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| JRPP No: | 2010SYE035 |
| DA No: | 260/2009 |
| PROPOSED DEVELOPMENT: | Demolition and construction of eight (8) storey residential flat building, three levels of basement parking with Community Centre by VPA |
| APPLICANT: | Remolo Nigro |
| REPORT BY: | Silvio Falato, Group manager Planning and Environment, Strathfield Council |

Assessment Report and Recommendation

SUMMARY

| | |
|---------------------------------|--|
| PROPERTY: | 29, 35-35 Burlington Road & 32 The Crescent, Homebush |
| LOT & DP | Lot 11 DP 1052760, Lots 11 & 33 Section 10 DP 400, Lots B, C, & D DP 391764 |
| DA NO.: | 2009/260 |
| APPLICATION TYPE: | Demolition of all structures on site including two x two storey brick commercial buildings and car park hard stand. Construction of a multi level building (8 storeys in height) comprising of 140 residential units (including two (2) residential units with home offices), proposed ground floor community centre and 3 basement car park levels with 226 car spaces. A Voluntary Planning Agreement has also been submitted. |
| REFERRED TO JRPP | Yes (Capital Investment Value >\$10 million) |
| RECOMMENDATION: | REFUSAL |
| SUBMISSIONS: | 25 written submissions and 1 petition |
| ZONING: | Part Residential 2(b) & part Business 3(a) |
| DATE APPLICATION LODGED: | 18 December 2009 |
| APPLICANT: | Remolo Nigro |
| OWNER: | Chamwell Pty Ltd and Hiwan Pty Ltd |

INTRODUCTION

Approval is sought for the demolition of all structures on site including two x two storey brick commercial buildings and car park hard stand.

Approval is also sought for the construction of a multi level building (8 storeys in height) comprising of 140 residential units (including two (2) residential units with home offices), proposed ground floor community centre and 3 basement car park levels with 226 car spaces.

A Voluntary Planning Agreement concerning the proposed community centre has also been submitted.

Key assessment issues are:

- Non-compliance with FSR development standard;
- Non-compliance with DCP height controls;
- Non-compliance with DCP setbacks controls and SEPP 65 building separations controls;
- Impacts upon amenity of adjacent properties (solar access, privacy and bulk and scale);
- Impacts on development potential of adjacent sites; and
- Impacts on heritage item.

DESCRIPTION OF THE SITE AND LOCALITY

The subject site is comprised of several properties and contains two zonings being 2(b) residential and 3(a) Business General. Specifically the south west corner of the site is zoned 2(b) in accordance with the Strathfield Planning Scheme Ordinance (SPSO) and the remainder of the site is zoned 3(a).

The site is comprised of 6 allotments and is an irregular shape with an area of approximately 3,875.3m². The site is located in the area generally described as the Homebush town centre and has a 15.24m frontage to The Crescent (northern boundary) and a 30.48m frontage to Burlington Road (southern boundary).

The site is generally flat with an approximate 1.5% gradient falling from the Burlington Road side to the northern boundary at The Crescent.

The site currently accommodates a two storey masonry building being the former offices of the Paraplegic and Quadriplegic Association of NSW (known as the Para Quad Centre), the Homebush-Strathfield RSL Memorial Garden and a two storey brick building formerly the Homebush Meat Market.

There is an open asphalt car park on the Burlington Road side of the Para Quad Centre with a vehicular crossing from Burlington Road.

Immediately adjoining the subject site to the west are two residential flat buildings both three storeys in scale (one addresses The Crescent and one addresses Burlington Road).

Due to the stepped nature of the eastern boundary of the site there are several properties which are adjoining, including a two storey residential flat building, a three storey mixed use building, a Council carpark and fruit and vegetable and deli/coffee shop (formerly a service station).

The character of Burlington Road in the vicinity of the subject site varies from the commercial and mixed use nature near the intersection with Rochester Road, east of the subject site, to a residential character to the west of the subject site.

The scale of the commercial development also varies between 1 storey (with parapet) to 4 storey mixed use, however the single and two storey scale is dominant.

The scale of residential buildings to the west varies between 1 storey to 4 storeys and the character is dominated by 3 storey brick residential flat buildings (RFBs).

The same can be generally said of The Crescent, except that there is a two storey brick RFB immediately adjacent to the Memorial Gardens to the east. Further east, beyond the RFB, are commercial development and mixed use buildings of varying scales ranging between 1 storey (with parapet) scale to 3 storey scale buildings. To the west of the Memorial Gardens, along The Crescent, is residential development which is dominated by 2 and 3 storey RFBs.

The rail line is opposite the Memorial Gardens running adjacent to The Crescent and residential development is located on the southern side of Burlington Road opposite the subject site's southern boundary.

Immediately adjoining the subject site to the west are two residential flat buildings both 3 storeys in scale.

PROPOSAL

The applicant seeks consent to demolish the existing 2 storey brick commercial building (known as the Para Quad Centre) and the 2 storey brick building accommodating a wholesale butcher at 29 Burlington Road, and construct a multi level building (8 storeys in height) comprising of 140 residential units, ground floor community centre and 3 basement car park levels with 226 car spaces. A Voluntary Planning Agreement has also been submitted concerning the proposed community centre.

Two of the ground floor residential units include home offices.

A site plan and elevations are **attached (refer to Attachment 2).**

BACKGROUND

Development History

- The site was owned and leased to various individuals since 1890 until 1927, when purchased by the trustees of the Presbyterian Church of Australia. In 1930 a Hall at No 22 The Crescent was constructed for Unity Church.
- Hall and land of No 22 The Crescent was purchased by RSL in mid 1930s.
- Renovation and extensions to the building were undertaken in a period until 1948, when rear two land parcels were acquired for car parking
- Building and Sub-branch of RSL registered as a club in 1964.
- In 1984, RSL sold a building to the Para-quad association. RSL sub branch continues to operate out of a rented section of the building.
- In 2001, RSL relocates its operations to the Homebush Bowling Club. The same year Para-quad association sells site to the current owner, Chamwell Pty Ltd.

The two most recent Development Applications affecting the site have been subject of Land and Environment Court appeals. The DAs and their descriptions are as follows:

- *DA 0506/309*

On December 2006 Council resolved to refuse development consent to DA 00506/309 for demolition of the existing 2 storey brick commercial building (known as the Para Quad Centre) and the 2 storey brick building accommodating a wholesale butcher at 29 Burlington Road, and construction of a multi level (up to 7 storeys) mixed use building with 4 levels of basement car parking and ancillary signage.

An appeal against the refusal was considered by the Land and Environment Court (*Chamwell Pty Limited v Strathfield Municipal Council* [2008] NSWLEC 4). Amended plans were submitted and accepted during the appeal including a reduction in the number of levels (to part 5 and 6 storeys), increased setbacks and reduced FSR. As a result of amendments to the proposal, and agreed conditions of consent, the Council submitted that none of the issues raised in the Statement of Issues would be pressed. The Court none-the-less considered the objectors' concerns (including a second respondent to the case).

On 10 January 2008 the Court granted deferred commencement development consent to the amended DA.

- *DA 0102/369*

On 2 September 2003 Council resolved to refuse development consent to DA 0102/369 for demolition of existing structures and construction of a separate residential flat development of four buildings of 4 and 5 storeys consisting of (19) one-bedroom, (38) two-bedroom and (3) three-bedroom units and two levels of basement carparking consisting of 94 vehicle spaces at the site comprised of the properties known as 32 The Crescent and 33-35 Burlington Road, Homebush.

An appeal to the refusal was considered by the Land and Environment Court (No. 11068 of 2003) and on January 6 2004 the Court granted development consent to the DA (as amended in October 2003).

History of Current Application

| Date | Action/Task |
|-----------------------------------|--|
| 18 December 2009 | Application lodged |
| 28 January 2010 – 2 February 2010 | Application referred externally and internally. |
| | External comments were sought from the NSW Office of Water, Sydney Water, Rail Corp and the RTA. |
| 23 February 2010 | Preliminary advice received from Sydney Water indicating that they would not support the proposed development over their asset. |
| 23 February – 4 March 2010 | Advice from RTA and Rail Corp received indicating no objection subject to conditions. |
| | Advice from NSW Officer of Water indicating development not Integrated. |
| 25 February 2010 – 30 March 2010 | Application Notified – a total of 25 objections and one petition in support of the proposal submitted by the applicant. The petition indicated that local shop owners would prefer the proposed development to that previously granted consent by the LEC. |
| 11 March 2010 – 14 April 2010 | Dispute between owner and applicant regarding consent for lodgement of application. |
| 29 April 2010 | Preliminary assessment completed by external planning consultant and letter sent to applicant outlining issues and additional information request. |
| 30 April 2010 | Amended advice from Sydney Water outlining conditional concurrence to the proposal. |
| 8 June 2010 | Applicant provided some additional information and amended plans. SEPP 1 objection and VPA not provided. |
| 9 August 2010 | Applicant submitted draft VPA. |
| 18 August 2010 | JRPP briefed |

ASSESSMENT - Pursuant to Section 79C of the Environmental Planning and Assessment Act, 1979

The application has been assessed pursuant to the heads of consideration of Section 79C of the Environmental Planning and Assessment Act and the relevant matters described in Sub-section (1)(a), (b), (c), (d) and (e) of Section 79C have been considered within this report.

(a) (i) Environmental Planning Instruments:

STATUTORY CONTROLS

- Environmental Planning and Assessment Act 1979

- Environmental Planning and Assessment Regulation 2000
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 1 – Development Standards
- Strathfield Planning Scheme Ordinance, 1969
- Strathfield Development Control Plan 2005
- Strathfield 94 Development Contributions Plan
- Draft Strathfield LEP 2008

BASIX

In accordance with the BASIX SEPP all new housing in NSW is required to meet a designated target for energy and water reduction.

