

# LEASE

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## New South Wales Real Property Act 1900

**PRIVACY NOTE:** Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

**STAMP DUTY**

Office of State Revenue use only

**(A) TORRENS  
TITLE**

Property leased: if appropriate, specify the part or premises  
Folio identifier 2/1171232, being Lot 2 in DP 1171232, and being the premises known as 80-82 Appin Road, Appin, NSW 2560

**(B) LODGED BY**

Document Collection Box <b>27C</b>	Name, Address or DX, Telephone, and Customer Account Number if any Herbert Smith Freehills - LLPN:124217E DX 361 Sydney Phone: (02) 9225 5000	<b>CODE</b>  <b>L</b>
	Reference (optional): GJH:JMS:82287930	

**(C) LESSOR**

METCASH TRADING LIMITED ACN 000 031 569

The lessor leases to the lessee the property referred to above.

**(D)**

Encumbrances (if applicable): 1. 2. 3.

**(E) LESSEE**

METCASH FOOD & GROCERY PTY LTD ACN 004 391 422

**(F)**

**TENANCY:**

- (G)**
- TERM** 15 years
  - COMMENCING DATE** 27 June 2014
  - TERMINATING DATE** 26 June 2029
  - With an **OPTION TO RENEW** for a period of 3 x 10 years set out in clause 21
  - With an **OPTION TO PURCHASE** set out in clause 27
  - Together with and reserving the **RIGHTS** set out in Annexure A
  - Incorporates the provisions or additional material set out in **ANNEXURE(S) A** hereto.
  - Incorporates the provisions set out in **MEMORANDUM** filed pursuant to section 80A Real Property Act 1900 as / registered **LEASE** No. Not applicable
  - The **RENT** is set out in item 7 of the Reference Schedule in Annexure A

Janet Manner.

DATE        /        /         
          dd        mm        yyyy

(H) I certify that I am an eligible witness and that the lessor signed this dealing in my presence. [See note\*\* below].

Certified correct for the purposes of the Real Property Act 1900 by the lessor.

Signature of witness: \_\_\_\_\_

Signature of lessor: \_\_\_\_\_

Name of witness: \_\_\_\_\_

Refer to Annexure A,  
page 45 for attestations

Address of witness: \_\_\_\_\_

I certify that I am an eligible witness and that the lessee signed this dealing in my presence. [See note\*\* below].

Certified correct for the purposes of the Real Property Act 1900 by the lessee.

Signature of witness: \_\_\_\_\_

Signature of lessee: \_\_\_\_\_

Name of witness: \_\_\_\_\_

Refer to Annexure A,  
page 45 for attestations

Address of witness: \_\_\_\_\_

(I) STATUTORY DECLARATION \*

I

solemnly and sincerely declare that-

1. The time for the exercise of option to renew in expired lease No. \_\_\_\_\_ has ended;
2. The lessee under that lease has not exercised the option.

Made and subscribed at \_\_\_\_\_ in the State of New South Wales

on \_\_\_\_\_ in the presence of ..... of

Justice of the Peace (J.P.Number:        )

Practising Solicitor

Other qualified witness [specify] .....

\*\* who certifies the following matters concerning the making of this statutory declaration by the person who made it:

1. I saw the face of the person OR I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering; and
2. I have known the person for at least 12 months OR I have confirmed the person's identity using an identification document and the document I relied on was a ..... [Omit ID No.]

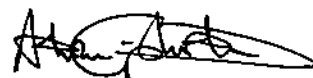
Signature of witness: .....

Signature of lessor: .....

\* As the services of a qualified witness cannot be provided at lodgement, the declaration should be signed and witnessed prior to lodgement.

\*\* If made outside NSW, cross out the witness certification. If made in NSW, cross out the text which does not apply.

\*\*s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.



Jan R Mounce

**This is Annexure A to the lease between Metcash Trading Limited as Landlord and Metcash Food & Grocery Pty Ltd as Tenant of the premises known as the IGA Supermarket at 80-82 Appin Road, Appin, NSW 2560**

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Ian R Mowles

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# 1. Definitions and interpretation

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## 1.1 Definitions

Unless the contrary intention appears:

**Accountant** means a member of either the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or a member of the National Institute of Accountants.

**Accounting Period** means each period of twelve (12) months starting on 1 July and finishing on 30 June during the Term, except for:

- (a) the first accounting period, which starts on the Commencing Date and ends on 30 June next; and
- (b) the last accounting period, which starts on 1 July in the last year of the Term and ends on Termination.

**Address** means the address of the Addressee for giving a Notice specified in clause 28 any other address nominated by the Addressee by Notice to the Sender, including a facsimile number.

**Addressee** means the person to whom a Notice is addressed.

**Average Review Date** means each date specified as an Average Review Date in Item 8 of the Reference Schedule.

**Base Rent** means the annual amount specified in Item 7 of the Reference Schedule.

**Base Rent Nomination Notice** means a notice given under this lease by either the Landlord or the Tenant to the other nominating the base rent payable from a Market Review Date.

**Base Rent Nominator** means the Landlord or the Tenant as the case may be that gives a Base Rent Nomination Notice.

**Base Rent Notice Recipient** means the Landlord or the Tenant as the case may be that receives a Base Rent Nomination Notice.

**Building** means any improvements constructed on Lot 2 in Deposited Plan 1171232.

**Business Day** means a Monday to Friday, excluding public holidays in the Jurisdiction.

**Car Park Area** means the area marked as 'Carpark' on the Site Plan.

**Commencing Date** means the date in Item 5 of the Reference Schedule.

**Corporations Act** means the Corporations Act 2001 (Cth).

**Council** means the Wollondilly Shire Council.

**CPI** means the consumer price index published by the Australian Bureau of Statistics as the Consumer Price Index for all groups in the Jurisdiction or if that index is suspended or discontinued, the index substituted for it by the Australian Statistician.

**CPI Review Date** means each date specified as a CPI Review Date in Item 8 of the Reference Schedule.

**Encumbrance** means a mortgage, charge, bill of sale, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in that caveat affecting the Premises or the Building.

**Event of Default** means an event specified as an event of default in this lease.

**Existing Tenant's Fixtures** means each fixture or fitting, including signage, installed in or on the Premises or any part of the Premises by any previous occupier of the Premises as specified in Attachment 4.

**Fixed Percentage** means the percentage specified as a Fixed Percentage in Item 8 of the Reference Schedule.

**Final Period** means the Lease Year expiring on the date of Termination.

**Fixed Review Date** means each date specified as a Fixed Review Date in Item 8 of the Reference Schedule.

**Further Term** means each further term specified in Item 6 of the Reference Schedule.

**GLA Plan** means the gross lettable area as specified in the plan attached as Attachment 3.

**Government Authority** means any federal, state or local government or governmental, semi governmental, government owned corporation, administration, fiscal or financial body, department, commission, authority, tribunal, agency, entity or authority, statutory or otherwise, including any court.

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**IGA Supermarket** means a supermarket whose name includes 'IGA' or such other name approved by the Metcash Group in its absolute discretion.

**IGA Supermarket Operator** means a supermarket operator approved by the Metcash Group whose supermarkets trade under a name which includes 'IGA' or such other name approved by the Metcash Group by its absolute discretion.

**Insured Risk** means an event against which a prudent landlord would insure including fire, explosion, earthquake, riot, civil commotion, act of war, lightning, storm, tempest, act of God, fusion, smoke, rainwater, water damage, impact by aircraft or vehicles, machinery breakdown and malicious acts or omissions.

**Institute** means the Australian Property Institute (Inc.) Division relevant to the Jurisdiction.

**Interest** means interest at the rate 2% above the corporate overdraft reference rate published by Commonwealth Bank of Australia from time to time.

**Jurisdiction** means the state or territory in which the Premises are situated.

**Landlord** means the person identified in item (C) on the front page of this lease.

**Landlord's Fixture** includes each:

- (a) floor or window covering;
- (b) partition;
- (c) light fitting; and
- (d) other fixture or fitting,

installed by the Landlord in the Premises or anything that has become a landlord's fixture as a matter of law and any replacement of any item mentioned in this definition.

**Landlord's Obligation** means each agreement or obligation in this lease or imposed by law with which the Landlord must comply.

**Landlord's Rights** means:

- (a) the right to install in the Premises any conduit, pipe or cable for the supply of a Utility for the Building, the Premises or any Occupier (provided the Tenant's use and occupation of the Premises is not adversely affected); and
- (b) all other rights in favour of the Landlord contained or implied in this lease or granted by law.

**Lease Year** means each consecutive period of 1 year commencing on the Commencing Date and expiring during the Term.

**Licensee** means one or more persons who have entered into an agreement with any of the corporations within the Metcash Group entitling them to operate the Permitted Use at the Premises in accordance with that agreement.

**Loading Dock** means the area marked 'Loading Dock' on the Site Plan.

**Market Review Date** means each date specified as a Market Review Date in Item 8 of the Reference Schedule.

**Metcash Group** means Metcash Limited ACN 112 073 480 and all of its related bodies corporate (as that term is defined in the Corporations Act).

**Money Payable** means the Base Rent and any other money payable by the Tenant to the Landlord under this lease.

**New Lease Commencing Date** the day identified as the commencing date for the relevant Further Term in Item 6 of the Reference Schedule.

**Notice** means a notice, demand, consent or authority given or made to any person under this lease.

**Occupier** means a person having the right to occupy any part of the Building.

**Permitted Person** means an agent, employee, contractor or licensee of a party to this lease.

**Permitted Use** means the use specified in Item 13 of the Reference Schedule.

**Plant and Equipment** means plant and equipment owned or leased by the Landlord and serving the Premises or the Building, including plant and equipment for or in connection with:

- (a) a Utility; or
- (b) heating, cooling, lighting, power or plumbing.

**Premises** means the premises described in Item 3 of the Reference Schedule.

**President** means the President or the person acting or deputising for the President for the time being of the Institute.

**Priority Right of First Refusal** means the Landlord's obligation (applicable only when the Landlord is an entity within the Metcash Group) to first offer to sell, transfer or otherwise dispose of the Premises to Australian Unity Investments before the Landlord is permitted to sell, transfer or otherwise dispose of the Premises to any other party (including the Tenant under clause 27).

**related body corporate** has the meaning given to it in the Corporations Act.

**Rent Review Date** means either a CPI Review Date, a Fixed Review Date or Market Review Date.

**Rules and Regulations** means the rules and regulations of the Building made by the Landlord under this lease.

**Signage Plan** means the plan attached as **Attachment 2**.

**Site Plan** means the plan attached as Attachment 1.

**Supermarket Trading Hours** means the core trading hours of the Premises specified in Item 11 of the Reference Schedule.

**Tenant** means the person identified in item (E) on the front page of this lease.

**Tenant's Business** means the business of the Tenant or any sublessee or licensee of the Tenant carried on at the Premises.

**Tenant's Fixture** means each fixture or fitting, including signage, installed in or on the Premises or any part of the Premises by the Tenant.

**Tenant's Obligation** means each agreement or obligation in this lease or imposed by law with which the Tenant must comply.

**Tenant's Rights** means:

- (a) the right to use:
  - (i) each Landlord's Fixture from time to time in the Premises;
  - (ii) the Plant and Equipment in the Premises; and
  - (iii) each Utility supplied to the Premises,



- (b) all rights in favour of the Tenant contained or implied in this lease; and
- (c) the right to install cables or conduits in the Premises and the Building.

**Tenant's Sales** means the sale of goods by the Tenant's Business including a sale:

- (a) made at or from the Premises;
- (b) the order for which is received, accepted or recorded in the Premises, for delivery or performance elsewhere;
- (c) made or rendered by means of mechanical or other vending device in the Premises;
- (d) made or rendered as a result of a transaction originating on the Premises;
- (e) which would be credited or attributable to the Tenant's Business in the normal course of business; and
- (f) made or performed in a manner intended to avoid the provisions of this clause, but excluding:
  - (g) goods exchanged between the Tenant's Business and any other business of the Tenant for a purpose other than concluding a sale to a customer;
  - (h) goods returned to shippers, wholesalers or manufacturers;
  - (i) the sale by the Tenant of any Tenant's Fixture;
  - (j) the amount of any discounts allowed to customers in the normal course of business;
  - (k) the net amount paid or payable by the Tenant on account of any purchase tax, receipt tax or other similar tax imposed at the point of retail sale of goods and services;
  - (l) the amount of delivery charges;
  - (m) the amount received from the sale of lottery tickets and similar tickets (other than commission on those sales);
  - (n) amounts allowed for trade ins;
  - (o) sales where the sale price is later refunded;
  - (p) amounts written off as bad debts in accordance with normal accounting practice even if the sale was made in an earlier Lease Year;
  - (q) sales made on a service business (for example a business providing services including the business of a bank, building society, booking office, insurance company, office for the collection of accounts payable, for gas, electricity, water, telephone or similar services) by any sublessee or licensee;
  - (r) the consideration paid by a sublessee for occupying the premises and not carrying on a service business;

- (s) amounts received or transacted on an agency basis;
- (t) charges made by any credit card operator;
- (u) any service, finance or interest charges relating to the provision of credit or direct debit to customers;
- (v) public telephone charges; and
- (w) amounts received on the disposal of trade waste.

**Tenant Signs** means an 'IGA' sign or other signs, screens, banners or flags erected, affixed or installed on or adjacent to the Building (except within the Premises) which display such words or other indicia as the Tenant may, from time to time, use to depict its logo, trading style or name.

**Term** means the term specified in Item 4 of the Reference Schedule and each Further Term granted.

**Termination** means the expiry or earlier determination of the Term or any period of holding over under this lease.

**Unfit for Occupation** means that the Premises or the Building, or any part of the Premises or the Building are so destroyed or damaged as to:

- (a) render a substantial part of the Premises unfit for occupation and use by the Tenant or a Licensee for the Permitted Use; or
- (b) interfere substantially with the Tenant's Rights.

**Utility** means electricity, water, telephone, gas and rubbish removal.

**Valuer** means a person who:

- (a) is a fellow or associate of the Institute of not less than 5 years standing;
- (b) has not had less than 5 years practical experience in New South Wales in the valuation of properties of the same general classification as the Premises; and
- (c) is appointed under either of clauses 5.3 or 5.6.

**Variable Outgoings** means only the following outgoings and expenses of the Landlord in respect of the Premises:

- (a) council rates and charges, including fire and emergency services levies or payments and water, drainage and sewerage rates and charges payable in respect of the Land;
- (b) insurance premiums for insuring the Building and Premises against:
  - (i) an Insured Risk;
  - (ii) demolition and removal of debris;
  - (iii) architects' and other consultants' fees; and

- (iv) a landlord's public risk and third party liability;
- (c) reasonable audit fees in relation to the outgoings and expenses mentioned in this definition;
- (d) each amount charged to an Occupier or the conducted by the Occupier;
- (e) the costs of work of a structural or capital nature;
- (f) major component part replacement;
- (g) refurbishment, renovations, rebuilding or additions to the Building and Premises;
- (h) software or hardware updates to any computer or logic control system;
- (i) any provisions for future expenditure including without limitation any sinking or deferred maintenance funds;
- (j) any GST payable in respect of Variable Outgoings to the extent that the Landlord is entitled to a credit for that GST;
- (k) costs recoverable under any building or supply contract in respect of warranty periods;
- (l) any interest, fees, charges, costs or penalties incurred due to late payment of operating expenses by the Landlord;
- (m) any special rates or charge levied in respect of capital works;
- (n) local authority benefited area rates or regional improvement taxes;
- (o) any excess or penalty rates with respect to insurances;
- (p) the costs of work which is the responsibility of any Occupier; and
- (q) land tax.

