape as to require:

- large area for handling, storage and display
- easy and direct vehicular access to enable the goods to be collected by customers after sale

Schedule 3 permits shops that are used for the sale of medical and surgical supplies and equipment and any use which closely resembles such a use.

A large proportion of the floorspace of the tenancy will be used for the display and sales of bulky goods (including medical, invalid and health related equipment) which require large areas for display, testing and handling as well as convenient vehicular access to enable collection after purchase.

Further, a significant proportion of the product offered for sale and on display in the tenancy comprises "medical supplies and equipment" and other products that closely resemble such products.

A significant component of the floor area of the tenancy will also be used for warehousing purposes for the wholesale of product to trade and other retailers in the region.

Having regard to the above, there is sound and persuasive argument that the proposed use of the tenancy is reasonable in that it:

- contains a significant proportion of goods that are large and bulky in nature and require large floor area for display and trial as well as containing a large warehouse component
- is a use that is expressly permitted pursuant to Primary Objective A(a) of the 4 – Industrial Zone (being a use permitted by Schedule 3)
- is a use that is expressly permitted by Clause 27 of the BLEP

The provision of such an outlet will be convenient and will provide easy access and on-site car parking for the following:

- the Southern Cross Industrial Estate workforce
- residents of the Northlakes Estate
- existing and future residents of Aspen LV Plus (formerly Sovereign Gardens retirement village)
- residents of Hibiscus Gardens Caravan Park and Southern Cross Relocatable Home Park
- more seniors residents of Ballina and the local area