Two BASIX Certificates were lodged with the DA. The application was amended on 8 June 2010 including the deletion of the 9th storey and a reduction of residential units. A new BASIX Certificate is required to address the amended proposal and to date none has been provided.

The submitted BASIX certification does not refer to the current revision of architectural plans.

SEPP 55 – Remediation of land

Clause 7 of SEPP 55 requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

The applicant has provided an Acid Sulphate Soil Assessment (dated April 2006) as part of the information submitted and this report concludes that the on-site testing indicates that the soil does not show any indication of the presence of acid sulphate soils.

The applicant has submitted a Phase II Environmental Site Assessment (ESA), dated September 2006 and associated RAP dated February 2007, which are based on a previous proposal involving a ground floor retail/commercial development as opposed to the current application for ground floor residential and community centre development.

The Phase II ESA relates to 5 of the 6 lots only which make up the current development site.

Notwithstanding that the Phase II EAS related to a previous DA, the report found contamination at the site and concluded that *“considering the contamination status of the soil at the site the site is considered unsuitable with regard to contamination, for the proposed development”*.

The report recommended that contaminated soils at the site must be remediated and that a Remediation Action Plan (RAP) be prepared before any remedial measures and redevelopment is carried out.

The RAP submitted with the DA also relates to a previous DA and only 5 of the 6 lots which make up the current development site.

Addendum reports were requested for both these documents with updated analysis and recommendations where necessary addressing the current proposal. To date no addendums have been submitted.

In addition the current reports do not appear to be supported by a site plan indicating the location of underground storage tanks (USTs) or where borehole samples were taken. This detail should be provided, combined with test results data.

SEPP 65 - Residential Flat Development

SEPP 65 is applicable to the development application. Clause 30 of SEPP 65 states the following

“30. Determination of development applications

- (1) After receipt of a development application for consent to carry out residential flat development and before it determines the application, the consent authority is to obtain the advice of the relevant design review panel (if any) concerning the design quality of the residential flat development.*
- (2) In determining a development application for consent to carry out residential flat development, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*
 - 01 (a) the advice (if any) obtained in accordance with subclause (1), and*
 - (b) the design quality of the residential flat development when evaluated in accordance with the design quality principles, and*
 - (c) the publication Residential Flat Design Code (a publication of the Department of Planning, September 2002).*
- (3) However, if the relevant design review panel fails to inform the consent authority of its advice concerning the design quality of the residential flat development within 31 days after the request for its advice is made by the consent authority, the consent authority may determine the development application without considering any such advice and a development consent so granted is not voidable on that ground.*
- (4) The 31-day period referred to in subclause (3) does not increase or otherwise affect the period within which a development application is required to be determined by a consent authority.”*

There is currently no Design Review Panel set up to consider Development Applications involving SEPP 65 applicable development in the Strathfield Council area.

In the absence of such a panel, Council has considered the design quality of the residential flat development when evaluated in accordance with the design quality principles and also with regard to Residential Flat Design Code.

An assessment of the proposal against the 10 design quality principles outlined in SEPP 65 has been undertaken below.

Principle 1: Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

Comment

The site contains two zonings, residential and business. The site is also adjoined by two different zones, residential to the west and business to the north and east.

The proposal does not respond well to the current character or context of the site, nor the desired future character as expressed in the applicable Council planning controls and policies.

The area is dominated by 1 and 2 storey commercial buildings to the east and 2, 3 and 4 storey residential buildings to the west. The proposed 8 storey building is out of context with the scale of buildings in both the business zone and the residential zone.

An application seeking development of the size proposed should be accompanied by a scale model showing the form and scale of the proposed building in comparison to the form and scale of adjoining development. The elevation drawings demonstrate the significant difference in height, scale and bulk between the proposed building and the adjoining buildings.

Principle 2: Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

Comment

The scale is considered excessive.

The scale of development is out of context with the existing scale of development in the locality and also the desired future scale, be that the scale of residential, commercial or mixed use development.

It is acknowledged that an effort has been made to step the building down from the 8 storey height to a 4 storey height towards the western side of the site and neighbouring residential development, however the impacts associated with bulk and visual massing of a 8 storey scale building in an area dominated by 2 and 3 storey scaled buildings has not been resolved in the design.

The 8 storey scale does not suit the scale of the street or surrounding buildings and is contrary to the desired future character of the area.

The height of the 8 storey building is increased and accentuated by the proposed stormwater course which runs through the site. The stormwater course is 1.1m in height and sits at natural

ground level, between Basement Level 1 and the 'Ground Level' of the building. The stormwater course is effectively an additional 'half level' and adds to the overall height of the 8 storey building.

Principle 3: Built form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment

The design proposes the use of visually interesting materials and architectural elements such as vertical and horizontal projections. The design offers good modulation and articulation of most external walls.

As discussed above however, the height of the building is considered excessive and this aspect of the built form will detract from the streetscape and village character of Homebush.

The height and scale of the proposed development offers a 'landmark' building when the existing character and desired future character of the area does not call for such a building and does not reflect the planning controls applicable to the site.

The elevation drawings demonstrate the significant difference in height, scale and bulk between the proposed building and the adjoining buildings.

Principle 4: Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

Comment

The density proposed is greater than the density of adjoining development.

The 3(a) zoned portion of the site has a maximum density of 3:1 in accordance with the SPSO, although this may only be achieved where other relevant provisions and controls dealing with form and amenity are satisfied.

The proposed density of the building over the 3(a) zoned portion of the site is 3.65:1. The non-compliance with Council's FSR development standard represents a 2040m² variation.

The resultant impacts of the excessive floor space proposed are reflective of a development not just "pushing the boundaries" but overstepping the boundaries. There will be reduced residential amenity for adjoining properties; the scale and height are out of context with existing

development and the desired future character for the area; and the proposal will unreasonably reduce development potential for adjacent properties.

Principle 5: Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

Comment

The amended development is not supported with BASIX certification reflective of the amended architectural drawings. Notwithstanding, it is considered that the development is capable of meeting this objective.

Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

Comment

Council officers have expressed concerns regarding this issue although it may be capable of meeting the objective through redesign.

Essentially, for a residential development involving 140 units on a site of 3,875.3m² in size it is considered reasonable to provide a sizeable 'soft' landscaped area at ground level for common use (including for children's play area) and or private open space for ground level dwellings.

The proposed development does not achieve this, instead the proposal provides 'hard' communal landscaped areas above ground level and a relatively small, 'hard' landscaped communal courtyard at ground level.

Principle 7: Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

Comment

Comments elsewhere in the report indicate this objective has not been met.

Visual privacy concerns are raised with regard to overlooking between units surrounding the communal open space on the eastern side of the development from ground floor level up to level 7. Further, the proposal has not resolved overlooking from the subject building into adjoining residential buildings and private open spaces.

The proposal appears to result in additional overshadowing of residential properties to the west and this has not been adequately addressed.

Increased levels of natural ventilation and solar access to residential units could be increased with a design that takes greater advantage of the northern aspect.

Principle 8: Safety and security

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

Comment

There is a lack of detail in the application with regards to security measures (i.e. lighting, gates, secure access arrangements, etc). Notwithstanding, it is considered that the development is capable of meeting this objective.

Principle 9: Social dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

Comment

The proposed diversity in residential unit size is considered a positive aspect of the design and the inclusion of a community centre and retention of the Memorial Garden are also potential positive aspects of the proposal in terms the social dimension of the development.

The ownership, operation and ongoing management of the community centre are unresolved matters that require attention.

Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

Comment

Earlier comments in the report indicate that this objective has not been met, such that the design generally offers well articulated and modulated external elevations incorporating visually interesting material changes and colour scheme, however the design has not responded well to the context of the site or locality in terms of bulk and scale and adequate building setbacks.

In addition to the design quality principles, the proposal has been considered against the various provisions of the Residential Flat Design Code.

The assessment has found that the proposal fails to satisfy various 'Primary Development Controls' set out in Part 1 and various objectives and 'better design practices' as set out in the Mixed Use section in Part 3 of the Code.

Specifically the proposal fails to satisfy the following key objectives and 'Control Checklist' / 'Rules of Thumb' of the Residential Flat Design Code:

Part 1:

- Building Height;
- Building Separation;
- Street Setback;
- Side and Rear Setbacks; and
- Floor Space Ratio;

Part 3:

- Daylight Access. Notwithstanding drawing no. DA A225 Solar Analysis, additional information is required demonstrating which units receive a minimum of 3 hours sunlight between 9am and 3pm in mid winter, and to what extent i.e. the percentage of the private open space or living rooms which are receiving sunlight within units.

SEPP (Infrastructure) 2007

In accordance with the provisions of Clause 104 and Schedule 3 of the SEPP the development application was referred to the RTA.

The DA was considered at the Sydney Regional Development Advisory Committee (SRDAC) meeting on 24 February 2010 and raised no objection to the DA on the basis that the traffic impact on the Classified Road network would be negligible. The SRDAC recommended the

imposition of various conditions where any Development Consent might be issued for the DA (refer to External Referrals section of this report).

State Environmental Planning Policy No. 1 – Development Standards

The proposal does not comply with a development standard which sets a 3:1 for floor space ratio on 3(a) zoned land. The original application sought a 3.9:1 FSR over the 3(a) zoned land and was supported by a SEPP 1 objection which incorrectly nominated a 3.15:1 FSR.

The application as amended seeks a 3.65:1 FSR over the 3(a) zoned land. This equates to a 2040m² variation to the allowable gross floor area.

A SEPP 1 objection has not been received from the applicant with regard to the amended proposal.

Given the impacts of the proposal (as discussed throughout this report), the significant other non-compliances of the development with Council's built form controls, and the excessive height and scale of the development in comparison to adjacent development and development elsewhere in the locality, a variation to the development standard of the magnitude proposed is not able to be justified and is not supported.