## **1.2 Interpretations**

In this lease, unless the context otherwise requires:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this lease;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Authority;
- (e) other parts of speech and grammatical forms of a word or phrase defined in this lease have a corresponding meaning;

- (f) a reference to any thing (including any right) includes a part of that thing but nothing in this clause implies that performance of part of an obligation constitutes performance of the obligation;
- (g) a reference to a clause, party, attachment, exhibit or schedule is a reference to a clause of and a party, attachment, exhibit or schedule to, this lease and a reference to this lease includes any attachment, exhibit or schedule;
- (h) a reference to an Item is a reference to an Item in the Reference Schedule;
- (i) a reference to a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws amending, consolidating or replacing it, whether passed by the same or another Government Authority with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- (j) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (k) a reference to a party to a document includes that party's successors and permitted assigns;
- (l) a reference to an agreement other than this lease includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (m) a reference to a document includes any agreement in writing, or any certificate, notice, instrument or other document of any kind;
- (n) no provision of this lease will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this lease or that provision;
- (o) a covenant or agreement on the part of two or more persons binds them jointly and severally;
- (p) a reference to liquidation includes official management, appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, deregistration, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death;
- (q) 'includes', 'including' and other similar words are not words of limitation; and
- (r) terms used in this lease which are defined in the GST Act have the meaning given to them in the GST Act.

### 1.3 Exclusion of implied provisions in Conveyancing Act

The provisions of sections 84, 84A, 85, 86 and the short form covenants contained in Part 2 Schedule 4 of the *Conveyancing Act 1919 (NSW)* are not implied into the terms of this lease.

## 2. Quiet enjoyment

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The Tenant may, in accordance with this lease, occupy and use the Premises and enjoy the Tenant's Rights during the Term without being disturbed by the Landlord or any person lawfully claiming an estate or interest conferred by the Landlord.

## 3. Base Rent

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### 3.1 Base Rent

- (a) The Tenant must pay to the Landlord the Base Rent without deduction or set off, except as permitted in accordance with this lease.
- (b) Subject to clause 4, the Base Rent is payable by the following instalments:
  - (i) an instalment payable on the Commencing Date equal to the Base Rent due from that date to the next first day of a month; then
  - (ii) equal monthly instalments in advance payable on the first day of each month; then
  - (iii) a final instalment payable on the last first day of a month during the Term of the Base Rent due from that date until Termination.

### 3.2 Place for payment of Base Rent and other Money Payable

The Base Rent, and other Money Payable to the Landlord must be paid to the Landlord in a manner agreed by the Landlord and the Tenant or failing agreement by electronic funds transfer to the bank account details notified by the Landlord to the Tenant from time to time.

## 4. Review of Base Rent

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On each Rent Review Date, the Base Rent must be reviewed and the Base Rent payable on and from the relevant Rent Review Date, will be:

- (a) if the Rent Review Date is a CPI Review Date, an amount calculated as follows:

$$A = B \times \frac{C}{D}$$

where:

A = the Base Rent payable for the Lease Year immediately following the relevant Rent Review Date;

B = the Base Rent payable immediately prior to the relevant Rent Review Date;

C = the Current CPI; and

D = the Base CPI.

Where the application of clause 4(a) results in a number of dollars and a number of cents, the amount must be rounded up to the nearest dollar.

If at any time the Australian Bureau of Statistics changes the reference base for the Consumer Price Index, then, for the purposes of the application of this clause after the change takes place, regard must be had only to index numbers published in terms of the new reference base.

In this clause 4(a):

**Base CPI** means the CPI last published prior to:

- (i) the immediately preceding Rent Review Date; or
- (ii) if there is no such prior Rent Review Date, the date in Item 5 of the Reference Schedule; and

**Current CPI** means the CPI last published prior to the relevant Rent Review Date;

- (b) if the Rent Review Date is a Market Review Date:
  - (i) an amount agreed between the parties; or
  - (ii) in the event that the parties cannot reach agreement, the current market rent determined in accordance with clause 5;
- (c) if the Rent Review Date is a Fixed Review Date, the Base Rent payable for the Premises immediately prior to the relevant Rent Review Date, increased by the Fixed Percentage; or
- (d) if the Rent Review Date is an Average Review Date, the Base Rent will be varied in accordance with the following formula:

$$R = \frac{BR + TR}{2}$$

Where :

R = the Base Rent payable for the Lease Year immediately following the Average Review Date;

BR = the aggregate of the Base Rent payable during the 2 Lease Years immediately preceding the Average Review Date; and

TR = the aggregate of the Turnover Rent payable during the 2 Lease Years immediately preceding the Average Review Date.

## **5. Determination of current annual market rent**

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### **5.1 Party may nominate amount of varied Base Rent**

If the parties do not agree on the Base Rent under clause 4(b)(i):

- (a) the Landlord and the Tenant may give a Base Rent Nomination Notice to the other nominating the amount which that Party proposes as the Base Rent with effect from a Market Review Date; and
- (b) the Landlord and the Tenant may only give a Base Rent Nomination Notice during the period commencing 9 months and expiring 6 months prior to the relevant Market Review Date.

### **5.2 Base Rent nominated is the varied Base Rent if accepted**

The Base Rent from and including a Market Review Date is the amount nominated in the relevant Base Rent Nomination Notice if the Base Rent Notice Recipient gives notice to the Base Rent Nominator accepting that nomination within 10 Business Days after the Base Rent Nomination Notice is given.

### **5.3 Determination of current annual market rent by valuation**

If the Landlord and the Tenant do not agree on the current market rent of the Premises to apply from the relevant Market Review Date within 20 Business Days after the Base Rent Nomination Notice is given, each party must within a further 15 Business Days appoint a Valuer, and direct the two Valuers to jointly determine the market rent of the Premises in accordance with the provisions of clauses 5.4 to 5.10. If either party fails to appoint a Valuer, then the Valuer appointed by the other party will determine the market rent in accordance with this clause 5, and the provisions of clauses 5.8 and 5.10 are to be read as applying to that sole Valuer, and the provisions of clauses 5.4 to 5.6 have no application.

### **5.4 Conditions of appointment**

Before commencing their determination, the Valuers must accept the following conditions of appointment:

- (a) they must consult with one another and use their best endeavours to produce a single, joint determination of the current annual market rent of the Premises;
- (b) they must complete the valuation within 30 Business Days of accepting their appointment;
- (c) they are not obliged to agree and, if they are unable to agree in accordance with clause 5.4(a), must provide separate valuations; and
- (d) before commencing their determination, the Valuers must jointly agree in writing upon a third Valuer to act as umpire in the event that they are unable to agree and establish that the third Valuer is willing to act in those circumstances.

### **5.5 Agreed valuation binding**

If the Valuers agree on the current annual market rent for the Premises, then, except in the case of manifest error, their valuation is final and binding on the parties.

## **5.6 Appointment of a third Valuer**

- (a) If the Valuers are unable to agree on the current annual market rent of the Premises within the period referred to above (or within any extension of that period which may be agreed between the parties), then the Valuers must request a third Valuer to finally determine the current annual market rent of the Premises.
- (b) The Valuers must furnish the third Valuer with copies of their determinations and of any written submissions made by the parties. If the Valuers cannot agree on a third Valuer, they may request the president of the Institute to appoint a third Valuer.
- (c) It is a condition of the third Valuer accepting appointment that the valuation being completed within 30 Business Days of the appointment being made.
- (d) Except in the case of manifest error, the determination of the third Valuer is final and binding on the parties.

## **5.7 Incapacity of Valuer**

If for any reason a Valuer is unable to act or to complete the task, and the parties cannot agree on a substitute Valuer, either party may request the president for the time being of the Institute to appoint a substitute.

## **5.8 Qualification of Valuers**

All Valuers appointed for the purpose of determining the current annual market rent of the Premises must:

- (a) provide reasons for their valuations;
- (b) act as experts not as arbitrators; and
- (c) take into account the matters set out in clause 5.10 when determining the current annual market rent.

## **5.9 Submissions to Valuers**

The Landlord and Tenant:

- (a) may make such submissions to the Valuers as they think fit, provided that the valuation process is not delayed pending receipt by a Valuer of any such submission; and
- (b) must pay the cost of the Valuer appointed by each of them, and share equally the cost of the valuation by the third Valuer.

## **5.10 Valuation criteria**

In determining the current annual market rent of the Premises the Valuer must:

- (a) not take into account the value of any goodwill attributable to the Tenant's Business at the Premises;



- (b) have regard to current market rent for a similar type IGA or Supa IGA premises with similar size floor space, amenity and trading potential;
- (c) have regard to all of the terms of the lease;
- (d) if part of the Premises have been sub-let, ignore the rent and other consideration payable with respect to the sub-lease;
- (e) have regard to the age, state of repair and condition of the Building;
- (f) have regard to incentives, rent concessions and other benefits that are frequently or generally offered to prospective tenants including the Tenant to lease unoccupied shops in the Building;
- (g) disregard the Car Park Area;
- (h) disregard the turnover of the Tenant's Business at the Premises (but not, if applicable, the fact that the lease requires the Tenant to pay rent as a percentage of Tenant's Sales, if the lease so provides) and not make any estimate or assumption concerning the turnover of the Tenant's Business at the Premises; and
- (i) acknowledge that as a result of a determination under this clause the current annual rent under the lease may rise or fall.

**5.11 Rent pending determination**

- (a) Pending agreement or the Valuers' determination (as applicable) the Tenant must pay the Rent which applied immediately before the Market Review Date.
- (b) On receipt of the Valuer's assessment, the parties must adjust any underpayment or overpayment on the next due date for the payment of Rent.

**5.12 Forfeiture of right to review**

If neither party gives Notice under clause 5 within the time specified the Rent will not be reviewed as at the relevant Market Review Date, and from that Market Review Date the Tenant will continue to pay the Rent payable immediately prior to the Market Review Date.

**5.13 Information to be supplied by Landlord**

The Landlord must, not later than 10 Business Days after being requested by any Valuer, supply the Valuer with information (where reasonably available to the Landlord) requested in a list provided by the Valuer to assist the Valuer to determine the current market rent, including the following information about leases for comparable retail shops by the Landlord:

- (a) current rent for each lease;
- (b) rent-free periods or any other form of incentive;
- (c) recent or proposed variations of any lease;
- (d) outgoings for each lease; and
- (e) any other information reasonably requested by a Valuer.

## **6. Variable Outgoings**

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### **6.1 Variable Outgoings**

The Tenant is not obliged to contribute to Variable Outgoings during the Term or any Further Terms.

## **7. Other expenses**

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### **7.1 Utilities consumed on the Premises**

The Tenant must pay to the Landlord (or to another person, if the demand is made to the Tenant by that other person) on demand all costs, outgoings and expenses payable separately in respect of Utilities consumed on the Premises.

### **7.2 Supply of Utilities**

- (a) The Landlord must ensure that any Utility required by the Tenant can be supplied to the Premises.
- (b) The Tenant has an absolute discretion to select the supplier to the Premises of any Utility and to separately meter the supply of any Utility directly to the Premises.
- (c) The Tenant must pay the supplier of any Utility directly supplied to the Premises and separately metered.
- (d) If the Landlord supplies a Utility, the Tenant must pay to the Landlord on demand for the supply of that Utility to the Premises, the amount agreed by the Landlord and the Tenant which must not be more than the amount which the person supplying that Utility to the Landlord may lawfully require the Tenant to pay for that Utility if that person had supplied that Utility direct to the Tenant.

### **7.3 Marketing fund**

- (a) The Tenant is not required to contribute to any merchant's association or promotions fund established or administered by or on behalf of the Landlord for the purpose of marketing the Building.
- (b) The Tenant may establish and administer its own marketing fund in respect of the Premises, at its own cost and expense.
- (c) In this clause **marketing** includes promoting, publicising and advertising the Building.

### **7.4 GST**

- (a) Unless expressly included, the consideration for any supply made under or in connection with this lease does not include GST.
- (b) In addition to the consideration for the supply, the recipient must pay the amount of any GST payable in connection with that supply at the time of the supply or at the time the consideration for the supply is payable (whichever is the later).

- (c) In exchange for payment of the GST, the supplier must issue a tax invoice in respect of the supply to the recipient.
- (d) If either party is entitled under this lease to be reimbursed or indemnified by the other party for a cost or expense incurred in connection with this lease, the reimbursement or indemnity payment must not include any GST component of the cost or expense for which an input tax credit may be claimed by the party entitled to be reimbursed or indemnified, or by its representative member.
- (e) Where Rent that the Tenant pays to the Landlord for the supply of the Premises is calculated by reference to the value of sales of the business conducted by the Tenant from the Premises, the value on which that Rent is calculated excludes the amount of GST on those sales.

#### **7.5 Interest on overdue money**

Without affecting the Landlord's Rights, the Tenant must pay to the Landlord on demand Interest on any Money Payable which is unpaid for 10 Business Days calculated from the due date for payment until payment.

### **8. Landlord's obligations**

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#### **8.1 Landlord's warranty**

The Landlord warrants that as at the Commencing Date and as at the commencing date of any Further Term granted in this lease:

- (a) the Premises are structurally adequate to support the usual refrigeration equipment of the Tenant;
- (b) the Premises may be used for the Permitted Use without being in breach of any law;
- (c) Utilities will be available for connection and supply to the Premises in such quantity as the Tenant reasonably requires, temporary and unavoidable stoppages and delays excepted, and
- (d) the Premises do not contain any asbestos.

#### **8.2 Landlord's prohibitions**

The Landlord must not without the prior written consent of the Tenant which must not be unreasonably withheld having regard to the commercial interests of the Tenant:

- (a) reduce the visibility of the front of the Premises or any external signage;
- (b) alter the direction of customer traffic flows in the vicinity of the Premises;
- (c) inhibit the Tenant's access to the Premises in any manner;
- (d) alter or inhibit the flow of customers to the Premises or vehicular access to the Car Park Area;

- (e) erect signs on the roof or exterior walls of the Building other than signage which advertises the Building;
- (f) diminish the width, height or area of any malls, courts, passageways, walls or doors surrounding, adjoining or leading to the Premises; or
- (g) carry out any other change in or to the Building which could have an adverse effect on the Tenant's Business at the Premises.

### **8.3 Failure to comply**

If the Landlord fails to comply with its obligations under this clause 8 or clause 9.1:

- (a) the Tenant can rectify the default of the Landlord and set off the whole or any part of the costs of rectification against moneys due to be paid by the Tenant under this lease;
- (b) the Landlord must pay the Tenant on demand the cost of any balance not so set off against moneys due to be paid by the Tenant under this lease; and
- (c) the Landlord must pay the Tenant reasonable compensation for any consequential loss or damage suffered by the Tenant.