Strathfield Planning Scheme Ordinance, 1969

The following specific provisions in the Ordinance are relevant:

Clause 22 Erection or use of buildings or works

"Subject to the provisions of Parts IV, V, VI and VII and to any other special provisions of this Ordinance-

- (a) a person shall not erect, carry out or use a building or work or use land in any of the Zones specified in Column 1 of the Table to this clause except for the purposes referred to in Column II of such Table without the consent of the responsible authority:*
- (b) the purposes-*
 - (i) for which buildings or works may be erected, carried out or used in each of such Zones "only with the consent of the responsible authority, where that consent cannot be refused and subject to such conditions as may be imposed by the responsible authority.*
 - (ii) for which buildings or works may be erected, carried out or used only with the consent of the responsible authority in each of such Zones are respectively shown opposite thereto in Column IV of the Table:*
 - (iii) for which buildings or works may not be erected, carried out or used in each of such Zones are respectively shown opposite thereto in Column V of the Table."*

Comment

The subject site is comprised of several properties and contains two zonings being 2(b) residential and 3(a) Business General. Under the provisions of Strathfield Planning Scheme

Ordinance, multiple-unit housing is permissible in the 2(b) and 3(a) zones with the consent of Council.

A community centre or facility is not separately defined in the SPSO although it is considered that the proposed community facility would fall under the definition of a “place of assembly which is defined as follows:

“Place of assembly” means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, drive-in theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of public worship, an institution or an educational establishment.”

The proposed community centre is shown to be located on 3(a) zoned land and this is development that is permissible with the consent of Council. Notwithstanding the permissibility of a place of assembly the DA fails to adequately explain the details of the proposed community centre. A Voluntary Planning Agreement (VPA) was submitted in August 2010 with respect to the community centre.

The VPA has been considered by Council's legal advisor and is considered unacceptable in its current form.

The operational and management details concerning the place of assembly have not been resolved.

While places of assembly are permissible with consent in 3(a) zoned land, they are prohibited in 2(b) zoned land.

In the absence of satisfactory VPA and details regarding the operation and management of the proposed place of assembly, there is no certainty as to who will use the community centre and how it will operate. The application as it stands has not demonstrated that the place of assembly will be able to fully function without reliance on the 2(b) zoned land (e.g. for pedestrian access or access to car spaces that may be provided to service the place of assembly).

Any reliance on the 2(b) zoned portion of the site for pedestrian and vehicular access to the place of assembly is not permissible.

Clause 24 Restriction on use of land.

“Subject to the provisions of Part IV and to any other special provisions of this Ordinance-

- (a) land, included in a zone, whether forming the site of a building or not, shall not be used without the consent of the responsible authority for any purpose for which a building in the same zone may be erected or used only with the consent of the responsible authority;*
- (b) land, included in a zone, whether forming the site of a building or not, shall not be used for any purpose for which a building in the same zone may not be erected or used.”*

The use of residential 2(b) zoned land for the purpose of providing access to a place of assembly (a building which may not be erected or used in the residential 2(b) zone) is contrary to Clause 24(b) and the proposal has not demonstrated compliance with this clause.

Clause 32 Consideration of certain applications.

"In respect of any application for the consent of the responsible authority whether under this Ordinance or under any provision of the Act for consent or approval to the carrying out of development for a purpose referred to in Column IV of the Table to clause 22 of this Ordinance, namely-

Aesthetic appearance

- (a) *to the erection of a building, to the carrying out of a work or to the use of land within a Foreshore Scenic Protection Area or within view of any waterway, or adjacent to any county road or main road, railway, public reserve or land reserved for open space or land within Zone No.6(a) or 6(b), the responsible authority shall take into consideration the probable aesthetic appearance of such land or of the proposed building or work when used for the proposed purpose and viewed from such waterway, county road or main road, railway, public reserve or any such reserved or zoned land;*

Hotels, motels, service stations, car repair stations, places of assembly, industry, etc.

- (b) *to the erection or use of an hotel, motel, service station, car repair station, place or assembly or industrial premises or to carrying out of any other development likely to cause increased vehicular traffic on any road in the vicinity thereof, the responsible authority shall take into consideration whether, having regard to the proposed use of any such building or development-*
- (i) *adequate vehicular exits and entrances to the site have been provided so that vehicles using such entrances and exits will not endanger persons and vehicles using any such road;*
 - (ii) *space, sufficient to provide for the parking or standing of such number of vehicles as the responsible authority may determine, is provided on the site or on land adjoining the site not being a public road*
 - (iii) *any representations made by the Police Department (Traffic Branch) and, where the site has frontage to a county road or a main road, by the Department of Main Roads, have been met;*
 - (iv) *adequate space has been provided within the site of the building or development for the loading, unloading and fuelling of vehicles and for the picking up and setting down of passengers;*

Comment

The proposed building will be in view of a railway and the proposal includes a place of assembly and therefore clause 32 is relevant.

Clause 32 (a)

In terms of aesthetic appearance, the subject site is in a prominent location being on the periphery of the Homebush town centre and on land which connects the commercial realm of the Homebush village to the residential area west of the site.

The site has two street frontages being Burlington Road and The Crescent and is opposite a main vehicular entry point to the Homebush village being the underpass in The Crescent running beneath the railway.

The location, size and orientation of the site makes it, and buildings erected there upon, clearly visible from locations along The Crescent, Burlington Road and the Railway. The proposed building will also be visible from locations in Rochester Street.

As discussed elsewhere in this report the proposed 8 storey structure is not compatible or complementary to the scale and bulk of existing adjoining structures. Specifically the proposed building is 5 levels higher than the residential buildings to the west (33-34 The Crescent and 37-39 Burlington Road), 5-6 storeys higher than the residential and mixed use buildings to the north (31 and 30 The Crescent) and 6 storeys higher than the commercial building to the east (25-27 Burlington Road).

The articulation of the building is generally sound with balconies, solid projections and material changes employed in the design resulting in adequate modulation and differentiation in the elevations.

The external articulation of the building however does not overcome the visual massing and bulk and scale impacts that the development will have on adjoining sites and the two applicable streetscapes.

The site requires a building of transition between the business zone and commercial setting to the east, and the residential zone and RFBs to the west. The building does not adequately respond to the circumstances and does not adequately address the residential nature of development along Burlington Road and The Crescent.

Clause 32(a) is not satisfied.

Clause 32 (b)

The proposal is silent on servicing arrangements for the proposed community centre and as such no off-street car spaces have been provided to service the proposed place of assembly and no loading areas have been identified to service the place of assembly.

It is noted that the proposed driveway to the car park appears to traverse the 2(b) zoned portion of the site and therefore in accordance with clauses 22 and 24 (and a previous Court 'point of law' ruling relating to development at the site) which prevents the use of residential 2(b) zoned land for the purpose of providing access to a place of assembly the driveway could not be used for access to any car spaces provided in the basement level car park in relation to the community centre.

As it stands the proposed servicing arrangements for the place of assembly are inadequate and require resolution.

Clause 32(b) has not been satisfied.

Clause 33 – Development which must be advertised

The proposal was notified in accordance with legislative requirements, in this instance, Part L of the Strathfield Consolidated DCP 2005 – *Public Notification Requirements for Development and Complying Development Applications*.

Clause 41 – Allotment Sizes within Residential Zones

Under the provisions of Clause 41 of the Ordinance, residential development is not to occur on parcels of residentially zoned land less than 560m² in area or on land of which the frontage is less than 15m.

The proposal involves development for the purpose of residential units over land zoned Business 3(a) and Residential 2(b).

The 2(b) zoned section of the land is greater than 560m² and has a frontage to Burlington Street not less than 15m

The proposal is satisfactory with regard to Clause 41.

Clause 41B - Development within residential zones

“The Council shall not grant consent to development allowed by Column IV of the Table to clause 22 in Zone No 2(a) or 2(b) or which is otherwise permissible within those zones unless it is satisfied that-

- (a) any proposed buildings will be compatible with other development that is proposed or likely to be carried out in the vicinity; and*
- (b) where any proposed buildings will be on land within or adjoining a heritage conservation area, the buildings will be compatible with the particular characteristics of the heritage conservation area, including building height, scale, character and external detailing; and*
- (c) any proposed buildings will be unlikely to adversely affect the amenity of existing residential development by way of overshadowing, overlooking, noise, hours of operation or otherwise.”*

Comment

Clause 41B(c)

The proposed development is permissible development within the Business 3(a) zone although the proposed use of the Residential 2(b) zone for pedestrian access and entry to the proposed place of assembly (which is located on the 3(a) zoned portion of the site) is not considered permissible.

The proposal lacks detail with regard to the use and management of the proposed community facility, including access arrangements and hours of operation.

A proposed VPA has been submitted to Council which would involve Council taking ownership of the community centre. The VPA was submitted 8 months after the DA was lodged. Council has received external legal advice which concludes that the VPA is unsatisfactory and requires major amendments in order to protect Council's interests.

In the absence of an agreed VPA and any details dealing with the operation and management of the place of assembly the impacts on the amenity of existing residential development (particularly to the west of the site) cannot be properly considered.

The site has a general north to south orientation with two, 3 storey residential flat buildings located to the west. The shadow diagrams provided demonstrate that additional shadow will be cast over the residential flat buildings (in particular the eastern side of the RFB at 37-39 Burlington Rd) during the morning period at the winter solstice and equinox.

Given that the eastern elevation of the 2 affected RFBs are in shadow during the afternoon periods, the morning period is the only period that these adjacent buildings receive solar access.

From the submitted shadow diagrams it appears that the proposed building will result in a reduction in solar access to the eastern facing units of the adjacent residential buildings and these impacts seem unreasonable given the considerable variation sought to the height and FSR controls applying to the subject development. A significant reduction in solar access to the adjoining residential properties resulting from a development with substantial non-compliance could not be supported.

The subject proposal has the potential to result in visual privacy and acoustic privacy impacts. Specifically the orientation of the proposed building and the inclusion of balconies, living room windows, and common terraces facing adjacent residential development will result in opportunities for future occupants of the proposed building to overlook the private open space of residential buildings to the north and openings and balconies of residential properties to the west.

While some of the visual privacy issues could be mitigated by off-setting openings and balconies and/or by inclusion of various privacy screening devices, the minimal side and rear setbacks proposed (particularly along the north boundary which includes 600mm and 1.5m setbacks for balconies and openings on all 8 storeys) will render it extremely difficult for future development to be undertaken at 31 and 30 The Crescent in a manner that will not result in visual (and or acoustic) privacy issues.

In addition the bulk and scale of the proposed 8 storey development is considered excessive and will result in visual massing impacts for residential dwellings adjoining the site. The side and rear setbacks are considered inadequate and will not adequately mitigate the visual massing of the building along the side and rear boundaries.

The proposal does not comply with clause 41B(c).

Clause 41C - Development adjoining residential zones

“The Council shall not grant consent to development on land which adjoins land in a residential zone unless it is satisfied that –

- (a) wherever the Council considers it to be appropriate, proposed buildings are compatible with the height, scale, siting and character of existing buildings within the residential zone; and*
- (b) any goods, plant, equipment and other material that will be on the land as a consequence of the proposed development are to be stored within a building or will be suitably screened from existing buildings within the residential zone; and*
- (c) the elevation of any proposed building facing land in a residential zone has been designed to be compatible with existing buildings within the residential zone, or is suitably screened; and*
- (d) the development will not inhibit reasonable solar access to existing buildings within the residential zone between the hours of 9am and 3pm during the winter solstice; and*
- (e) noise generating from fixed sources or motor vehicles associated with the development has been effectively insulated or otherwise minimised; and*
- (f) the development will not otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting or the like; and*
- (g) windows facing residential areas have been treated to avoid overlooking of private yard space or windows in residences.*

The south west corner of the site is within a residential zone and the remainder of the site is zoned Business 3(a). The matters concerning residential amenity and the appropriateness of the proposal with respect to adjoining residential development have been addressed directly and indirectly under the headings of Clause 41B and Clause 32.

In summary it is considered that the proposal will result in numerous adverse impacts on the residential amenity of adjoining sites in terms of solar access, bulk and scale (visual massing along boundaries) and privacy impacts.

In its current form the proposal does not satisfy subclauses (a) (c), (d) and (g).

Clause 44 – Floor space of buildings

The total site area is 3,875.3m², with Lot D DP 391764 (No. 35 Burlington Road) identified as having an area of 739.8m² and being zoned 2(b). The remainder of the site is zoned 3(a) and has an area of 3,135.5m² (i.e. 3,875.3m² – 739.8m²).

Clause 44 of the SPSO sets out a numerical development standard for the floor space ratio (FSR) on the 3(a) zoned portion of the site which is 3:1. There is no FSR development standard for the 2(b) zoned land.

The original application resulted in a FSR of 3.9:1 for the 3(a) zoned land which was reduced to 3.65:1 in the amended plans.

The proposal therefore does not comply with the development standard.

A SEPP 1 objection was submitted with the original application (refer to pg 15 of the SEE). The SEPP 1 objection incorrectly stated that the FSR was 3.15:1 and the justification for the non-compliance was based on a “5%” variation to the standard.

A new SEPP 1 objection, based on the amended development and the 3.65:1 FSR has not been submitted.

The amended proposal represents an actual variation to the FSR development standard of approximately 2040m² of floor space and given the issues raised elsewhere in this report with regard to non-compliant height, non-compliant setbacks, unacceptable impacts on adjacent properties, unreasonable impacts on the development potential of adjacent properties and incompatibility of the development with the existing and future desired character of the area, the proposed variation cannot be supported.

Clause 56B – Use of residential buildings in Zone No. 3(a)

The proposal complies with this clause.

Clause 59A – Heritage items, Clause 59B – Development in the vicinity of heritage items & Clause 59D – Submission of a heritage assessment

The subject site is located partially within and adjoins the “Village of Homebush” Retail Conservation Area which includes all of the shops along Rochester Street and 25-27 and 34-36 Burlington Road. This Conservation Area is identified in the Draft Strathfield Local Environmental Plan No105 Heritage.

Further, the proposed development involves construction of a new building on the site of a heritage item, being the Memorial Gardens at 32 The Crescent. Specifically the proposal involves construction of a community centre and residential units on the site of the Memorial Gardens. The height of the development on the land containing the Memorial Gardens is 8 storeys, 4 of which extend over the southern end of the garden itself.

The proposal also seeks to undertake works to the Garden as identified on the submitted landscape plans.

A detailed history of the site and a statement of heritage significance has been submitted as part of the Archaeological Assessment submitted with the application. It is noted that the Archeological Assessment is dated May 2006 and makes reference to a previous proposal.

Clause 59(D) of the SPSO prescribes that Council shall not grant consent to a development involving the erection of a building (amongst other works) to a site within a Conservation Area or containing a heritage item unless a statement is submitted with the application which amongst other matters demonstrates that *“consideration has been given to the heritage significance and the conservation of the building, work or land to which the application relates”* and which sets out *“any steps to be taken to mitigate any impact of the development on the heritage significance of that building, work or land”*.

The submitted Archaeological Assessment does not detail the impact on the heritage significance of the heritage item or the Conservation Area that the proposed development will have or steps that should be taken to mitigate any impact that the proposed development may have.

It is considered that there is a lack of detail with regard to proposed works to the Memorial Garden and its ongoing management and maintenance. Concern is raised with the proposal to lay a path diagonally across the Garden and over “Dedicated Land” and areas where the ashes of returned service men and women may have been scattered or buried.

Concern is also raised with regard of the apparent intended use of the Garden as potentially the only pedestrian thoroughfare to the community centre.

The report does not outline the impact on the significance of the heritage item in this regard and as such, the application has not established that the proposed works and use of Garden will not compromise the heritage significance of the item.

A Statement of Heritage Impact is required to be submitted that addresses the matters set out in Clause 59(D) of the SPSO.

Clause 61GA – Developing adjoining residential zones

The proposal does not satisfy this clause.

It is considered that the scale of the building is not compatible with the character of the existing residential development within the residential zone. The height and the inadequate side and rear setbacks of the proposed building will result in overlooking and overshadowing impacts which have not been adequately mitigated.

It is noted that while the proposed development may not itself overshadow adjacent residential dwellings/units for a period greater than 3 hours between 9am and 3pm during the winter solstice, the additional overshadowing created by the development results in openings and private open space of some adjacent residential properties having less than 3 (possibly 2) hours of solar access during the winter solstice.

The proposal lacks detail as to the type of plant proposed for the roof of the 8th storey. Additional details are required describing the equipment, the height and architectural treatment of equipment located on the roof of the 8th storey.

(ii) Draft Environmental Planning Instruments:

Draft Strathfield Local Environmental Plan, 2008

The proposed development is situated within the Residential 2(b) zone, and Business 3(a) zone. The proposed development meets some of the objectives, however, is of a height, scale and bulk that is not likely to be compatible with other future developments adjoining the site.

The proposed development is not considered to be appropriate on the subject site. The relevant Clauses of the Draft LEP 2008 have been considered in the assessment of the proposal and the proposed development found to be unsatisfactory.

Draft Local Environmental Plan No. 105

The Draft LEP Map identifies that 29 Burlington Road is part of a heritage conservation area.

Before granting consent for the erection of a building within a heritage conservation area, the consent authority must be satisfied that the features of the proposed building will be compatible with the heritage significance of the heritage conservation area, having regard to the form of, and materials used in, buildings that contribute to the heritage significance of the heritage conservation area.

The predominate built form, including architectural style, scale and height, are significant elements of the conservation area. The proposed building does not accord with the height and scale of adjoining development or the predominate height and scale of buildings in the heritage conservation area.

The proposal is not compatible with the heritage significance of the conservation area.

(iii) Development Control Plans:

Strathfield Consolidated DCP 2005 – Part C – Multiple-Unit Housing

This Part of the DCP aims to achieve residential development which is sympathetic and appropriate for the natural and built environment, acceptable to the community and economically feasible.

The Objectives are outlined under section 1.2 and assessment of the proposal against these objectives and against the design provisions of the DCP has found that the proposal is unsatisfactory. Specifically the proposal fails to satisfy objectives 2, 3, 4, 5, 6 and 9.