### **8.4 Prohibition on strata, community title or subdivision**

The Landlord must not strata, community title or otherwise subdivide the Premises without the written consent of the Tenant (which consent may be given or withheld by the Tenant in its absolute discretion).

### **8.5 Reduction in Base Rent**

If a clause in this lease requires the reduction of the Base Rent in accordance with this clause then:

- (a) the Tenant's obligation to pay Base Rent under this lease will be suspended for the length of time that the event continues; and
- (b) while the event continues, the Tenant will be required to pay the Landlord on account of rent payable for the Tenant's occupation of the Premises the lesser of:
  - (i) the instalments of Base Rent for the current Lease Year; and
  - (ii) 1.5% of the Tenant's Sales in the period the event continues.

### **8.6 Interruption of Services**

- (a) Except in an emergency the Landlord must not cause or allow the water, gas, electrical, telephone, plumbing, air conditioning equipment, fire prevention equipment, sprinkler system, standby generator services or any other services to the Premises to be interrupted in a manner likely to cause damage to the Tenant without first arranging for alternative services to be provided during the period of the interruption and notifying the Tenant.
- (b) Where the electricity for the Premises is supplied via a substation or Building switchboard providing electricity to other occupants of the Building the Landlord must

ensure that at all times the electricity supply to the Premises is sufficient for the maximum demand of the Premises plus a minimum 20% spare capacity.

## **9. Maintenance and Repair Obligations**

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### **9.1 Landlord repair and maintenance**

The Landlord must:

- (a) maintain in a safe and watertight condition and in a sound structure or condition the Premises;
- (b) in a proper and timely manner, carry out all repairs, maintenance and replacements to the Premises which are not specifically to be done by the Tenant under this lease, including structural and capital repairs and maintenance and for the replacement and the cost of replacement of any component of any part of the Premises, repairs to external parts of the Premises (including the air conditioning plant and equipment) unless required because of a negligent act or omission of the Tenant or its employees, agents or contractors;
- (c) rectify as soon as practicable breakdown of electricity, water or sewer services or plant or equipment to the Building;
- (d) ensure that all breakdowns and stoppages to the landlord's fixtures and fittings located within the Building as kept to the minimum possible time;
- (e) make reasonable efforts to prevent any circumstances that can reasonably be influenced by the Landlord which adversely affect the Tenant's trading from the Premises;
- (f) provide garbage and trade waste disposal facilities;
- (g) pay rates, taxes and other levies charged on the Building or Premises;
- (h) where permitted by law, allow the Premises to be open to trade 7 days per week for such hours as is required by the Tenant; and
- (i) repair and replace all Car Park Area and external hard stand areas unless the works are required due to the negligent act or omission of the Tenant or a Permitted Person.

### **9.2 Tenant repair and maintenance**

- (a) The Tenant must:
  - (i) repair and maintain the Premises, any air conditioning plant, lights and each Landlord's Fixture and the Plant and Equipment in the Premises in good order and condition; and
  - (ii) maintain the garbage and trade waste disposal services, and the Tenant is responsible for the cost of those services.
- (b) For the avoidance of doubt, the Tenant's repair and maintenance obligations under this clause 9.2(a) do not extend to:

- (i) fair wear and tear;
- (ii) structural damage or any works of a capital or structural nature unless the works are required due to a negligent act or omission of the Tenant or a Permitted Person;
- (iii) replacement of all or part of the Landlord's Fixture or the Plant and Equipment in the Premises (including the air conditioning plant);
- (iv) damage caused by an event which is the subject of an Insured Risk; and
- (v) maintenance which the Landlord has given written notice to the Tenant that the Landlord will undertake or is an obligation of the Landlord under this lease.

### **9.3 Standard of Tenant maintenance**

The Tenant must maintain the Premises to a standard identified from time to time by the Metcash Group required for the supermarket to trade as an IGA Supermarket or such other branded stores as notified by Metcash Group from time to time.

### **9.4 Other obligations**

The Tenant must:

- (a) replace all electric globes and fluorescent tubes in the Premises which fail as a result of wear and tear;
- (b) replace all broken or damaged glass in the doors, walls or windows of or to the Premises irrespective of the cause of breakage or damage unless broken or damaged by the Landlord, its employees, agents or contractors;
- (c) keep the Premises free from dirt and rubbish;
- (d) place all rubbish in suitable receptacles;
- (e) take reasonable precautions to keep the Premises free of animals, birds and insects, and if required by the Landlord, at the cost of the Tenant employ from time to time pest exterminators approved by the Landlord; and
- (f) keep the Premises clean.

### **9.5 Refurbishment**

In performing their respective obligations under this lease, the Landlord and the Tenant must ensure that the Premises are renovated and maintained to a good standard having regard to the standard of similar retail centres and premises in comparable markets.

## **10. Alterations**

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### **10.1 Alterations permitted**

The Tenant must not make material alterations or substantial additions to any part of the Premises, including:

- (a) structural alterations to the Premises;
- (b) removing, altering or adding to a Landlord's Fixture or the Plant and Equipment in the Premises,

unless the Tenant:

- (c) obtains the Landlord's consent; and
- (d) satisfies the requirements of all statutes and of the insurer of the Insured Risks.

## **11. Harmful material**

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The Tenant must not install in the Premises any material having the potential to harm the health or safety of any person.

## **12. Development of the Building**

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### **12.1 Development of the Building**

Before carrying out any works in the Building, including the development of further stages on the Building or development of any land adjoining or in close proximity to the Premises the Landlord must:

- (a) obtain the Tenant's consent, and give to the Tenant all information requested by the Tenant acting reasonably to enable the Tenant to properly assess the Landlord's proposed development works;
- (b) give the Tenant plans and specifications of the proposed works including a construction program and staging plans;
- (c) consult with the Tenant as to the time at which the works are to be carried out so as to ensure that the Landlord minimises (so far as reasonably possible) disruption to the Tenant's Business and to access to the Premises generally;
- (d) ensure that proper and adequate access is available for the public to and from the Premises from the Car Park Area;
- (e) ensure that the method of carrying out the works keeps noise, vibration and the intrusion of dust and dirt into the Building and the Premises to a minimum;
- (f) take appropriate steps to ensure that persons engaged in the works do not use the Car Park Area; and

- (g) at its cost carry out all work lawfully required by a Government Authority to be carried out in the Premises as a consequence of the works carried out by the Landlord and any consequential alterations to or making good of the Premises or any property of the Landlord or the Tenant.

## **12.2 Development to comply with Tenant amenity requirements**

The Landlord must at all times while carrying out the Works and following completion of the Works meet the requirements of clause 8.2.

## **13. Use of the Premises**

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### **13.1 Permitted Use**

The Tenant may use the Premises for the Permitted Use and not for any other purpose.

### **13.2 Premises subject to restrictions**

If the Tenant's Business is permissible only with consent, licence or authority under any statute, the Tenant must obtain that consent, licence or authority at the Landlord's consent and the Tenant must comply with that consent, licence or authority under that statute.

### **13.3 Supermarket Trading Hours**

The Tenant can trade whenever it thinks fit provided that its trading hours conform to all legal requirements.

### **13.4 Loading Hours**

The Tenant may only use the Loading Dock for the loading, receiving or delivering of goods as permitted by any Government Authority or law.

### **13.5 Chemicals and inflammable substances**

The Tenant must not use or store any chemical or inflammable substance within the Premises, except for reasonable quantities for normal applications in connection with the use of the Premises permitted by the Landlord.

### **13.6 Offensive activities**

The Tenant may not do anything on the Premises which is offensive, illegal or which causes nuisance, damage, or disturbance to any person.

### **13.7 No smoking**

The Tenant may not smoke in any part of the Premises.

### **13.8 Not to cause obstruction**

The Tenant may not do anything which may obstruct:

- (a) the supply of a Utility in any part of the Building, including the drains and sewerage lines; or



- (b) fire doors and other points of egress from the Premises or the Building.

### **13.9 Consent to install equipment**

The Tenant may only install plant and equipment on the Premises which might overload any electrical wiring or equipment if:

- (a) the Landlord grants its consent; and
- (b) any alterations to the Premises that the Landlord considers necessary are undertaken in accordance with this lease.

### **13.10 Install safety devices**

The Tenant must comply with each law imposing an obligation to install safety devices for electrical equipment, including residual current devices.

### **13.11 Advertising signs**

The Tenant, in accordance with its usual business practice, may paint, hang or affix temporary signs to the interior and exterior of the Premises advertising specials and goods for sale, without requiring the approval or consent of the Landlord.

### **13.12 Tenant Signs**

- (a) The Tenant may:
  - (i) maintain existing Tenant Signs in the Premises. For clarity this clause permits the Tenant to update its signage from time to time to its current trading name and style (including logo);
  - (ii) paint or affix to the exterior wall of the Premises immediately above the main customer entry point to the store a prominent sign setting out the trading name of the Tenant;
  - (iii) display on the exterior walls of the Premises a prominent sign or signs in a size and to a design specified by the Tenant advertising the Tenant's trading name and presence within the Building; and
  - (iv) at any time amend or replace Tenant Signs with the current Tenant logo, trading style or name.
- (b) The Tenant may install Tenant Signs prominently at the top of any pylon sign erected on the Premises for use in identifying or advertising the Building or the Premises.
- (c) The Landlord must ensure that signage advertising the Tenant's business at the Building is prominently located at the top of any pylon sign on the Premises or for the Building, whether in existence at the Commencing Date or in the future.
- (d) The Landlord must ensure that signage advertising the Tenant's Business at the Building is at a minimum in accordance with the agreed Signage Plan in Attachment 2.

- (e) If signage is proposed to be erected outside the boundary of the Premises, then the Tenant agrees to obtain:
  - (i) the Landlord's consent (not to be withheld unreasonably); and
  - (ii) Council approval.

**13.13 Requirements of Landlord**

The Tenant must:

- (a) comply with the reasonable requirements of the Landlord relating to the Plant and Equipment; and
- (b) not do anything which might interfere with or impair the efficient operation of the Plant and Equipment.

**13.14 Secure the Premises**

The Tenant must secure the Premises when they are unoccupied.

**13.15 Emergency drill**

The Tenant must participate in the planning of and in each fire or other emergency drill of which the Landlord has given reasonable written notice.

**13.16 Damage to Premises**

- (a) The Tenant must promptly repair any damage to the Premises or the Tenant's Fixtures which the Tenant is responsible for repairing under this lease.
- (b) The Tenant must report promptly to the Landlord in writing and in the case of emergency, verbally, any damage to the Premises, a Landlord's Fixture, Plant and Equipment in the Premises, or the Building of which the Tenant is aware and which the Landlord is responsible for repairing under this lease.
- (c) The Landlord must promptly repair any damage notified by the Tenant under clause 13.16(b).

**13.17 Compliance with laws**

The Tenant must comply with each law relating to the Premises or the use of the Premises except for any imposing an obligation to carry out structural or capital work.

**13.18 Liability for permitted persons**

The Landlord and the Tenant are each liable for the negligent acts or omissions of Permitted Persons appointed or engaged by them arising out of and in connection with the rights and obligations created by this lease.

**13.19 Ceasing to Trade**

The Tenant can, provided the Tenant continues to pay the Rent and other monies due to the Landlord under this lease, cease trading from the Premises.

## **14. Sale of liquor covenants**

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### **14.1 Application of clause**

This clause applies if it is lawful for the Tenant to sell liquor from the Premises in conjunction with the Permitted Use.

### **14.2 Sale of liquor**

- (a) The Tenant or its nominee may apply for any licence required to allow the sale of alcoholic liquors and beverages on or from the Premises.
- (b) The Landlord must not object to any application by the Tenant to allow the sale of alcoholic liquors and beverages on or from the Premises.
- (c) All costs and charges in connection with any application for a licence or the transfer or renewal of a licence are payable by the Tenant.
- (d) To the extent that the Premises are used for the sale of bottled or packaged liquor under any relevant liquor licensing legislation, the Tenant must:
  - (i) comply with all relevant liquor licensing legislation; and
  - (ii) at all times remain the owner of such licence.
- (e) At the end of the Term, if the licence has not been removed to other premises, the Landlord must:
  - (i) allow the licence, at the Tenant's option, to remain dormant at the Premises; and
  - (ii) if the Tenant seeks to remove the licence to other premises after the end of the Term, to procure for the Tenant the right to affix in the Premises such notices, at such times, as may be required under the relevant licensing legislation in order to effect the removal.

### **14.3 No merger**

The Landlord's obligations under this clause do not merge at the end of the Term.

## **15. Entry by Landlord**

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### **15.1 Tenant must permit entry**

Subject to clause 15.2, the Tenant must permit the Landlord to enter the Premises:

- (a) to verify compliance with each Tenant's Obligation;
- (b) to comply with the requirements of any Government Authority;
- (c) to maintain, modify or extend the Building, the Plant and Equipment, or any other equipment, cables, or conduit within the Premises or the Building;

- (d) to maintain, service, install or remove any Plant and Equipment;
- (e) to affix re-letting notices to the Premises during the last 3 months of the Term (if the option to renew has not been exercised); or
- (f) in the case of an emergency.

#### **15.2 Procedure for entry by Landlord**

- (a) Where the Landlord is permitted to enter the Premises, the Landlord may enter:
  - (i) at all reasonable times on the Landlord giving to the Tenant reasonable written notice; or
  - (ii) on demand in the case of emergency;with or without workmen and plant, equipment and materials.
- (b) The Landlord must cause as little inconvenience as possible to the Tenant and the Tenant's Business while on the Premises.

### **16. Indemnities**

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#### **16.1 Indemnity by Tenant**

The Tenant must indemnify the Landlord against any liability for loss, damage, injury or death caused by:

- (a) any deliberate or negligent act or default on the part of the Tenant or a Permitted Person over whom the Tenant has control; or
- (b) the Tenant's negligent use or occupation of the Premises,

except to the extent that any loss, damage, injury or death is caused by any deliberate or negligent act or omission or default of the Landlord or a Permitted Person over whom the Landlord has control.

#### **16.2 Indemnity by Landlord**

The Landlord must indemnify the Tenant against any liability for loss, damage, injury or death caused by any deliberate or negligent act or omission or default of the Landlord or a Permitted Person over whom the Landlord has control, except to the extent that any loss, damage, injury or death is caused by any deliberate or negligent act or default of the Tenant or a Permitted Person over whom the Tenant has control.

### **17. Insurance**

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#### **17.1 Public liability insurance**

The Tenant must take out and maintain insurance for public liability for the Premises which extends to cover the Tenant, the Landlord and the Permitted Persons under the control of either of them for their respective rights and interests for the time being in an amount not less than the amount specified in Item 14 of the Reference Schedule for any one claim.

## **17.2 Insurance Companies**

Each policy of insurance that the Tenant is required to take out and maintain under this lease must be with a company:

- (a) carrying on a reputable insurance business in Australia; and
- (b) authorised in Australia to operate as an insurance company.