Compliance of the proposed development against the requirements of Part C of the DCP is outlined in the table below.

| Section & Development Standard | Required | Proposal | Compliance |
|---|---|--|-------------------|
| 2.2 Site Requirements | Minimum site area of 1000m ² and a minimum street frontage of 30m. | The subject site has an area of 3135.5m ² and a frontage of 33m. | Yes |
| 2.2 Building Height | 2-3 storeys - 2(b) zone 4 storeys - 3(a) zone | The proposal includes 8 storeys in the 3(a) zone and 4 storeys in the 2(b) zone. The building does not comply with the 2(b) zone height and it does not comply with the 3(a) zone limit. | No |
| 2.2 Building Street Setback | Residential zone - 9m . | The ground floor is set back to Burlington Street at the western end is 6.4m. Levels 1, 2 and 3 have lesser setbacks of 5.4m from the front building wall and the boundary. These levels also have a protruding framing element which is setback only 3.8m from the Burlington Road boundary. The proposed ground floor setback is consistent with the adjoining residential property to the west which has a setback of approximately 12m. The proposed ground floor setback is consistent with the commercial property to the east. Setbacks for levels above the 1 st level are inconsistent with adjoining development. | No |
| 2.2 Building Envelope | Residential zone - 3.5m vertically at boundary & project | The proposal does not comply with building envelope control for the residential zone. | No |

| Section & Development Standard | Required | Proposal | Compliance |
|--------------------------------|--|---|------------|
| | <p>inwards at 45°.</p> <p>And</p> <p>Residential development in the business zone - Buildings may be erected to the side and/or rear boundaries provided - (a) no windows are located in walls on the boundary; (b) if windows are provided, the Council is satisfied that this will not prejudice the reasonable redevelopment of any adjoining land; and (c) residential development is not adversely affected by either location or scale of walls erected to the boundary.</p> | <p>Notwithstanding the building separation requirements of the SEPP 65 Residential Flat Design Code, the proposal has staggered setbacks with the minimum setback of 3m to the western side boundary and a minimum setback of 0.6m setback to the eastern side boundary for all 8 storeys of the building).</p> <p>The proposed building envelope will have adverse impacts on adjacent residential and non-residential sites in terms of scale and future possible development and therefore does not comply with the criteria for variations for building envelope of residential buildings in the business zone.</p> | |
| 2.2 Rear Setback | <p>Determined by the building envelope</p> <p>And</p> <p>See above for variation for residential buildings in building zone.</p> | <p>The proposal provides a rear setback of 31m to the frontage at 32 The Crescent.</p> <p>The proposal has a setback of 1.2m for all 8 storeys to the rear northern boundaries adjoining the properties known as 31 and 30 The Crescent.</p> <p>The proposal will have adverse impacts on adjacent residential buildings at 31 and 30 The Crescent in terms overlooking, bulk and scale and future possible development and therefore does not comply with the criteria for variations for building envelope of</p> | No |

| Section & Development Standard | Required | Proposal | Compliance |
|--|--|---|------------|
| 2.2 Side Setback | 4m And See above for variation for residential buildings in building zone. | residential buildings in the business zone. The proposal provides side setbacks of between 3m and 15m on the western boundary and between 3m-21.5m on the western boundary. | No |
| 2.3 Dwelling Unit and Building Design | 15% of the development is required to be designed as adaptable housing for older people or people with disabilities. | The proposal provides 21 dwellings which are designed to be adaptable. | Yes |
| 2.3 Dwelling Unit and Building Design for residential flat buildings | At least one main convenient entry is to have barrier free access to ground floor units (for people with disabilities). | A central ramp access to a lift is provided from the Burlington Road frontage. | Yes |
| | Access to common areas should be direct and without unnecessary barriers. | Access to ground floor and level 4 communal open space is indirect for the majority of units. | No |
| 2.3 Dwelling Unit and Building Design | Walls greater than 10m in length to be broken or staggered. | Well articulated walls. | Yes |
| 2.3 Dwelling Unit and Building Design | Parking for people with disabilities. Access from the car parking must provide a ramp, lift or chairlift to the entry of the building. | 7 parking spaces are provided for people with disabilities. Access from the basement garage is via lift. | Yes |
| 2.3 Dwelling Unit and Building Design | Building materials and finishes are to be sympathetic with the adjoining buildings and the streetscape. | The proposal involves a mix of finishes include face brick, pre-cast concrete panels, copper wall cladding and zinc cladding. The materials, while contemporary, are considered to be suitable and sympathetic to the adjoining | Yes |

| Section & Development Standard | Required | Proposal | Compliance |
|--------------------------------|--|--|------------|
| 2.3 Unit Sizes and Lot Layout | The following minimum units sizes apply: 1 bedroom apartment-70m ² 2 bedroom apartment-85 m ² 3 bedroom apartment-100 m ² More than 3 bedroom apartment -110 m ² | buildings. 1 bedroom units – 50m ² to 85.9m ² 2 bedroom units – 80m ² to 101.8m ² 3 bedroom units – 108.45 m ² | No |
| 2.3 Energy Efficiency | Application is required to provide a NatHERS certificate. Each dwelling must achieve 3.5 star NatHERS rating. | Two BASIX Certificates were lodged with the DA. The application was amended on 8 June 2010 including the deletion of the 9 th storey and a reduction of in the amount of residential units. The submitted BASIX certification does not refer to the current revision of architectural plans. | No. |
| 2.4.2.2 Solar Access | The main living areas and at least 50% of the principle private open space achieves a minimum of 3 hours sunlight during the winter solstice. | The proposal does not satisfy these requirements. Although units have been organised so that living areas are serviced with windows and openings, it has only been demonstrated that 70% of dwellings will receive 2 hours of sunlight to living rooms and private open space areas. | No |
| 2.4.2.2 Solar Access | Solar access to habitable rooms and private open space of adjoining properties be provided for a minimum of 3 hours during winter solstice. | It is noted that the proposal will cast a shadow over residential buildings to the west during the morning period and the shadow diagrams submitted do not demonstrate that habitable side rooms of along the eastern wall of the western adjoining building will maintain 3 hours of sunlight during winter. Where rooms currently receive less than 3 hours, any | No |

| Section & Development Standard | Required | Proposal | Compliance |
|---|---|--|------------|
| | | further reduction is considered significant. | |
| | | The shadow diagrams submitted indicate that the east facing dwellings at 37-39 Burlington Road will receive less than 3 hours sunlight, and potentially less than 2 hours sunlight as a result of the proposed building. | |
| 2.4.3 Natural Space Heating and Cooling | Reduce the need to artificially heat and cool dwellings. | The majority of dwellings will receive cross ventilation. | Yes |
| 2.4.4 Natural Lighting | Reduce reliance on artificial lighting. | Each unit incorporates balconies and glazing. The design generally will enable reasonable amounts of natural light (not necessarily direct sunlight) and therefore reduce reliance on artificial lighting. | Yes |
| 2.4.5 Building Materials | Insulation and materials of high thermal mass | See BASIX Assessment | No |
| 2.4.6 Water Management | Greenhouse gas friendly hot water system, mandatory water storage of 24,000 lt and water saving devices are required. | Awaiting updated BASIX Certification. | No |
| 2.5 Streetscape Orientation | Compatible with the existing character and address the street frontage. | The proposed design is not considered to be compatible with the existing medium density development to the west or the predominantly 2 storey scale commercial development to the east. | No |
| | | The architectural style is considered satisfactory with regard to the streetscape. | |
| 2.5 Streetscape Orientation | Dwellings facing the street will have frontage and apparent access. | | Yes |
| 2.5 Streetscape Orientation | Garages do not dominate the street frontage. | The proposal incorporates basement parking and the basement driveway and crossing does not in itself dominate the | Yes |

| Section & Development Standard | Required | Proposal | Compliance |
|--------------------------------|--|--|---------------------------|
| 2.5 Side and rear fences | 1.8m maximum height. | street. | Yes Capable of complying. |
| 2.6 Heritage and conservation | <p>Proposed developments involving heritage items or adjoining heritage items must comply with the heritage provisions contained in the SPSO.</p> <p>The onus is on the applicant to demonstrate that the heritage significance of the item or structure would not be compromised by the proposal.</p> <p>Where a development involves or adjoins a heritage item, Council requires that a statement of effect be lodged with a development application. That statement must set out the heritage significance of the structure or place and the effect the proposed works will have on the significance of the heritage item.</p> | <p>The proposal involves a heritage item being 32 The Crescent – Memorial Garden.</p> <p>A heritage assessment has been submitted which describes the significance of the site although it does not explicitly outline the impact that the development would have on the significance. The report indicates that the development should go ahead and a list of recommendations are offered with regard to the heritage aspects of the proposal.</p> <p>It is considered that there is a lack of detail with regard to proposed works to the Memorial Garden and its ongoing management and maintenance. As such it has not been established that the proposal will not compromise the heritage significance of the item.</p> | No. |
| 2.7 Open space and landscaping | <p>Residential Zone - 50% of site</p> <p>For residential development in the 3(a) zone Open space and recreation facilities</p> | <p>Notwithstanding that the site is predominantly zoned 3(a), the development does not achieve 50% landscaping over the 2(b) zoned section of the site.</p> | No. |

| Section & Development Standard | Required | Proposal | Compliance |
|--------------------------------|---|---|--------------------------------------|
| | may be provided in the form of balconies, roof-top decks and the like, and may include indoor facilities. No specific standards apply. | | |
| 2.7 Open space and landscaping | <p>100m² of the site area is to be provided as communal open space, with minimum dimensions of 7m.</p> <p>Where dwellings do not have access to ground level open space, at least one main balcony having access from each dwelling unit's living area/s is to serve as private open space.</p> <p>The minimum total balcony area is:</p> <ul style="list-style-type: none"> • 12 m² for up to 2 bedroom dwellings; and • 15 m² for 3 or more bedroom dwellings. <p>All balconies must have a minimum width and depth of 2 metres.</p> | <p>The proposal provides communal open spaces at ground level, level 4. Both satisfy the required dimensions and area.</p> <p>Each unit is provided with a balcony of a size which complies with the required area and minimum dimension.</p> | Yes |
| 2.7 Landscape | A Landscape Concept Plan is required to be submitted with the application | A landscaped plan has been submitted and Council's Landscape Development Officer has commented on the adequacy of the proposed landscaping (see | No. Plan submitted but issues raised |

| Section & Development Standard | Required | Proposal | Compliance |
|--------------------------------|--|--|----------------|
| | indicating the location and treatment of landscaped areas and private open space areas and the location, size and species of existing trees and plantings. | Internal Referrals section below). It is noted that an amended landscape plan, correlating with the amended architectural plans, has not been submitted. The landscape plan submitted still outlines a communal open space at level 8 (9 th storey) when this level has been deleted. | with proposal. |
| 2.8 Privacy and Security | Windows are not to be located less than 9m apart from other dwellings. | Windows along the western elevation are located >9m from the residential buildings to the west. Windows at the northern end of the building are located <than 7m from the RFB at 31 | No |
| 2.8 Privacy and Security | Suitable screening shall be provided within developments when direct overlooking is likely from proposed dwellings to the private open space areas of adjacent existing dwellings, or to balcony or private open space areas of dwellings within the same development. | Overlooking opportunities will exist from balconies into adjacent balconies and adjacent windows within the development, particularly for units surrounding the proposed communal terrace on the western side of the building. Overlooking will be possible from northern openings and balconies into the private open space at 31 and 30 The Crescent. | No |
| 2.8 Privacy and Security | Windows to be offset from adjoining dwellings by 0.5m: Have a sill height of 1.7m or have obscure glazing to a height of 1.7m. | Windows on adjoining site have not been plotted and it is not possible to determine compliance. | No |
| 2.8 Privacy and Security | Active communal recreation areas, parking areas, accessways and service equipment areas are | Ground floor units G01, G03, G13 and G118 have bedrooms adjacent to or above the proposed driveway to the basement. | No |

| Section & Development Standard | Required | Proposal | Compliance |
|--------------------------------|---|--|--|
| | separated from bedrooms and minimize the entry of high levels of external noise to dwellings; | | |
| Privacy and Security | Bedrooms of dwellings do not adjoin living rooms or garages of adjacent dwellings | Refer above. | No |
| 2.8 Privacy and Security | Dwellings close to high-noise sources are designed to locate habitable rooms and private open space away from noise sources and are protected by appropriate noise-shielding devices | There are bedrooms of 4 separate units located above the proposed community centre. There is a lack of detail concerning the use and management of the community centre although it is reasonable to expect that as a place of assembly it will generate noise from time to time. No noise mitigation measures have been outlined with respect to the community centre. | No |
| 2.8 Privacy and Security | Casual surveillance of street and public areas. | The proposal incorporates balconies and windows on the south and north fronting units. This provides the opportunity for casual surveillance of the street for the residential component of the development. | Yes |
| 2.9 Car Parking | Minimum parking requirement 1 bedroom dwelling - 1 space 2 bedroom dwelling - 1.5 spaces 3 or more bedroom dwelling - 2 spaces On-site visitor parking shall be provided on site at | The total number of spaces required, not including any spaces associated with servicing the proposed community centre = 218 226 are provided. The proposal is silent on the amount of parking required to service the proposed place of assembly. Two issues arise with this, firstly, will the 'spare' 8 car spaces be | Yes for residential component. No information provided regarding car parking for the proposed community facility. |

| Section & Development Standard | Required | Proposal | Compliance |
|--------------------------------|---|---|-----------------------|
| | a rate of 1 space for every 5 dwellings or part thereof. Commercial Parking rate for a retail use (found under Part I of the DCP) is 6.2 spaces per 100m ² of gross leaseable floor area. | adequate to service the community centre; and secondly, the SPSO prohibits access across the 2(b) zone for the purpose of gaining access to facilities associated with the place of assembly. The location of the driveway would therefore need to be amended if it is proposed to provide car spaces for the place of assembly within the basement car park. | |
| 2.9 Car Parking | Dimensions of garage car spaces. | 5.8m x 5.5m are the dimensions of the double basement garages provided for each dwelling and the two visitor spaces. | Yes |
| 2.9 Bicycles | Suitable facilities for accommodating bicycle parking in all residential flat buildings must be provided. | Bicycle facilities provided in basement levels | Yes |
| 2.9 Wash bay | For residential development of 10 or more dwellings a designated car washing bay shall be provided on the site. | None shown | Capable of complying. |
| 2.10 Clothes drying | All multiple unit developments must include sufficient outdoor clothes drying space. The drying of clothes in balcony areas visible from the street is prohibited. | No space has been provided for outdoor clothes drying. | No |
| 2.12 Excavation | All areas of excavation shall be setback from property boundaries in accordance with the building | Excavation is proposed with nil setback to sections of the southern, eastern and western boundaries. | No |

| Section & Development Standard | Required | Proposal | Compliance |
|--|---|---|------------|
| | setbacks required in section 2.2 – Front Setbacks and Building Envelope And Side and Rear Setbacks. No cut shall be made to the ground within the required setbacks. | | |
| 3.0 Residential development in the business zone | In general, Multiple-unit housing in business zones will be subject to similar objectives and development standards to those set out in Part 2 of Part C, particularly where the development site adjoins land in a residential zone. | The development adjoins land in a residential zone and therefore the objectives and controls of set out in Part 2 of Part C are applicable. | No |
| 3.1 Residential development in the business zone | Where practicable, development should provide a frontage to the street that creates a continuity of existing shopping centre forms. | The proposed development involves residential uses at ground level addressing Burlington Road. Notwithstanding that two ‘home occupation’ units are proposed, the building will ‘read’ as a residential flat building and does not provide active commercial frontages to Burlington Road. | No |
| 3.2 Residential development in the business zone | A retail or commercial component of a development may be erected to the street alignment, where that is the predominant existing characteristic. Any residential component above should be set back to achieve a consistent | No commercial component proposed. | N/A |

| Section & Development Standard | Required | Proposal | Compliance |
|--|---|--|--|
| | facade height on the retail strip. | | |
| 3.3 Residential development in the business zone | Vehicular access should be provided from the side or rear. Where there is no alternative to access from the front, the access should be designed to minimise disruption to the street and footpath. | Access is only achievable from Burlington Road. | Yes |
| 3.4 Residential development in the business zone | Side and rear setbacks | See discussion above in part 2.2 | No |
| 3.5 Residential development in the business zone | Maximum building height - 4 storeys | See discussion above in part 2.2 | No |
| 3.6 Residential development in the business zone | Open space and recreation facilities may be provided in the form of balconies, roof-top decks and the like, and may include indoor facilities. No specific standards apply. | See discussion above in part 2.7 | Yes |
| 3.7 Residential development in the business zone | Parking arrangements depend on the circumstances and land use mix. Where adequate off-street parking is provided for business zones, Council may dispense with on-site visitor parking and customer | All parking is required to be provided on-site and the proposal achieves this with respect to the residential component. The proposal is silent with respect to car parking for the proposed place of assembly. See above discussion in part 2.9 | Yes for residential component. No information provided regarding car parking for the proposed community facility. |

| Section & Development Standard | Required | Proposal | Compliance |
|--------------------------------|--|----------|------------|
| | parking or require a contribution towards these facilities as set out in Council's Section 94 Contribution Plan. | | |

Strathfield Consolidated DCP 2005 – Part H: Waste Management

An inadequate waste management plan has been submitted.

Council's Environmental Health Officer has raised issue with regard to the proposed storage and collection of garbage bins from the site – refer to comments in Internal Referral section below.

As it stands the proposal lacks detail with regard to waste management and does not satisfy the provisions of Part H of the DCP.

Strathfield Consolidated DCP 2005 – Part I: Provision of Off Street Parking Facilities

As discussed above, the total number of spaces required, not including any spaces associated with servicing the proposed community centre is 218.

The proposal includes 226 car spaces with three basement levels.

The proposal is silent on the amount of parking to service the proposed place of assembly.

Two issues arise with this, firstly, will the 'spare' 8 car spaces be adequate to service the community centre; and secondly, the SPSO prohibits access across the 2(b) zone for the purpose of gaining access to facilities associated with the place of assembly.

The location of the driveway (which traverses the 2(b) zoned land) would therefore need to be amended if car spaces for the place of assembly are proposed to be provided within the basement car park.

Strathfield Consolidated DCP 2005 – Part K: Development on Contaminated Land

Matters are addressed within the report under the heading SEPP 55 where it is determined that a Preliminary Contamination Assessment is required in order to determine addendum reports are required for both the Phase II ESA and the RAP documents submitted with DA.

In addition the reports require updating with a plan to indicate where the location of underground storage tanks or where borehole samples were taken.

Section 94 Contributions

The development would be subject to contributions in accordance with Council Section 94 Developer Contributions Plan subject to any approval.

(iv) Planning Agreements or Draft Planning Agreements in accordance with section 93F:

A proposed draft Voluntary Planning Agreement (VPA) been submitted to Council which would involve Council taking ownership of the community centre.

The VPA was submitted 8 months after the DA was lodged. Council has received external legal advice which concludes that the VPA is unsatisfactory and requires major amendments in order to protect Council's interests.

(b) Likely Impacts:

The proposal is not considered to respect the amenity of the existing development to the west. The applicant has not reduced the height and scale of the development in light of the concerns raised by Council Officers during previous communications.

The proposal does not respect the desired future character of the site and area or the existing context. The proposed density, scale and built form will result in adverse impacts to the adjoining properties, the streetscape and locality.

The proposal does not comply with the numerous requirements of the SPSO in respect of FSR or the Consolidated DCP, including height, setbacks, alignment and building envelope which are considered fundamental, to providing a development which respects the amenity of the intended occupants of the development and that of the existing surrounding development.

As the proposal does not comply with the density, height, side setback and building envelope controls, it is considered that the impact on the adjoining neighbours in terms of solar access, and privacy is unacceptable.

Further, the non-compliance with setbacks will significantly inhibit future development of adjacent sites (particularly 30 and 31 The Crescent).

There is inadequate separation between the proposed building and adjacent properties to the west and to the north.

The proposal is considered to have an unacceptable impact on the existing and future residents.

The application has not demonstrated that the proposal will not have a detrimental impact upon the significance of the heritage item at the site. Based on the assessment to date there is concern that the impact is unacceptable.

(c) Suitability of the Site:

The site is suitable for a mixed use development however the proposed development is not considered suitable for the site, due to the excessive FSR, uncharacteristic height and scale, and inadequate setbacks. The proposal is considered to result in an overdevelopment, adverse impacts to the residential amenity of adjoining properties, detrimental impacts to the streetscape, reduction in the reasonable development potential of adjacent properties and potential adverse impacts upon the significance of the existing heritage item at the site.

Redesign and reduction in the overall scale and density could improve the relationship of the building with adjoining development, streetscape and character of the Homebush village as well as mitigating the amenity impacts.

(d) Submissions

Strathfield Consolidated Development Control Plan: Part L – Public Notification Requirements for Development and Complying Development Applications.