## **17.3 Supply details of Insurance**

The Tenant must produce certificates of currency for each insurance policy when reasonably required to do so by the Landlord;

## **17.4 Tenant's insurance obligations satisfied by sublessee**

The Tenant is not obliged to effect the insurances referred to in clause 17.1 in respect of any part of the Premises that is subleased if it procures its sublessee to effect the insurances referred to in clause 17.1 in respect of that part of the Premises that the sublessee occupies.

## **17.5 Blanket policy**

The Tenant's obligations under this clause will be satisfied if the insurances required to be effected are brought under the cover of any blanket policy which the Tenant carries.

## **17.6 Landlord's insurance**

The Landlord must effect and keep in effect during the Term the following policies of insurance:

- (a) insurance of the Building (including the Shared Facilities), the Landlord's Fixtures and the Plant and Equipment against the Insured Risks, on a replacement and reinstatement basis;
- (b) public liability insurance in respect of the Premises for an amount of not less than \$20,000,000.00 for any one claim; and
- (c) a policy of workers' compensation insurance against any liability under common law or statute to pay damages to a person to whom the Landlord may be liable to pay damages in respect of the Premises.

## **17.7 Landlord to provide details of Landlord's insurance upon request**

Upon request by the Tenant, the Landlord must give to the Tenant details of the insurance effected by it in accordance with clause 17.6.

## **18. Default by Tenant**

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### **18.1 Events of default**

An event of default occurs if:

- (a) a failure to pay Rent then due and owing is not remedied within 15 Business Days after written notice has been given to the Tenant;
- (b) a breach of a Tenant's Obligation other than a failure to pay Rent is not remedied within a reasonable time depending on the nature of the breach being not less than 10 Business Days after written notice has been given to the Tenant;
- (c) a breach of a Tenant's Obligation other than a failure to pay rent is not capable of remedy and the Tenant fails to pay reasonable compensation in lieu, within 10 Business Days after receiving the notice to remedy breach; or
- (d) the Tenant enters into liquidation.

### **18.2 Landlord may retake possession**

After an Event of Default has occurred and without any notice or demand, the Landlord may at any time re-enter the Premises, and on re-entry the Term will immediately determine but without:

- (a) affecting any of the Landlord's Rights; or
- (b) releasing the Tenant or a guarantor of a Tenant's Obligation from liability in respect of a Tenant's Obligation.

### **18.3 Acceptance of Money Payable not to prejudice Landlord's Rights**

Demand by the Landlord for, or acceptance of, Money Payable after an Event of Default has occurred does not:

- (a) affect the exercise by the Landlord of the Landlord's Rights; or
- (b) operate as an election by the Landlord either to exercise or not to exercise the Landlord's Rights.

### **18.4 Landlord may remedy Tenant's default**

If the Tenant:

- (a) omits or neglects to pay any Money Payable; or
- (b) does or fails to do anything which constitutes a breach of a Tenant's Obligation,

the Landlord may on each occasion without affecting any right, remedy or power arising from that default:

- (c) as if it were the Tenant:
  - (i) pay that Money Payable;

- (ii) do or cease the doing of that thing; or
  - (iii) both; and
- (d) enter and remain on the Premises for that purpose,

and the Tenant must pay to the Landlord on demand the Landlord's cost of remedying each breach or default.

#### **18.5 Essential terms**

The Tenant's Obligations in relation to the due and punctual payment of Base Rent and the use of the Premises under this lease are essential terms of this lease, the breach, non-observance or non-performance of which will be deemed to be a fundamental breach of the provisions of this Lease on the part of the Tenant to be observed and performed.

#### **18.6 Landlord to mitigate damage and endeavour to relet**

If the Landlord has re-entered the Premises under clause 18.2, the Landlord must take reasonable steps to mitigate its damage and endeavour to relet the Premises at a reasonable Rent and on reasonable terms.

### **19. Default by Landlord**

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- (a) If the Landlord fails to:
- (i) pay any money that this Lease requires it to pay to the Tenant or any third party; or
  - (ii) comply with any of its other obligations under this Lease,
- and does not remedy the failure within a reasonable time after being requested to do so by notice from the Tenant, then in addition to any other right or remedy available to the Tenant at law, the Tenant may make the payment or do anything and incur any cost necessary to comply with the Landlord's obligation.
- (b) The Landlord must reimburse the Tenant for the amount paid or the cost incurred within 10 Business Days of demand.
- (c) If the Landlord fails to reimburse the Tenant within 10 Business Days of demand then the Tenant may deduct the amount outstanding from any payments due to the Landlord by the Tenant under this Lease.

### **20. Destruction or damage to Building or Premises**

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#### **20.1 Major rebuilding required**

If the Building or any part of the Building is so destroyed or damaged:

- (a) as to require major rebuilding of the Building;
- (b) that the Premises are Unfit for Occupation;

(c) as to inhibit access to the Premises by the Tenant or the customers of the Tenant's Business in any substantial manner; or

(d) as to cause significant disruption to the Tenant's Business,

the Tenant may within 1 month of the destruction or damage give a notice to the Landlord either:

(e) requiring the Landlord to rebuild the Premises or that part damaged; or

(f) terminating this lease (in which case the notice will have immediate effect).

#### **20.2 Landlord to use best endeavours to rebuild Premises**

(a) If the Tenant gives a notice to the Landlord under clause 20.1(e) requiring the Landlord to rebuild the Premises or that part damaged, the Landlord must use its best endeavours to rebuild the Premises or that part damaged as quickly as possible following the Tenant's notice.

(b) The Landlord will ensure that the replacement Premises are suitable for use as a supermarket.

#### **20.3 Abatement of Money Payable**

If the Premises are Unfit for Occupation, the Money Payable or a fair and just proportion according to the nature and extent of the damage sustained will from the date of damage or destruction until the Premises are reinstated and are no longer Unfit for Occupation abate and cease to be payable.

#### **20.4 Tenant may Terminate**

If:

(a) the Landlord has not rebuilt the Premises or that part damaged within 12 months or such longer time as the Tenant considers reasonable after the damage occurred;

(b) the Landlord is unable to obtain all necessary approvals to allow it to rebuild the Premises or that part damaged within a reasonable time after the damage occurred; or

(c) the Tenant believes that the Landlord is not complying with clause 20.2 or will not be able to comply with clauses 20.4(a) or 20.4(b),

the Tenant may give the Landlord notice to terminate this lease with immediate effect but without affecting any antecedent breaches by either party.

#### **20.5 Lease terms**

(a) On completion of the rebuilding or restoration referred to in this clause, the Tenant must surrender this lease and enter into a new lease with the Landlord in respect of the new premises for a term which is the greater of:

(i) the unexpired term of this lease remaining at the completion of the rebuilding and reinstatement; and



- (ii) 10 years,

but which is otherwise on the same terms, including any options for renewal (subject to any necessary amendments) as this lease. The commencing rent will be as determined under clause 20.6.

- (b) The Landlord must pay all of the costs of entering into the new lease, including the Tenant's legal costs and any stamp duty and registration fees payable on the new lease.

## **20.6 Rent review**

The Base Rent from the commencement of the further lease referred to in clause 20.5(a) will be determined as if the commencing date were a Market Review Date.

## **20.7 Resumption**

If:

- (a) the Premises or part of the Premises is resumed, Base Rent abates according to the nature and extent of the resumption; and
- (b) if a substantial part of the Premises is resumed:
  - (i) the Tenant can by notice in writing to the Landlord terminate this Lease; and
  - (ii) the Landlord must pay to the Tenant the compensation received by it in respect of the resumption which is attributable to the value of the Tenant's interest in the Premises, such amount to be agreed and failing agreement to be determined by a valuer appointed at the request of either party by the president for the time being of the Institute.

## **21. Option to renew**

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### **21.1 Grant of option**

- (a) The Landlord grants to the Tenant an option to renew this lease for the Further Term on and from the New Lease Commencing Date if:
  - (i) the Tenant gives the Landlord notice of the exercise of the option at least 3 months but not earlier than 6 months prior to the New Lease Commencing Date; and
  - (ii) there is no Event of Default by the Tenant (of which the Tenant has received notice requiring the Tenant to remedy that default) that has not been remedied at the date of exercise of the option.
- (b) The lease for the Further Term will:
  - (i) be for a Base Rent calculated under this clause 21;
  - (ii) for the Further Term and on the conditions identified in Item 6 of the Reference Schedule; and

- (iii) otherwise be on the same terms and conditions as this lease (as amended or varied by the Landlord and the Tenant during the Term), except that if there are no Further Terms in Item 6 of the Reference Schedule this clause 21 will be deleted.

## **21.2 Initial Base Rent**

- (a) If the New Lease Commencing Date is a Market Review Date, the initial Base Rent is the amount agreed or determined as the current market rent under clause 5 as at the New Lease Commencing Date. If the Base Rent has not been agreed or determined by the New Lease Commencing Date, the Base Rent notified in the first Base Rent Nomination Notice served in accordance with the principles in clause 5 shall apply unless and until there is an agreement or determination to contrary pursuant to clause 5.
- (b) If the New Lease Commencing Date is not a Market Review Date, the initial Base Rent is the Base Rent reviewed in accordance with the relevant method stated in Item 8 of the Reference Schedule.

## **21.3 Opportunity for Tenant to have current market rent determined early**

- (a) Despite clause 5.1(b), the Tenant may request the Landlord to give a Base Rent Nomination Notice to the Tenant nominating the amount that the Landlord proposes as the Base Rent with effect from the New Lease Commencing Date (**Request**) at any time within the period that begins 9 months before and ends 6 months before the last day on which the option may be exercised.
- (b) The Tenant may not make the Request if the Landlord and Tenant have already agreed on the Base Rent on and from the New Lease Commencing Date.
- (c) The Tenant may make the Request by notifying the Landlord of the Request.
- (d) If the Tenant makes the Request, the amount of the current market rent is to be determined (as at the time of the Request) in accordance with the provisions of clause 5, and the period within which the Tenant must exercise the option is varied so that the last day on which the Tenant may exercise the option is 15 Business Days after the determination of the Base Rent is made and notified to the Tenant in writing.
- (e) If the determination of Base Rent is not notified within 15 Business Days before the end of the Term, the Tenant may exercise the option within 15 Business Days after the determination is notified in writing to the Tenant (whether before or after the Terminating Date) and the Term is extended by the appropriate period to enable the Tenant to exercise the option after this lease would otherwise expire.
- (f) The parties agree that the amount of Base Rent determined under clause 21.3(e) is the current market rent for the purposes of the exercise of the option (even though it may be a determination of the current market rent as at some earlier time).
- (g) The parties must pay the costs of the determination of current market rent in equal shares.

#### **21.4 Registration of renewed lease**

The Landlord must use its best endeavours to ensure that any renewal of this lease is registered on the relevant certificate of title within the required timeframe, and if such registration has not occurred, the Landlord will pay for all costs of preparation, stamping and registration of a new lease (including the Tenant's solicitor costs on a client/indemnity basis) on the same terms and conditions as this lease.

### **22. Holding over**

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If the Tenant remains in possession of the Premises after expiry of the Term with the consent of the Landlord, the Tenant will be a monthly tenant of the Landlord at a Rent equivalent to the Rent for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions as this lease.

### **23. Termination**

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#### **23.1 Restoration of the Premises after Termination**

Within 30 Business Days after Termination, the Tenant at the Tenant's cost must restore:

- (a) the Premises; and
- (b) those parts of the Plant and Equipment,

affected by anything done by the Tenant to its state before being so affected, having regard to the age of the Premises and each Tenant's Obligation.

**23.2** Without limiting clause 23.1, the Tenant must, at its own cost, re-paint the internal walls of the Premises with materials and to standards approved by the Landlord at or immediately prior to the Lessee yielding up the Premises.

#### **23.3 Yield up and surrender keys**

On Termination the Tenant must:

- (a) quietly surrender and give up to the Landlord possession of the Premises in a condition consistent with compliance with each Tenant's Obligation; and
- (b) give to the Landlord all keys and security access devices providing access to or within the Premises held by the Tenant whether or not provided by the Landlord.

#### **23.4 Removal of Tenant's Fixtures**

Within 30 Business Days after Termination, the Tenant must remove from the Premises all the Tenant's Fixtures, including the Existing Tenant's Fixtures as specified in Attachment 4 to this Lease, and property of the Tenant except for any ceilings, flooring, lighting, bulkheads and any shop front. The Tenant must promptly make good to the satisfaction of the Landlord any damage caused by that removal.

### **23.5 Tenant's property not removed at termination**

- (a) On re-entry the Landlord has the right to remove any property of the Tenant left in the Premises.
- (b) The Tenant must reimburse the Landlord for the costs of removing and storing that property.
- (c) All Tenant's Fixtures and property belonging to the Tenant not removed at Termination will, at the Landlord's option, become the absolute property of the Landlord and may be disposed of by the Landlord as the Landlord thinks fit.
- (d) For any period until either:
  - (i) the Landlord exercises an option under this clause to acquire property of the Tenant; or
  - (ii) the damage caused by the removal of the Tenant's Fixtures or property is made good,

whichever is the later, the Tenant must pay to the Landlord by way of damages an amount equal to the amount in respect of Rent which would have been payable by the Tenant if the Tenant remained a tenant at will during that period.

## **24. Assigning, subletting and charging**

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### **24.1 When consent required to dealings**

Subject to clause 24.6, the Tenant may not assign the lease without Landlord's consent (which may not be unreasonably withheld).

### **24.2 Landlord taken to consent after 20 Business Days**

The Landlord is taken to have given its consent if the Landlord fails to give to the Tenant either:

- (a) written consent whether with or without conditions; or
- (b) written notice refusing consent,

within 20 Business Days after the Tenant gives notice to the Landlord requesting consent under this clause.

### **24.3 Consent to assignment**

The Landlord may only withhold consent to an assignment of this lease if:

- (a) the proposed assignee does not have the financial resources or retailing skills to operate the business conducted from the Premises in accordance with the Permitted Use;
- (b) the proposed assignee is not a respectable and solvent person capable of performing and observing the Tenant's Obligations; or

- (c) all Money Payable then due or payable has not been paid or there is an existing unremedied breach of a Tenant's Obligation.

#### **24.4 Assignor released on assignment**

The assignor and any guarantor of the assignor's obligations is released and discharged from and against all of the Tenant's Obligations from the date of assignment.

#### **24.5 Costs in respect of assigning**

If the Tenant wishes to assign this lease, the Tenant must pay to the Landlord the Landlord's reasonable costs and expenses of considering and consenting to the assignment, to a maximum amount of \$2,000. This clause does not apply to any dealing under clause 24.6.

#### **24.6 Dealings without consent**

Despite this clause 24, the Tenant may, without the consent of the Landlord:

- (a) grant a licence in favour of a Licensee provided the Premises are used for the Permitted Use;
- (b) mortgage or charge this lease;
- (c) sublet the whole or any part of the Premises or licence or franchise the business conducted from the Premises to a third party, provided the Premises continue to be used for the Permitted Use; or
- (d) assign this lease, part with possession, or dispose of the Premises or any part of the Premises to an entity within the Metcash Group or to an IGA Supermarket Operator.