Adjoining owners were notified in accordance with Clause 59E of the Strathfield Planning Scheme Ordinance and Part L of the Strathfield DCP 2005 from 25 February 2010 to 30 March 2010. The application received 25 written submissions and one (1) petition with 24 signatures.

The 25 written submissions were in objection to the DA and the petition is in support of the DA.

A summary of the concerns raised in the submissions are outlined and discussed below.

In Support

The petition received is in support of the DA and was submitted by the applicant.

The petition outlines that the developer has indicated that once the new DA has been approved the previous DA involving a supermarket and 79 residential units will not proceed.

The petition also outlines that the existing “site has been burnt and is causing problems to the children and local residents” and urges Council to approve the development.

Objections

A summary of the concerns raised in the submissions is outlined and discussed below.

1. Traffic and parking - Many of the objections received raised concerns with regard to traffic and parking impacts. A summary of issues raised is as follows:

- *Proposal will result in reduced on street parking*
- *Proposal will result in significantly increased traffic movement and traffic congestion in front of the site and within Homebush village centre*
- *Proposal will result in increase in pedestrian vs vehicle conflict*
- *Negative and dangerous impacts on traffic in Burlington Road, The Crescent, Bridge Road, Rochester Street, Meredith Street*

Council's engineer has reviewed the application and the proposal has satisfied the off-street parking requirements as outlined in the Strathfield Consolidated DCP 2005 for the residential component of the development.

The proposal is supported by a Traffic and Parking Assessment which indicate that the local road network has capacity to adequately deal with the expected trip generation from the proposal.

The proposal however is silent with respect to the parking requirements and trip generation relating to the proposed community centre and no off-street parking is proposed to service the centre.

In this regard the proposal is unsatisfactory.

2. *The height, bulk and scale are excessive.*

It is agreed that the height and scale of the proposal does not accord with Council controls for the site and are inconsistent with the dominant scale and height of adjoining development.

3. *Detrimental to village character*

A development for the purpose of a residential building and a community centre is not in itself a development that would be detrimental to the character of Homebush village. Indeed a well designed mixed use development at the site has the potential to positively reinforce the character of the Homebush village.

The current proposal has failed to demonstrate compliance with many of the applicable planning controls and standards and the assessment of the proposal has identified that it will have unacceptable adverse impacts on adjoining development. The proposal will diminish the amenity to adjoining properties and the existing streetscape and therefore it can be said that there will be a detrimental impact to the existing character of the area in the vicinity of the site, which forms part of the Homebush village.

4. *Inadequate infrastructure to service the development.*

The proposal is subject to s94 contributions and a VPA is also proposed. Subject to the resolution of those matters and imposition of standard conditions of consent a residential development at the site is likely to be provided with the appropriate level of infrastructure.

5 *Loss of sunlight to adjacent properties – increased overshadowing*

It is agreed that the proposal will result in a loss of solar access to properties to the west. Refer to comments above in the DCP compliance table.

6. *Loss of privacy – acoustic and visual*

It is agreed that the proposal will result in a loss of acoustic and visual privacy to adjoining residential properties. As discussed in this report the proposal will result in overlooking opportunities from the northern elevations, is likely to result in overlooking from openings along the western elevation.

In the absence of detailed information regarding the operation of the proposed community centre it is also considered a potential noise source particularly given its close proximity to residential dwellings.

7. *Lack of open space/landscaping*

The proposal complies with private open space but is considered to provide insufficient communal open space at ground level and insufficient deep soil ('soft') landscaped area.

Council's landscape officer has raised numerous concerns - see comments under Internal Referrals section. In its current form the submitted landscape plans are considered inadequate.

8. *Precedent for tall, non-complying buildings will be set.*

Approval of the proposal would be a significant departure from the applicable planning controls and FSR development standard and would be inconsistent with the assessment and determination of previous developments in the locality.

9 *Increase in population will result in adverse impacts with respect to traffic congestion, litter and noise.*

An increase in population is not considered in itself to have an adverse impact on the Homebush village area and the site has the potential for a mixed used development including multi-unit residential development. The current proposal however has not demonstrated that the proposed intensity of the use of the site will not result in adverse impacts upon the amenity of the adjoining properties and the local road and pedestrian network. Issues relating to traffic, waste management and noise have not been adequately addressed within the application.

10. *The proposal is unsympathetic to the heritage of the local Homebush area.*

The proposed development is not located in a heritage conservation area, although it does contain a heritage item being the Memorial Garden. The proposed scale and height of the development is out of character with development in the local area and as such is viewed as incompatible development.

11. *The proposal will attract lower income earners and will have a negative impact on the locality and property prices will be affected*

There is no evidence supporting this claim. The income of future residents is not an issue for consideration as part of this assessment.

(e) Public Interest:

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are avoided. The proposal has been assessed with respect to the relevant Environmental Planning Instruments and is deemed to be unacceptable. On this basis the approval of the application would not be in the public interest.

EXTERNAL REFERRALS

1. Sydney Water

Sydney Water initially objected to the development, advising the following:

- a) The proposed building located over the existing Sydney Water stormwater asset and easement that passes through the site and would substantially compromise Sydney Water's ability to cost effectively access, maintain or renew the asset; and

- b) The proposed building would obstruct overland flows that would, from time to time, pass through the site.

Council has received a letter (with attachments) from Sydney Water on 30 April 2010 which outlined the outcome of negotiations between the applicant's representative and Sydney Water with regard to the issues raised by Sydney Water.

The letter confirms that Sydney Water has provided concurrence to DA2009/260 subject to appropriate modification of the development to ensure consistency with the concept plans tabled during the negotiations and subject to the inclusion of a list of proposed conditions of development consent as provided by Sydney Water.

The amended proposal generally incorporates the changes required and the DA could be conditioned so that it completely complies with Sydney Waters requirements.

2. RailCorp:

Rail Corporation NSW (RailCorp) has reviewed the DA and raised the following concerns:

- a) Noise and Vibration – RailCorp is concerned that the future occupants of the development will encounter rail-related noise and vibration from the rail corridor. Rail noise can seriously affect residential amenity and comfort, jeopardise the structural safety of buildings and thus should be addressed early in the development process.

The Department of Planning has released the document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines". The document is available on the Department of Planning's website.

Council is requested to impose the following condition:

An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines".

- b) Stray Currents and Electrolysis from Rail Operations – Council is requested to impose the following condition:

Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

- c) Crane and Other Aerial Operations - Council is requested to impose the following condition:

Prior the issuing of a Construction Certificate the Applicant is to submit to the Rail Authority a plan showing all craneage and other aerial operations for the development and must comply with all RailCorp requirements. The Principle Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.

3. NSW Government Office of Water comments

For the purposes of the *Water Management Act 2000* the DA is not a Controlled Activity and is not Integrated Development.

4. Roads and Traffic Authority

The DA was considered at the Sydney Regional Development Advisory Committee (SRDAC) meeting on 24 February 2010 and raised no objection to the DA on the basis that the traffic impact on the Classified Road network would be negligible. The SRDAC recommended the imposition of the following conditions where any Development Consent might be issued for the DA:

- a) The layout of the proposed car parking areas associated with the subject development, including driveways, aisle widths, grades, parking bay dimensions, sight distance requirements and turn paths are to be in accordance with AS 2890.1-2004 and AS 2890.2-2002.
- b) All vehicles are to enter and leave the site in a forward direction.
- c) All works/regulatory signposting associated with the proposed development are to be at no cost to the RTA.
- d) All vehicles should be wholly contained on site before being required to stop.

INTERNAL REFERRALS

The following are the internal referrals prepared with respect to the original proposal.

1. Building Surveyor:

- a) The proposal does not comply with BCA Part D1.2 – Number of exits required. Each sole occupancy unit in a building with an effective height of more than 25m is to have access to not less than 2 exits
- b) Unit numbers 409, 508, and 804 are non compliant with BCA Part D1.4 – Exit travel distances which requires the entrance doorway of any sole occupancy unit to be not more than 6m from an exit or a point from which travel in different directions to 2 exits is available; and
- c) Units G01, G02 and G03 do not make provision for entry doors.

These matters have been addressed within the amended plans.

2. Community Space (landscape)

The proposal is not satisfactory in the current format due to the following reasons:

- a) The proposal does not meet the site area objectives in the DCP, in particular the landscape area (50% ground floor site area) and soft landscaping requirements (60% of landscaped area) and deep soil landscaping (35% of landscaped area) of section 2.7 of Part C of the Strathfield Consolidated DCP. The purpose of these controls are to limit site coverage,

building envelope and height, provide for recreation and park like vistas, the replacement of ground level open space with roof top open space does not meet the objectives of the DCP.

- b) The communal open space areas need to be designed to allow resident recreation space that is both attractive and usable, this requires:
 - i) Space for families and groups to meet, eat meals (adjacent the BBQs) – e.g. fixed picnic style tables and benches;
 - ii) Children's play areas (this may be an area of turf or space for activities and does not require play equipment); and
 - iii) The ground floor eastern landscaped area (Area 5) is not usable by the residents, the design does not provide access points and the design excludes use.
- c) The Burlington Road frontage requires further soft landscaping adjacent the building to enhance the residential character and use of the development while softening the building, the current space provides a public domain design that is not acceptable and not usable considering the proposed home office use of the frontage (rather than active uses such as shopfronts, cafes, etc). The proposed street tree plantings are supported;
- d) The eastern side of the building requires large tree planting to screen and soften the building, particularly from nearby public land and neighbouring properties;
- e) Provision made for utilities and services including essential services (hydrants etc) within the landscaped frontage – this must be accommodated and shown on the Landscape Plan.

The applicant has amended the proposal to include BBQ facilities and fixed seating for Area 5. Other issues raised in the above referral have not been addressed.

3. Traffic Engineer

- a) 226 spaces are proposed whereas Council's requirements is 236 spaces. It should be noted that parking demand is moderate in Burlington Road and surrounding roads, however the development should not create additional on-street parking demand as a result of shortfalls in off-street car parking by the development. It is recommended that the applicant meet Council's requirements for parking;
- b) Traffic modelling results do not show the proposed traffic results. Results incorporating the estimated traffic generated from the development are to be provided;
- c) It is suggested that the blind intersection in all basement levels should be marked 'Give Way' with supplementary holding lines; and
- d) All vehicles are to move forward in and forward out of the site.

The amended proposal satisfies Council's off-street parking requirements with regard to the residential component of the DA, although remains silent with respect to car parking provision for the proposed place of assembly.

4. Heritage Advisor:

- a) A Statement of Heritage Impact, prepared in accordance with the NSW Heritage Office Guidelines, is required. The Statement of Heritage Impact should address the matters set

out in the SPSO (i.e. Clauses 59D) in relation to the impact of the proposed development on the Heritage Item and the Village of Homebush Retail Conservation Area.

5. Development Engineer

The proposal is not acceptable in its current form due to following reasons:

- a) Written consent from Sydney Water shall be submitted to Council with regard to building over and in the vicinity of an existing stormwater channel;
- b) Details of design and realignment of existing Council pipe-work which connects to the Sydney Water channel shall be provided for assessment;
- c) A cross section through OSD tank showing 100yr water level, surface level and connection to channel shall be submitted; and
- d) The depth of overland flow path provided beneath the community centre is inadequate. Underside of drop edge beams of community centre shall be 500mm above the relevant 100yr flood level. The Basement-1 level shown on plan (A110) and elevations (A131) do not match.

Sydney Water have since indicated conditional concurrence and the amended proposal generally addresses the above issues and where it does not conditions of consent could be imposed that would address the issues.

6. Environmental Health

- a) The Submission of a comprehensive WMP prepared in accordance with the requirements of Part H of SCDGP 2005 in relation to demolition and construction waste is required;
- b) Further detail is required in relation to the ongoing waste servicing arrangements for the residential development noting that kerb side collection for bins for the 148 residential units will not be supported (this includes kerb side collection by private contractor).

Council will not support an alternate resolution that requires Council trucks to enter the site or the building. The applicant may give consideration to private contractor however they will need to provide details of the vehicles that will need to access the site, and demonstrate that:

- i) The trucks can manoeuvre into and out of the site (details of swept path necessary);
 - ii) There is sufficient clearance at the basement entry to accommodate the trucks (general waste and recycling);
 - iii) There is sufficient clearance within the basement to accommodate the truck and any operation there of;
 - iv) Manoeuvre within the basement area supported by swept path.
- c) Council will not support the raising of the ground floor level any further above the existing ground level to permit trucks to enter and exit the site. The applicants will need to consider alternative options in this respect.
- d) Garbage storage areas within the front setback are also unlikely to be considered appropriate.

- e) A separate waste room should be provided for the proposed community centre.
- f) The applicant will need to review the current waste servicing matters and provide further detail on how the matter may be resolved
- g) The Phase II TESA and associated RAP are based on a different DA proposal involving a ground floor commercial business as opposed to the current application for ground floor residential and community centre. Addendum reports should be prepared and submitted to both these documents that provided updated data, analysis and recommendations where necessary.

The current reports do not appear to be supported by a site plan indicating the location of the USTs or where borehole samples were taken. This detail should be provided, combined with test results data.

- h) With regards to the noise assessment, updated noise monitoring should be taken as the current report is based on data collected some four (4) years ago. Amendments should be made to the report prepared by Vipac dated December 2009 where necessary.

The applicant has not provided additional information that deals with the above issues other than to indicate that the WMP and contamination reporting submitted with the original proposal is adequate.

CONCLUSION

The application has been assessed against the heads of consideration of Section 79C of the Environmental Planning and Assessment Act, 1979 and all relevant instruments and policies.

The proposal raises particular concerns with respect of non-compliance with clauses in the SPSO, the Strathfield Consolidated DCP 2005. The non-compliances are significant in that they are numerous and cannot be addressed by way of conditions of consent.

The main issues of concern are related to the FSR, height and setbacks, i.e. the fundamental built form elements.

The non-compliance of the proposal with Council provisions relates to streetscape appearance, scale, height, density, building envelope, side and front setbacks, landscaping, waste storage, size of units, privacy and security, overshadowing and visual privacy.

The proposal seeks a significant variation to a fundamental development standard, i.e. the FSR development standard, and the amended proposal is not supported by a SEPP 1 objection.

This report also outlines that concerns are raised by Council's Environmental Health Coordinator, Landscape Planner and Heritage advisor.

The application does not provide sufficient information to satisfy Council that the site is not r is suitable for the proposed uses in its current form, or that it can be remediated if required and therefore the provisions of SEPP 55 have not been satisfied.

The proposal also raises concerns with regard to the unsatisfactory compliance with the Design Principles of SEPP 65.

A BASIX Certificate has not been provided with respect to the amended architectural drawings.

The application lacks adequate detail and information including addendums to the Phase II ESA and RAP submitted, adequate waste management report, BASIX Certificate, SEPP 1 Objection, details as to the operation and management of the Memorial Garden and community centre, revised Heritage Impact Statement and scaled model of the proposal.

The proposal is considered inconsistent with relevant Council, statutory and policy controls.

Accordingly, the application is recommended for refusal.

RECOMMENDATION

That the Sydney East Regional Planning Panel as the consent authority pursuant to s80 of the Environmental Planning and Assessment Act 1979 refuse Development Application No. DA 2009/260 for demolition of all structures on site and construction of a multi level building (8 storeys in height) comprising of 140 residential units (including two (2) residential units with home offices), proposed ground floor community centre and 3 basement car park levels with 226 car spaces and proposed Voluntary Planning Agreement at Lot 11 DP 1052760, Lots 11 and 33 Section 10 DP 400, Lots B, C, & D DP 391764, known as 29, 33-35 Burlington Rd & 32 The Crescent, Homebush, for the following reasons:

1. The proposal is considered unacceptable pursuant to the provisions of Clause 44 – (Floor space of buildings) of the Strathfield Planning Scheme Ordinance 1969 due to the excessive floor space and building bulk.
2. The SEPP 1 objection to the floor space ratio standard under the Strathfield Planning Scheme Ordinance 1969 is considered to be not well founded and is not supported.
3. The proposal is inconsistent with the provisions of Clause 32(a) – (consideration of Certain Applications/Aesthetic Appearance), Clause 32(b) – (consideration of Certain Applications/ development for places of assembly) of the Strathfield Planning Scheme Ordinance 1969 and would result in an inappropriate addition to the streetscape relating to the 8 storey building and inadequate facilities relating to the place of assembly.
4. The proposal is inconsistent with the provisions of clause 41B (Development within residential zones), clause 41C (Development adjoining residential zones) and clause 61GA (Developing adjoining residential zones) of the Strathfield Planning Scheme Ordinance 1969 and would result in adverse privacy impacts, bulk and scale impacts and solar access impacts upon the amenity of adjoining residential properties.
5. The proposal is inconsistent with the provisions of Clause 59A (Heritage items) and Clause 59B (Development in the vicinity of heritage items) of the Strathfield Planning Scheme Ordinance 1969 as the development application does not demonstrate that the heritage significance of the heritage item located on the site will not be compromised.
6. The proposal is inconsistent with the provisions of the Draft Strathfield Local Environmental Plan 2008 such that the proposal does not satisfy zone objectives

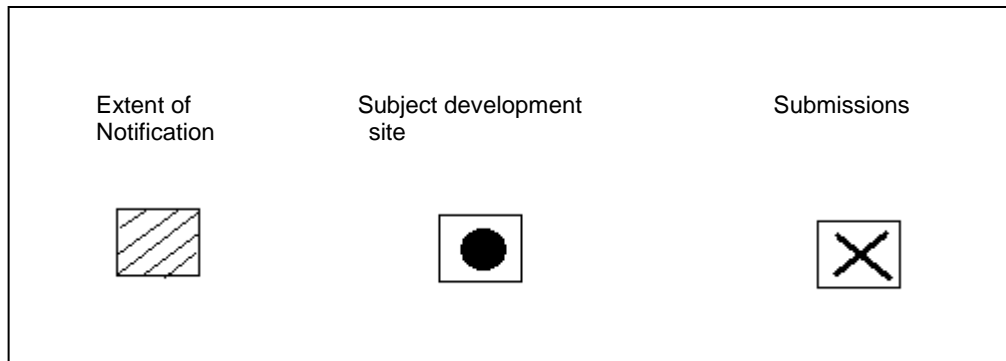
and is of unsatisfactory density and height and will have adverse impacts upon the amenity of adjoining residential properties.

7. The proposal does not comply with the provisions or the objectives of Strathfield Consolidated DCP 2005 Part C for Multiple-unit Housing including provisions relating to the number of storeys, building envelope, setbacks, unit size, privacy and security, solar access and excavation.
8. The proposal is considered unacceptable such that the proposed works would result in adverse impacts upon the amenity of existing residents and residential properties including overshadowing, visual privacy, acoustic privacy and bulk and scale.
9. The application lacks information and detail with regard to site contamination; waste management; operation and management of the community centre; and operation and management of the Memorial Garden. Therefore it is not in the public interest to approve the application without first having been able to thoroughly assess these matters.
10. The proposal is inconsistent with the provisions of State Environmental Planning Policy No. 55 (Remediation of Land) and the development application does not demonstrate that the site is suitable or can be made suitable for the proposed uses.
11. The proposal is inconsistent with the design quality principles of the provisions of State Environmental Planning Policy No. 65 (Design Quality of Residential Flat Development).

LIST OF ATTACHMENTS

1. Locality map.

Key:



2. Site plans and elevations.

3. Letters of objection.