#### **24.7 Deed of Assignment**

The Tenant must cause the assignee to execute a deed in favour of the Landlord agreeing to be bound by this lease from the date of assignment.

### **25. Notice of end of Term**

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- (a) If this lease does not contain an option to renew for a Further Term, the Landlord must between 6 and 12 months before the date of expiration of this lease, give the Tenant notice that the Landlord:
  - (i) intends to offer the Tenant a renewal or extension of this lease on terms specified in the notice (including terms as to Base Rent); or
  - (ii) does not propose to offer the Tenant a renewal or extension of this lease.
- (b) An offer cannot be revoked for 1 month after being made.
- (c) If the Landlord fails to notify the Tenant as required, this lease is extended until 6 months after the Landlord gives the required notice but only if the Tenant requests an extension by notice in writing before this lease expires.

- (d) During such extension of the lease, the Tenant may terminate this lease by giving at least 1 month's written notice of termination to the Landlord.
- (e) If this lease is for 12 months or less, the notification must be given between 3 and 6 months before this lease expires.

## **26. Right of First Refusal to Lease**

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- (a) The following definitions apply to this clause only:
  - (i) **Prescribed Purpose** means the purpose of any bottle shop, convenience store or any new supermarket premises that are the same size or larger than the existing Premises; and
  - (ii) **to lease** as a verb includes to lease, to license, to franchise or otherwise grant a right to occupy and use or share and 'lease' as a noun has a corresponding meaning.
- (b) If at any time the Landlord decides to redevelop the Premises including develop land adjacent or nearby to the Premises as part of or as an adjunct to the Premises and as a result of that redevelopment premises would become available for use for a Prescribed Purpose (**Proposed Premises**), the Tenant or a related body corporate of the Tenant will have the right to take a lease of the Proposed Premises.
- (c) Before reaching agreement with any other party for a lease of the Proposed Premises, the Landlord must offer to the Tenant a lease for the Proposed Premises.
- (d) The Landlord's offer must:
  - (i) be in writing;
  - (ii) comprise the full terms of an agreement for lease for the Proposed Premises (the lease attached to the agreement for lease being on the same terms as far as practicable as this lease except for terms, options, rent and permitted use), be executed by the Landlord and so be capable of acceptance by the Tenant or a related body corporate of the Tenant by executing and returning the agreement for lease; and
  - (iii) comply with the then current standard specifications nominated by the Tenant for construction of a premises for the relevant Prescribed Purpose.
- (e) The Tenant or a related corporation of the Tenant may accept the offer at any time up to and including 60 Business Days after the Tenant receives the Landlord's written offer by executing and returning the agreement for lease.
- (f) If the agreement for lease is not executed and returned to the Landlord within 45 Business Days after the Tenant receives the Landlord's offer or if prior to that date the Tenant notifies the Landlord in writing that it will not accept the offer, the Landlord may then and only then lease the Proposed Premises to any other person but not on terms more favourable in any respect to the tenant than those offered to the Tenant.
- (g) If the Landlord proposes to lease the Proposed Premises to any other person on terms more favourable in any respect to the tenant than those offered to the Tenant, it must

first offer those more favourable terms to the Tenant. the Tenant or its related body corporate must accept or reject the amended offer within 1 month of it being given to the Tenant.

- (h) The Landlord must not (and must ensure that its related bodies corporate do not) seek to avoid the effect of this clause by arranging its landholding structure so that the offer of a lease of the Proposed Premises can be made by another entity.

## **27. Right of First Refusal to Buy**

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### **27.1 Offer by Landlord**

The Landlord must not sell, transfer or otherwise dispose of the Premises (or offer or accept an offer to do any of those things) during the Term or any Further Term, unless the Landlord first offers to sell the Premises to the Tenant (or its nominee) by executing and delivering to the Tenant a contract detailing the price and the terms and conditions on which the Landlord intends to sell, transfer or dispose of the Premises.

### **27.2 Non-Acceptance by Tenant**

If the Tenant (or its nominee) does not accept the Landlord's offer to sell the Premises by delivering to the Landlord within 30 Business Days after receipt of the contract executed by the Landlord (time to be of the essence):

- (a) the contract executed by the Tenant (or its nominee); and
- (b) a cheque for the deposit made payable to the Landlord,

then:

- (c) the Tenant will be deemed to have rejected the Landlord's offer to sell the Premises;
- (d) the Landlord's offer to sell the Premises will be deemed to have been withdrawn; and

subject to clause 27.3, the Landlord will be free to sell the Premises to any other person for the price and on the terms and conditions contained in the contract referred to in clause 27.1, or on such other terms and conditions as are more favourable to the Landlord.

### **27.3 Altered Price or Terms and Conditions**

If the Landlord intends to sell the Premises to another person:

- (a) for a lower price; and/or
- (b) on terms and conditions more favourable to that person,

than that contained in the contract referred to in clause 27.1, the Landlord must make a fresh offer to sell the Premises to the Tenant (or its nominee):

- (c) for that lower price; and

- (d) on those more favourable terms and conditions, and the provisions of this clause 27 will apply to that fresh offer except that the time for acceptance by the Tenant (or its nominee) of that fresh offer will be 14 Business Days.

#### **27.4 Waiver**

The Tenant may waive the benefit of this clause 27, either generally, or in relation to a particular offer, by giving notice to the Landlord.

#### **27.5 Sale by auction**

- (a) Where the sale, transfer or disposal (or offer to do any of those things) by the Landlord of the Premises referred to in clause 27.1 is intended by sale of the interest at a public auction, then at least 20 Business Days prior to the marketing campaign, the Landlord must provide:
  - (i) notice of the date, time and place of that public auction;
  - (ii) a copy of the agreement under which the Premises are offered for sale at that public auction; and
  - (iii) notice in writing specifying the reserve price, and the terms and conditions upon which the Landlord is prepared to sell that Premises (**Offer**).
- (b) The Landlord must ensure that the Offer remains open for acceptance in writing by the Tenant or its nominee for a period of 10 Business Days after receipt by the Tenant of the Offer.
- (c) If the Tenant (or its nominee) does not accept the Offer within the time specified and the Premises is not sold at auction then the provisions of clause 27.1 apply such that the Landlord cannot sell the Premises below the reserve price without first making a fresh offer to the Tenant at the amended reserve price.

#### **27.6 Priority Right of First Refusal**

- (a) This clause 27.6 only applies if the Landlord is an entity within the Metcash Group.
- (b) If this clause 27.6 applies, the Tenant acknowledges and agrees that the Landlord is not obliged to comply with its obligations under the other provisions of this clause 27 unless and until the Landlord has first discharged all of its obligations under the Priority Right of First Refusal.



## **28. Notices**

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### **28.1 Form of notices**

Any notice or other communication including any request, demand, consent or approval, to or by a party to this lease:

- (a) must be in legible writing and in English addressed to the recipient's solicitors or otherwise as shown below:

**if to the Landlord:**

Address: 50 Waterloo Road, Macquarie Park, NSW 2113  
Attention: General Counsel; and  
Facsimile: 02 9741 3027;

**if to the Tenant:**

Address: 50 Waterloo Road, Macquarie Park, NSW 2113  
Attention: General Counsel  
Facsimile: 02 9741 3027; and

or as specified to the sender by any party by notice;

- (b) where the sender is a company, must be signed by an officer or under the common seal of the sender;
- (c) is regarded as being given by the sender and received by the addressee:
- (i) if by delivery in person, when delivered to the addressee;
  - (ii) if by post, 3 Business Days from and including the date of postage; or
  - (iii) if by facsimile transmission, whether or not legibly received, when transmitted to the addressee;

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00pm (addressee's time) it is regarded as received at 9.00am on the following Business Day; and

- (d) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.

### **28.2 Facsimiles**

A facsimile transmission is regarded as legible unless the addressee telephones the sender within 4 hours after transmission and informs the sender that it is not legible.

### **28.3 Officers and agents**

In this clause a reference to an addressee includes a reference to an addressee's officers, agents or employees or any person reasonably believed by the sender to be an officer, agent or employee of the addressee.

## **29. General**

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### **29.1 No partnership**

The parties agree that they are independent of each other and nothing in this agreement creates the relationship between the parties of partners, principal and agent, joint venturers or employer and employee.

### **29.2 Governing law and jurisdiction**

- (a) This lease is governed by the laws of the Jurisdiction.
- (b) The parties irrevocably submit to the non exclusive jurisdiction of the courts of the Jurisdiction.

### **29.3 Approvals and consents**

In any case where, pursuant to this lease, the consideration, doing or executing of any act, matter or thing is dependent upon the approval or consent of a party, or is to be to the satisfaction of a party, such approval or consent must not be unreasonably withheld or delayed, and the party must act reasonably in considering whether the matter is to the satisfaction of the party, unless otherwise provided in a particular provision of this lease.

### **29.4 Enforceability**

- (a) Any provision of this lease or the application of any provision of this lease which is prohibited in any jurisdiction is ineffective in that jurisdiction only to the extent of that prohibition.
- (b) Any provision of this lease or the application of any provision of this lease which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.
- (c) If any term of this lease or the application of any term to any person or circumstance is or becomes illegal, invalid or unenforceable in any jurisdiction, it will be severed in that jurisdiction and none of the other terms and conditions are affected.

### **29.5 Costs and expenses**

- (a) The parties must each pay their own costs and expenses in relation to the negotiation, preparation, execution and delivery of this lease.
- (b) The Tenant must pay any registration fees assessed on this lease.

## **29.6 Landlord's mortgagee**

The Landlord must:

- (a) obtain the unconditional consent of its mortgagee to this lease;
- (b) cause the mortgagee to sign any form of consent necessary to register this lease; and
- (c) pay the costs of obtaining:
  - (i) the consent of its mortgagee to this lease; and
  - (ii) any consent, registration, filing notice of non-objection, notarisation, certificate, licence, approval, permit, authority or exemption from, by or with a Government Authority.

## **29.7 Variation**

A variation of any term of this lease must be in writing and signed by the parties.

## **29.8 Waivers**

- (a) Waiver of any right, power, authority, discretion or remedy arising upon default under this lease must be in writing and signed by the party granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of a right, power, authority, discretion or remedy created or arising upon default under this lease, does not result in a waiver of that right, power, authority, discretion or remedy.
- (c) A party is not entitled to rely on a delay in the exercise or non-exercise of a right, power, authority, discretion or remedy arising from a breach of this lease or on a default under this lease as constituting a waiver of that right, power, authority, discretion or remedy.
- (d) A party may not rely on any conduct of another party as a defence to exercise of a right, power, authority, discretion or remedy by that other party.
- (e) This clause may not itself be waived except by writing.

## **29.9 Cumulative rights**

The rights and remedies arising out of or under this lease are cumulative and additional to any rights and remedies provided in law or equity.

## **29.10 Further assurance**

The parties must do all things and sign all documents necessary to give effect to the provisions of this lease.

## **29.11 Entire agreement**

This lease contains the entire agreement between the parties in respect of its subject matter.

**29.12 Attorneys**

Each of the attorneys executing this lease states that the attorney has no notice of the revocation of the power of attorney appointing that attorney.

**29.13 Sale**

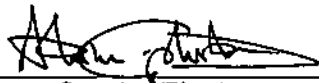
During the Term, the Landlord must not sell, assign or transfer ownership of the Premises unless the purchaser, assignee or transferee has executed a deed in the form agreed by the Tenant under which the purchaser, assignee or transferee covenants to be bound by this lease as if it were named as Landlord in this lease.

Executed as a deed:


Certified correct by the Landlord for the purposes of the *Real Property Act 1900*

**Landlord**

Signed sealed and delivered by  
**Metcash Trading Limited**  
in accordance with section 127 of the *Corporations Act 2001*  
by

sign here •   
\_\_\_\_\_  
Company Secretary/Director

print name ADRIAN GRATWICKE

sign here •   
\_\_\_\_\_  
Director

print name Ian Morrice

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Certified correct by the Tenant for the purposes of the *Real Property Act 1900*

**Tenant**

Signed sealed and delivered by  
**Metcash Food & Grocery Pty Ltd**  
in accordance with section 127 of the *Corporations Act 2001*  
by

sign here •   
\_\_\_\_\_  
Company Secretary/Director

print name ADRIAN GRATWICKE

sign here •   
\_\_\_\_\_  
Director

print name Ian Morrice

## Reference Schedule

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1. **Building** Any improvements on the Land
2. **Land** Lot 2 in DP1171232 known as IGA Supermarket at 80-82 Appin Road, Appin, NSW 2560
3. **Premises** All of the Land and any improvements on the Land
4. **Term of lease** 15 years
5. **Commencing Date** 27 June 2014
6. **Further Term**

*First Further Term*

Further term: 10 years

Commencing on: 27 June 2029

Expiring on: 26 June 2039

*Second Further Term*

Further term: 10 years

Commencing on: 27 June 2039

Expiring on: 26 June 2049

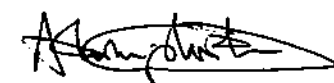
*Third Further Term*

Further term: 10 years

Commencing on: 27 June 2049

Expiring on: 26 June 2059

<i>Review Date</i>	<i>Type of Review</i>	
Commencing Date of First Further Term	Market Review Date	
On each anniversary of the Commencing Date of the First Further Term	CPI Review Date	
Commencing Date of Second Further Term	Market Review Date	

  
 Ian R Murrell

On each anniversary of the Commencing Date of the Second Further Term	CPI Review Date	
Commencing Date of Third Further Term	Market Review	
On each anniversary of the Commencing Date of the Third Further Term	CPI Review Date	

7. **Base Rent** From the Commencing Date until varied the Base Rent is \$221,000 per annum (exclusive of GST)

8. **Rent Review Dates** *CPI Review Date*  
Each anniversary of the Commencing Date.

*Market Review Date*  
Not applicable in the initial term.

*Average Review Date*  
Not applicable in the initial term.

*Fixed Review Date* *Percentage*  
Not applicable in the initial term.

9. **Proportion** **Not Applicable.**

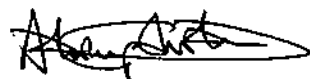
10. **Building Hours** **Not Applicable.**

11. **Supermarket Hours** **Trading Hours**  
Monday to Friday: 6.00am - 10.00pm  
Saturday: 7.00am - 10.00pm  
Sunday and Public Holidays: 8.00am - 8.00pm  
or as amended by any Government Authority or law.

**Loading Hours**  
As permitted by any Government Authority or law.

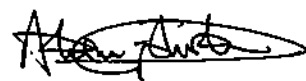
12. **Painting and Decorating Times** **Not Applicable.**

13. **Permitted Use** No limitation on use. Including but not limited to all aspects associated with a modern, retail supermarket which may include but is not limited to the

  
Ian R. Mowles

retail sale of: fresh food (produce, deli, meat, poultry, bakery, seafood)  
frozen food, food prepared/cooked/baked on the premises, groceries, general  
merchandise, liquor (when permitted by law), hospitality goods,  
pharmaceutical products, associated offices, administration, staff amenities  
and storage areas and all ancillary retail products or services (including  
ATMs) offered by a modern supermarket or developed by the Tenant as  
adjuncts to the evolving concept of a modern retail supermarket and any  
other use permitted by law.

14. **Public liability insurance amount** \$20,000,000.00
15. **Guarantor** Not Applicable.

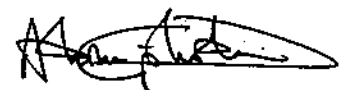


Jan R Monroe



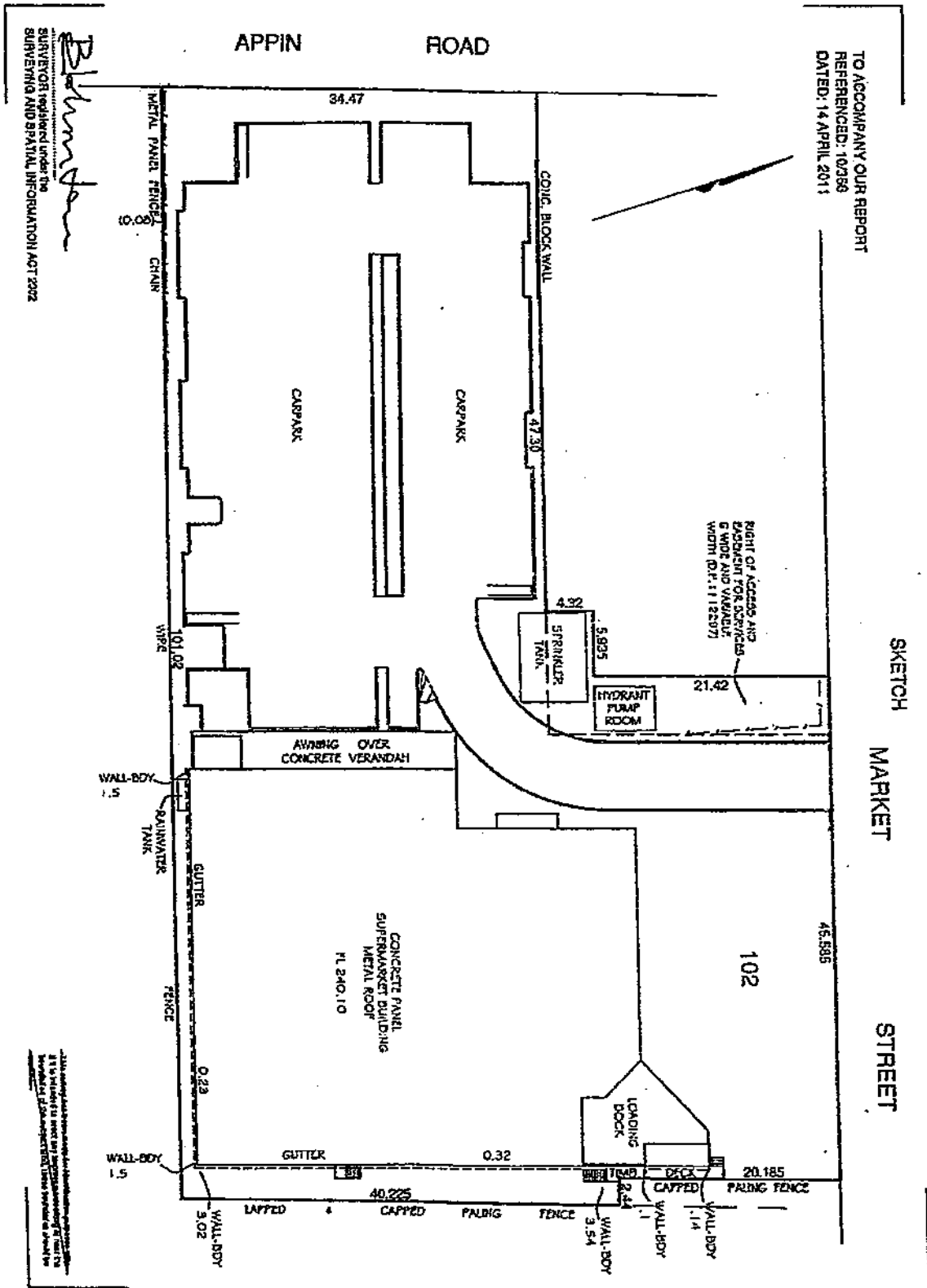
**Attachment 1– Site Plan**

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Gary R Mounce

# Attachment 1



*Blumenthal*  
SURVEYOR registered under the  
SURVEYING AND SPATIAL INFORMATION ACT 2002

TO ACCOMPANY OUR REPORT  
REFERENCED: 10/266  
DATED: 14 APRIL 2011

SKETCH  
MARKET  
STREET

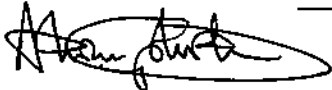
RIGHT OF ACCESS AND  
EASEMENT FOR SERVICES  
6 M wide and VARIABLE  
WIDTH (D.P. 11/12507)

This drawing is the property of the surveyor and is to be used only for the purposes of the report to which it relates. It is not to be used for any other purpose. It is to be read in conjunction with the surveyor's report and the relevant legislation and should be used in accordance with the surveyor's report and the relevant legislation.

*Jan R Mounce*  
Jan R Mounce

**Attachment 2 – Signage Plan**

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Sam R Mowee

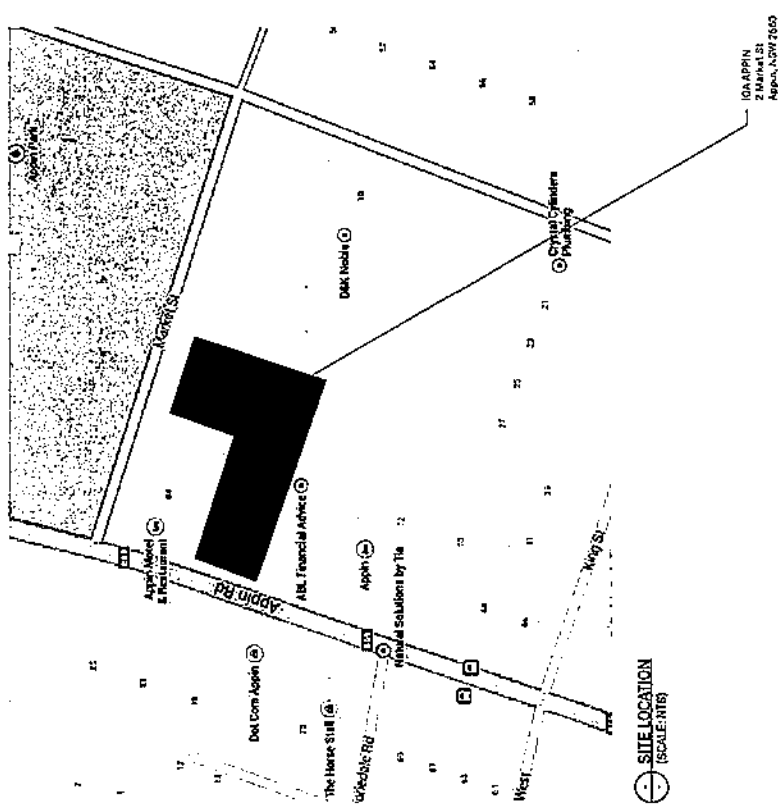
METCASH:  
IGA APPIN -  
DESIGN DEVELOPMENT  
SITE DOCUMENTATION

METCASH-433104  
08/01/2016

PLAN  
DEVELOP  
DELIVER

diadem

Jan R Mommie 



⊙ SITE LOCATION  
(SCALE: NT6)

100 APPIN  
2 MARKALS  
APPIN, NSW 2560

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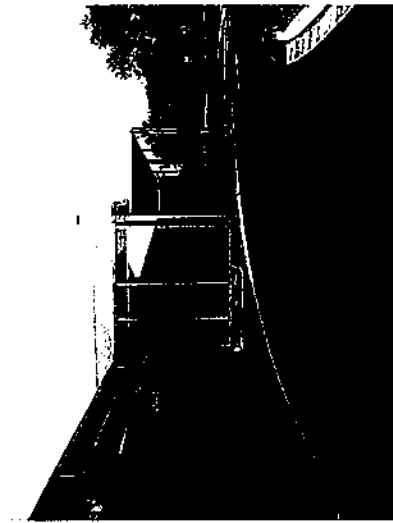
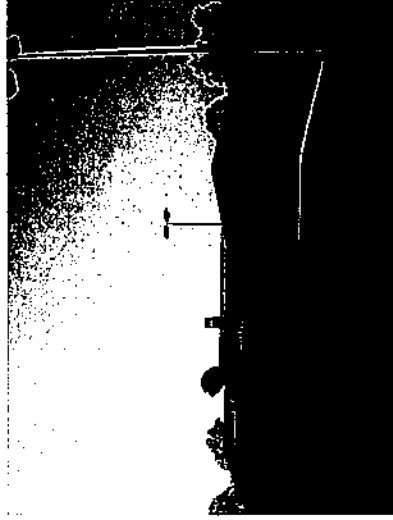
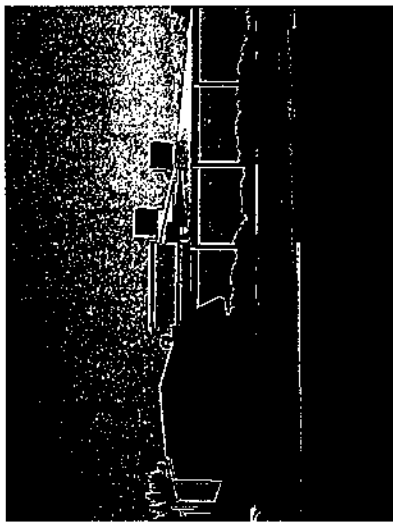
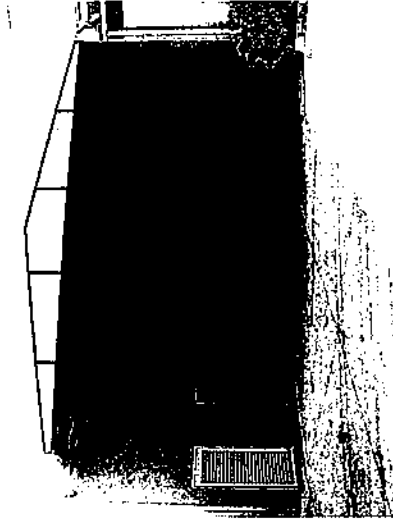
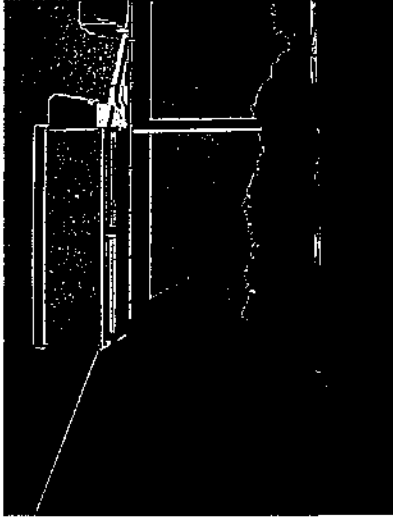
**NOT FOR CONSTRUCTION**

CLIENT APPROVAL  
SIGNATURE \_\_\_\_\_ NAME \_\_\_\_\_ DATE \_\_\_\_\_

REVISION/ REVISION DESCRIPTION/ REVISION DATE/ DRAWN BY/ PROJECT/ PROJECT NUMBER/ METC: 161810

CLIENT	METCASH	SCALE	SHOWN @ AS
PROJECT	100 APPIN EXTENSION/RENAME	DATE PLOTTED	DATE PLOTTED
TP	FA	PROJECT NUMBER	METC: 161810
TP	TP	PROJECT NUMBER	METC: 161810
TP	TP	PROJECT NUMBER	METC: 161810

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⊕ EXISTING CONDITIONS  
(SCALE: N1S)

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F 03 9593 0708  
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info@diadem.com.au  
PROGRAM/PROJECT



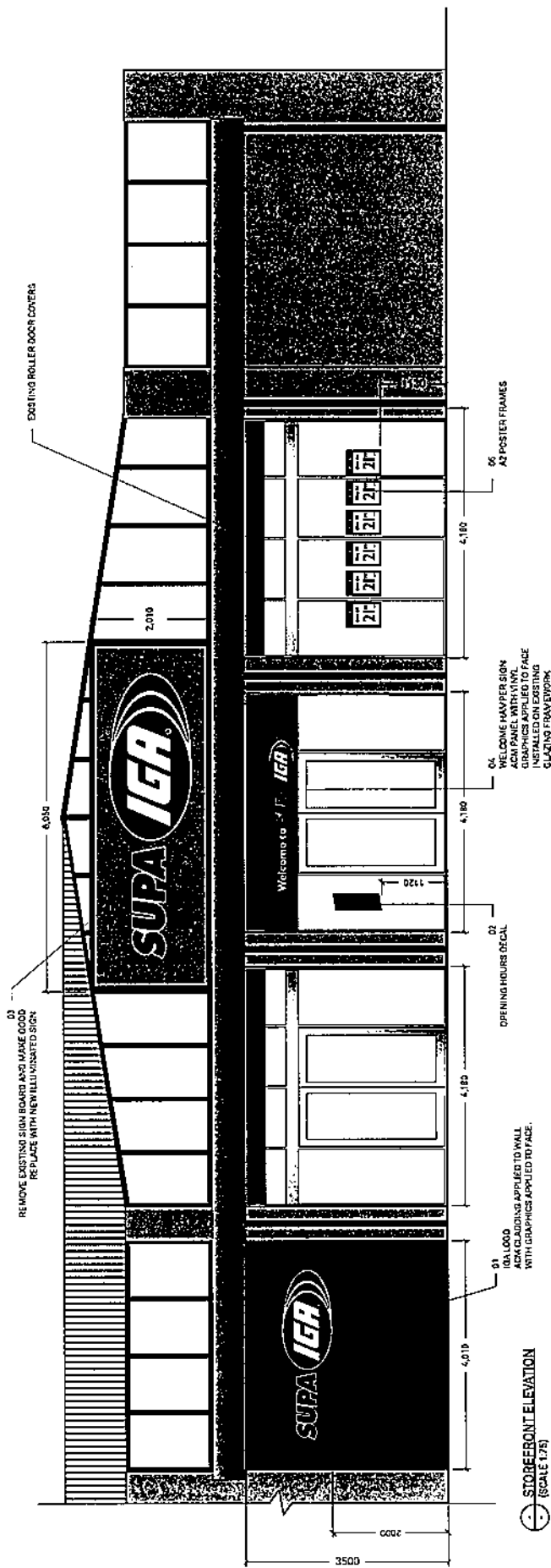
**NOT FOR CONSTRUCTION**

CLIENT APPROVAL

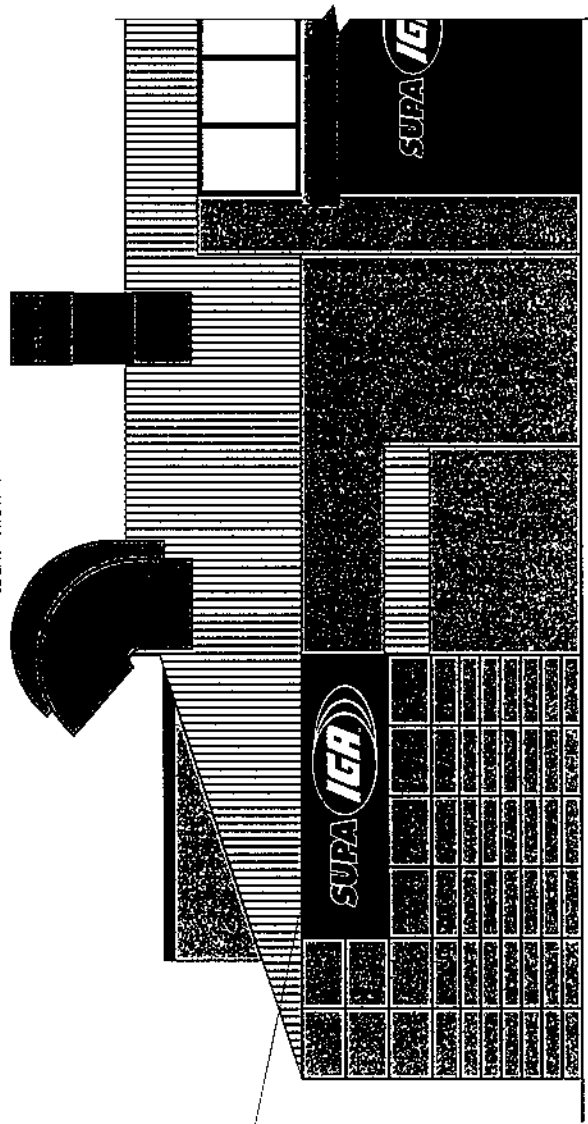
SIGNATURE: \_\_\_\_\_ NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

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CLIENT	METCASH	REVISION DATE / DRAWN BY	SCALE	SHOWN @ A3
PROJECT	RIA APPIN EXTENSIVE SCENAGE		DRAWING TITLE	EXISTING CONDITIONS
PH	TP	CHECKED	PROJECT NUMBER	METC15353_APPIN_SITEDDGS
		TP	METC15353	REV
				-



STOREFRONT ELEVATION  
(SCALE 1:7.5)

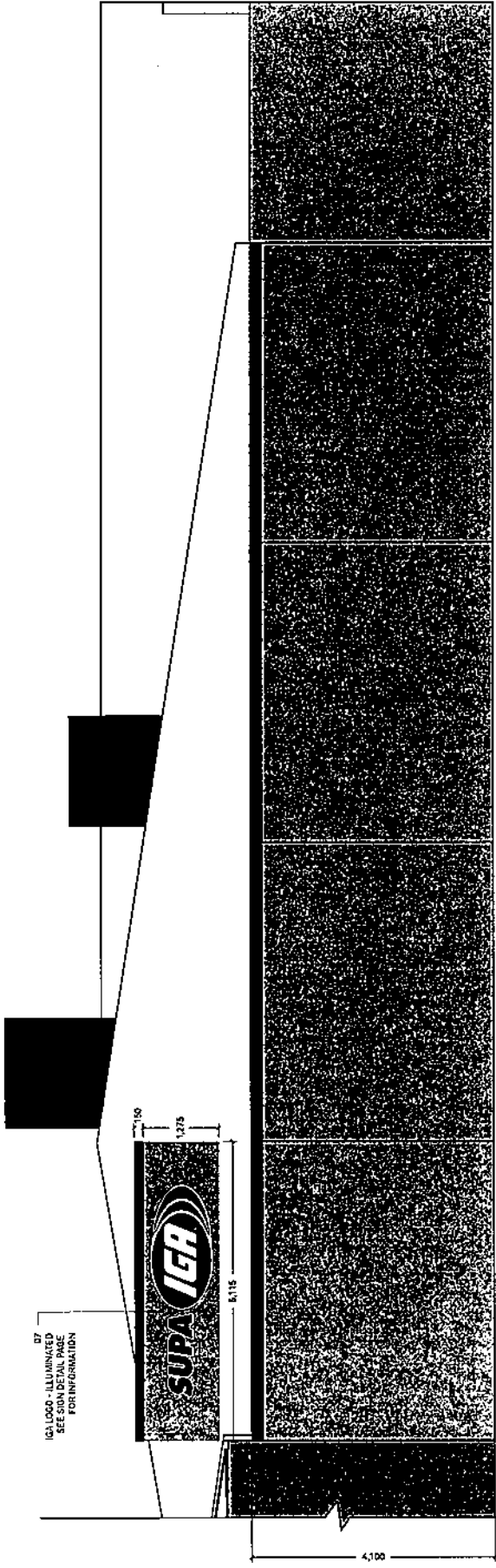


STOREFRONT ELEVATION  
(SCALE 1:7.5)

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IG1 LOGO - ILLUMINATE  
SEE SIGN DETAIL PAGE  
FOR INFORMATION



LOADING DOCK ELEVATION  
(SCALE 1:25)

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ADDRESS 13/473 Bourke Street Melbourne 3000 VIC Australia P 03 8633 9789	diadem.com.au info@diadem.com.au	CLIENT APPROVAL SIGNATURE _____ NAME _____ DATE _____	REVISION / REVISION DESCRIPTION A CHANGED TO SUBERUGA	DESIGN USER / DRAWN BY TLOA / ME	CLIENT / METCASH PROJECT / IGA APPIN EXTERIOR SIGNAGE
			REVISION / REVISION DESCRIPTION B	SCALE / DATE 1:25 / 06.05.14	SHEET NO / DATE OF 10 SHOWN OF 23
					DATE PLOTTED 06.05.14
					DRAWING TITLE LOADING DOCK ELEVATION
				CHECKED TP	PROJECT NUMBER METC 16353
				DRAWN FA	METC 16353_APPIN_SITEDOCS
					REV B

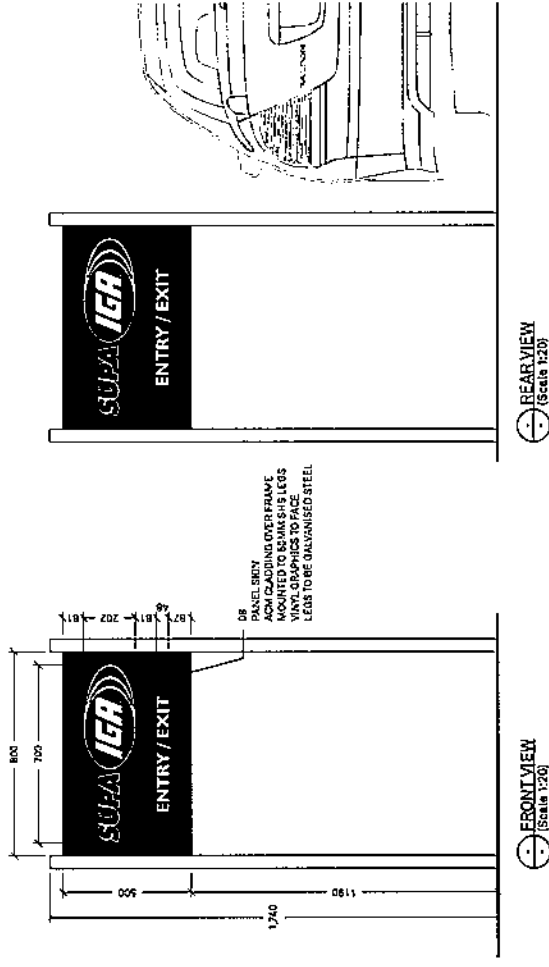
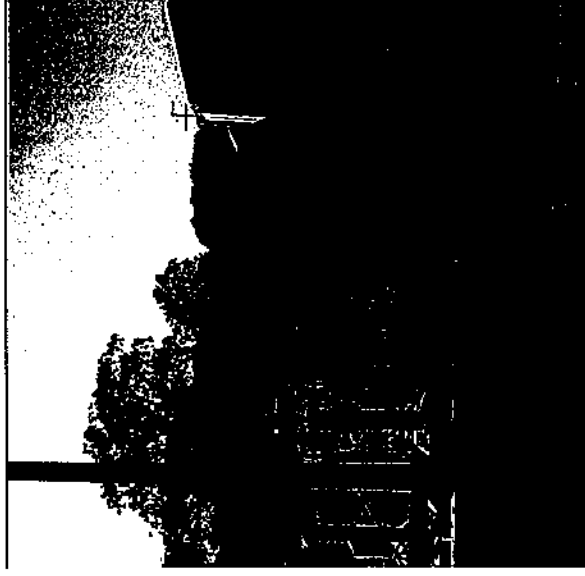


OVERVIEW OF ADDITIONAL SIGNS:



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	CLIENT APPROVAL SIGNATURE: _____ NAME: _____ DATE: _____ <small>Approved by the client for the purposes of the design and construction of the project. This document is the property of Diadem Architecture and shall remain the property of Diadem Architecture.</small>		PROJECT RGA APPIN EXTENSIVE SIGNAGE	DATE PLOTTED 04 JUL 2016	DRAWN TP	DRAWING ITEM ADDITIONAL SIGNS
			CHECKED TP	PROJECT NUMBER METC 16353	PROJECT NUMBER METC 16353	PROJECT NUMBER METC 16353_APPIN_SITEDOCS

ENTRY/EXIT LOCATION REFERENCES:



**KOLIBRI**  
13473 Bourke Street  
Marrara 8000  
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7532 8000 (55)  
7532 8000 (55)



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info@diadem.com.au  
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DATE: \_\_\_\_\_ DATE: \_\_\_\_\_

REVISION / REVISION DESCRIPTION / DRAWN BY / DATE

A	CHANGED TO SUPER 10A	ME	06/06/14
B	CHANGED SIGNET LOGOS TO LONG FORM	ME	06/06/14

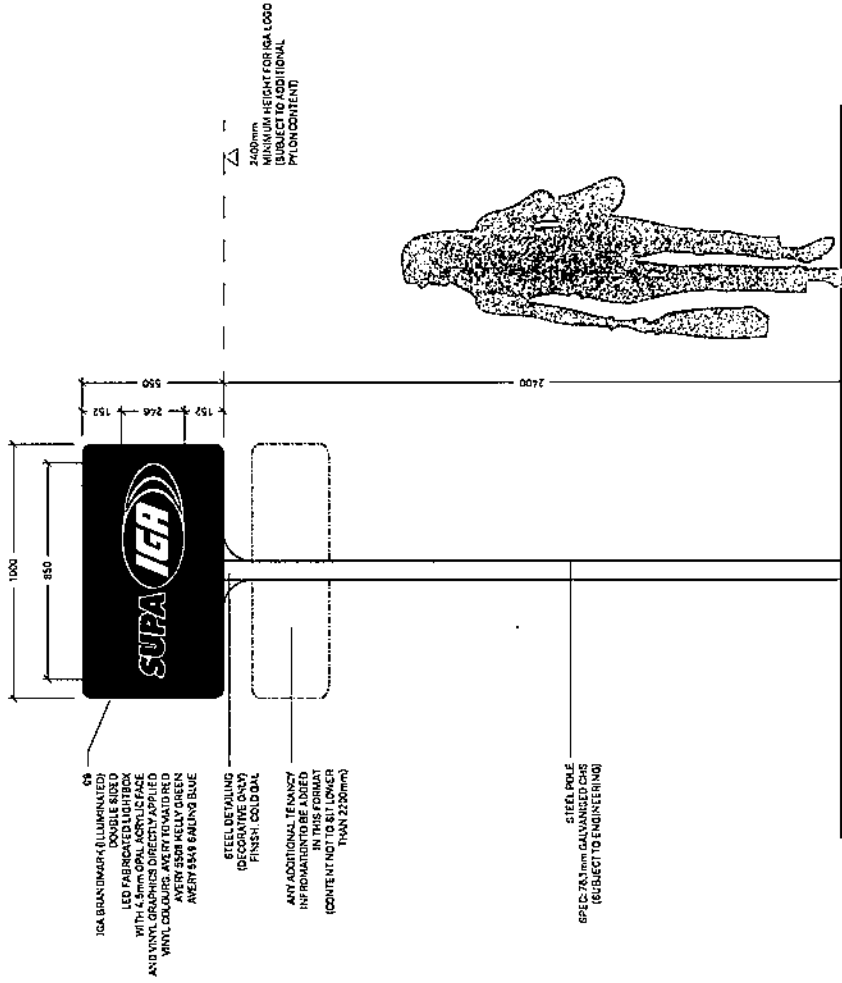
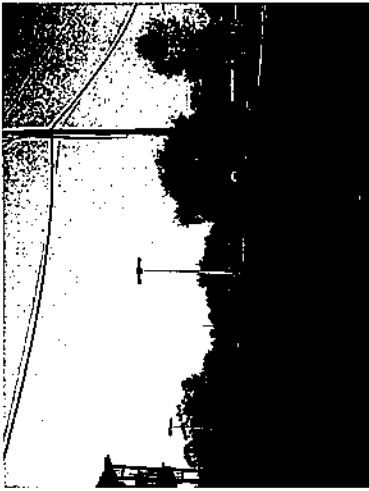
CLIENT	METCALH
PROJECT	IGA APPIN EXTERIOR SIGNAGE
PM	TP
DOWNY	FA
CHECKED	TP

SHEET NO	SCALE
DATE OF 10	SHOWN @ A3
DATE PLOTTED	DRAWING TITLE
06.25.14	ADDITIONAL SIGN - ENTRY/EXIT

PROJECT NUMBER	REV
METD16353	B
METD16353_APPIN_SITEDOCS	

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PYLON LOCATION REFERENCES:



FRONT VIEW  
(Scale: 1:20)

HEADING  
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VIC Australia  
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7100 8000 0938



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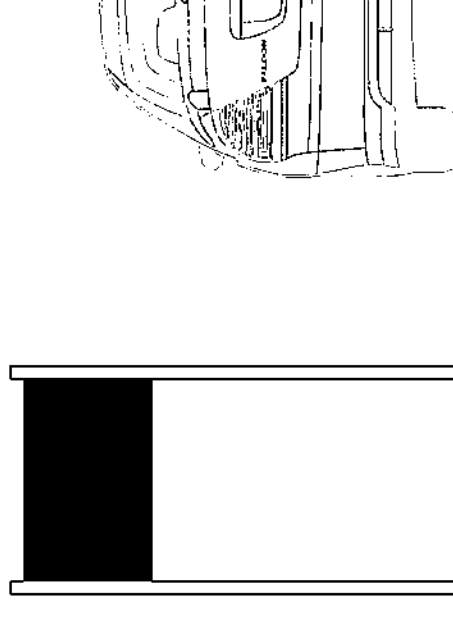
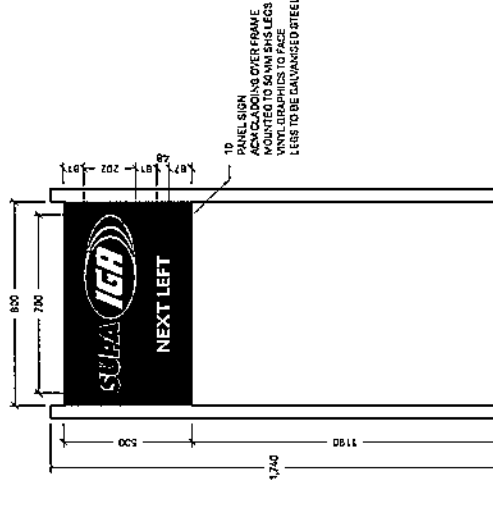
SIGNATURE: \_\_\_\_\_ TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_  
 I hereby certify that the information contained in this document is true and correct to the best of my knowledge and belief.  
 I am authorised to sign this document on behalf of the client.

REVISION	REVISION DESCRIPTION	DRAWN BY
A	PYLON SIGN DESIGN UPDATED	FA
B	CHANGED TO SUPER LOGO	ME
C	CHANGED FROM SUPER LOGO TO LONG FORM	ME

CLIENT	METCASH	SHEET NO	07 OF 10
PROJECT	RJA APPIN EXTERIOR SIGNAGE	DATE PLOTTED	06.05.14
PH	TP	CHECKED	TP
DRWN	FA	PROJECT NUMBER	METC18353

ALL MEASUREMENTS TO BE CONFIRMED ON SITE PRIOR TO MANUFACTURE OR INSTALLATION	
SCALE	SHOWN @ A3
DRAWING TITLE	ELEVATION - PYLON SIGN
PROJECT NUMBER	METC18353_APPIN_SITEDOCS
REV	C

ROAD SIGN LOCATION REFERENCES:



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CLIENT APPROVAL

NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

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REVISION

REVISION	DESCRIPTION	DATE
A	SIGN AMENDED	08/04/14
B	CHANGED SHARKED LOGOS TO LONG FORM	08/04/14
C		

REVISION DATE: 08/04/14  
DRAWN BY: TP  
CHECKED BY: TP

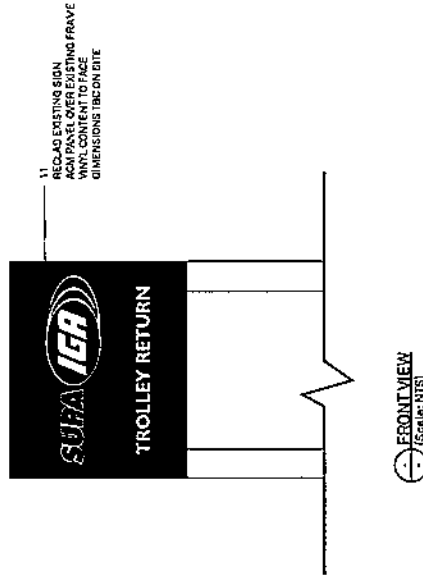
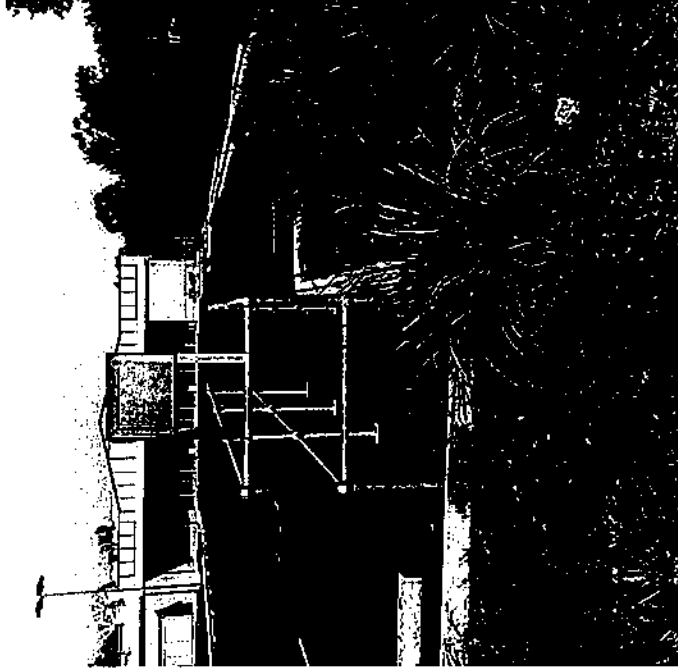
CLIENT: METCASH  
PROJECT: IGA APPIN  
EXTENSION SIGNAGE


SHEET NO: 04 OF 10  
DATE PLOTTED: 08/04/14  
PROJECT NUMBER: METC 16353

SCALE: BROWN @ A3  
DRAWN TITLE: DIRECTIONAL MARK  
REV: METC16353\_APPIN\_SITEDOCS C

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TROLLEY RETURN LOCATION REFERENCES:




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ALL MEASUREMENTS TO BE CONFIRMED ON SITE PRIOR TO MANUFACTURE OR INSTALLATION																									



**Attachment 3 – GLA Plan**

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Gan R. Mommé

SKETCH OF GROSS LETTABLE AREA (GLA)  
No. 80-84 APPIN ROAD

LOC: APPIN  
L.G.A: WOLLONDILLY

STAIRS TO PLANTROOM  
(NOT INCLUDED)  
(6.3m<sup>2</sup>)

PLANTROOM ON  
MEZZANINE LEVEL  
(NOT INCLUDED)  
(69.0m<sup>2</sup>)

1:400

1. AREAS AND TENANCY BOUNDARIES HAVE BEEN DEDUCED IN ACCORDANCE WITH, AND UNDER INTERPRETATION OF THE 'PROPERTY COUNCIL OF AUSTRALIA' METHOD OF MEASUREMENT, REVISED ADDITION MARCH 1997.

2. EXCLUSION TO THE GLA ARE NOTED ON THE SKETCH & GIVEN AN AREA.

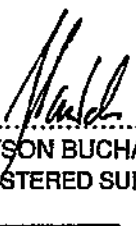
EXTERNAL ROOM  
(NOT INCLUDED)  
10.5m<sup>2</sup>

UNDERCOVER  
LOADING AREA  
(NOT INCLUDED)  
64.5m<sup>2</sup>

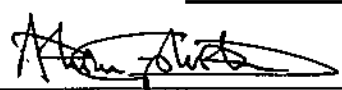
SWITCH ROOM  
(NOT INCLUDED)  
(7.0m<sup>2</sup>)

SUPERMARKET  
BUILDING  
1343m<sup>2</sup>

EXTERNAL ROOM  
(NOT INCLUDED)  
(13m<sup>2</sup>)

  
WATSON BUCHAN PTY. LTD.  
REGISTERED SURVEYOR

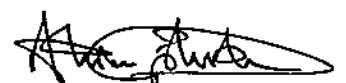
REF. : 10/366  
DATE: 13/5/2011

  
Ian R Mornum



**Attachment 4 – Existing Tenant’s Fixtures**

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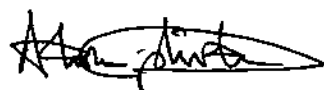
  
Sam R. Monroe

Existing Tenant's Fixtures

80-82 Appin Road Appin

Recorded on 24 June 2014

Ref	Description	Unit	Qty
	<u>COOL ROOMS</u>		
	Dairy, Frozen, Produce, Deli Cool Room, Meat Cool Room		
	<u>ERECTED SHELVING</u>		
	Supermarket Shelving		
	<u>Prep Rooms/Areas</u>		
	Deli Prep Area with hand Basin including mixer tap to Deli Department, Double sink unit including hot and cold tap, with specialist overhead tap and mixer to Deli Prep room and bench 750mm x 2200mm		
	Meat Prep Room		
	Double sink unit including hot and cold tap, with specialist overhead tap and mixer to Butchery Department and bench 750mm x 5000mm		
	<u>Electrical Installations</u>		
	Refrigeration Switchboard APP & Son	Item	1
	Small power electrical - All electrical cabling and associated outlets	Item	1
	<u>Refrigeration Equipment</u>		
	Guntner cool room blowers	Nr	7
	Open face refrigeration, manufactured by Austral	Nr	12
	Glass door / dairy cool room 6x6x2.5	Nr	1
	Black framed glass freezer - Austral	Nr	8
	Deli cabinet - Austral 1X 12ft & 2 X 8ft	Nr	3
	Hot food cabinet Austral 6ft	Nr	1
	Gondola end and drink fridge	Nr	1
	Cheese Island low profile fridge	Nr	1
	Compressor RA04A (Bock)		6
	Condensers med temp and low temp	Nr	2
	<u>Security and Alarm System</u>		
	Hills Reliance 128 control pane	Item	1
	GPRS Emizon Primary Monitor (GPRS Path only)	Item	1
	All external doors monitored by Reed Switches	Nr	8
	Internal Dual Passive Long Range Infrared Sensor	Nr	8
	Glass Break Detectors (Main Entry)	Nr	2
	Roof Hatch Monitored 24 Hrs	Item	1
	Honeywell 16 Channel Digital Video Recorder Model CADVR with 1Tb Hard drive	Item	1
	Honeywell External IR Bullets Cameras 4-9 mm lense	Nr	10
	Power supplies for CCTV cameras (24v / 10amps AC)	Nr	10
	17" LCD display monitor	Item	1
	Keyboard and Mouse	Item	1
	1.4KVA ECO UPS for CCTV system and Cameras	Item	1
	<u>IT Equipment</u>		
	Computer racking Installed		
	Panduit patch panels 24 outlets	Nr	3



Dan R Mowbray

80-82 Appin Road, Appin

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## PHOTOGRAPHS



Dairy cool room



Stockroom area

80-82 Appin Road, Appin

---



Meat Cool Room



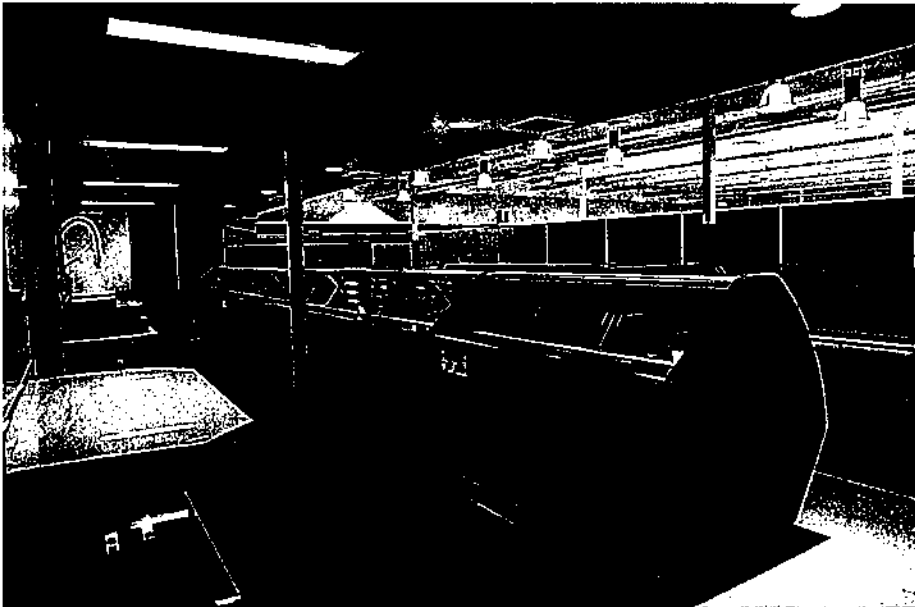
Installed 2 No. Gunther's Cool room blowers to Meat Prep Room

80-82 Appin Road, Appin

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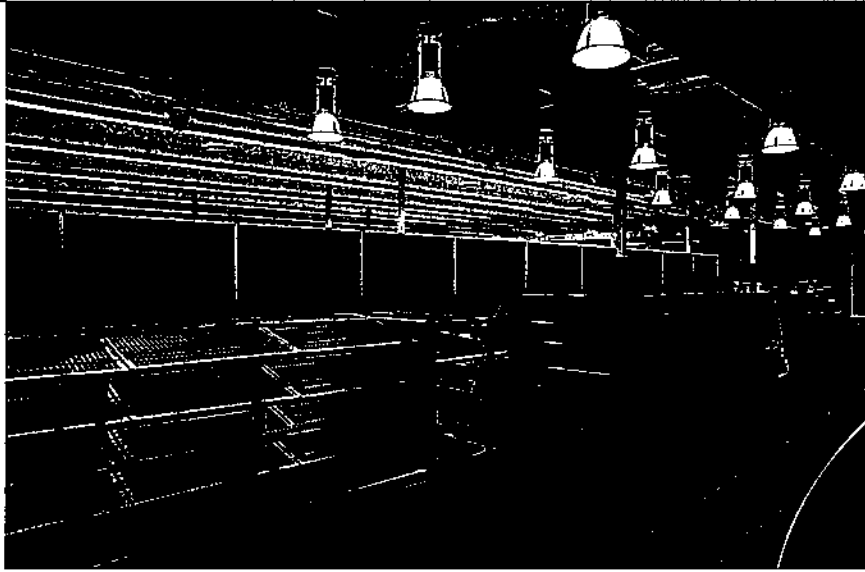


Guntner Mid Temp Compressors (Low Temp located behind out of view of this photo)

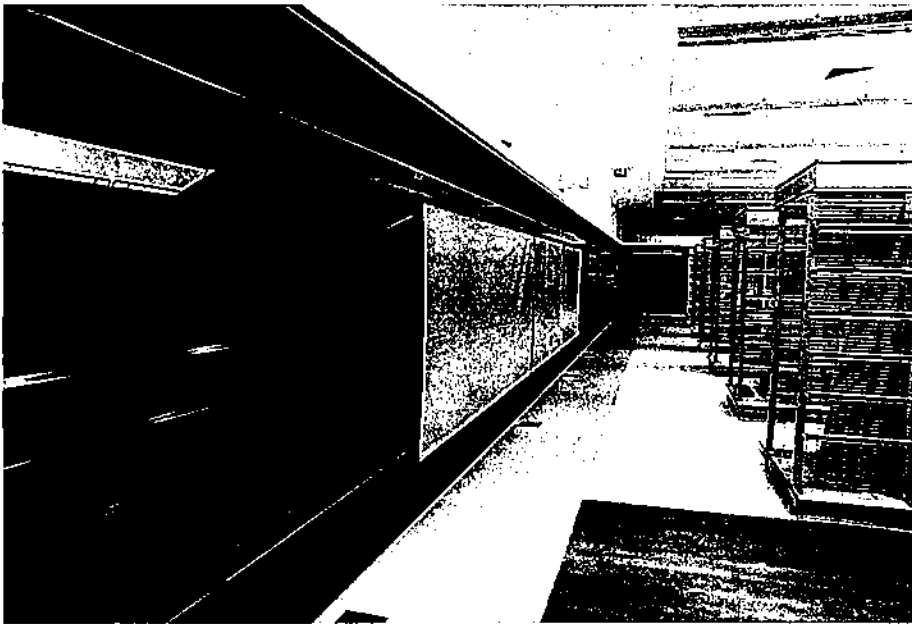


Deli Department

80-82 Appin Road, Appin



New Island Tiered Cheese Cabinet & Bakery Gondolas



12" Dairy & Meat Cases and Dense End

*Sam R. Munnice*

Sam R Munnice