

JRPP No:	2010SYE060
DA No:	D2010/408
PROPOSED DEVELOPMENT:	Demolition of all structures and construction of a mixed-use development comprising; two-level supermarket, ten (10) one-bedroom residential dwellings on the 1st and 2nd [mezzanine] levels, customer/resident parking within two basement levels, ground level loading dock/ staff car park area with vehicle access via Trafalgar Street, strata subdivision and site remediation. Trading hours of the supermarket are 7am - Midnight, 7 days with after hours Midnight - 7am, 7 days for staff packing and stocking shelves - 69-73 Parramatta Road, ANNANDALE NSW 2038
APPLICANT:	Mrs G King and D King
REPORT BY:	Rachel Josey, Team Leader – Assessment (Leichhardt Municipal Council)

Assessment Report and Recommendation

Development Application No.	➤ D/2010/408
Address	➤ 69-73 Parramatta Road, ANNANDALE NSW 2038
Description of Development	➤ Demolition of all structures and construction of a mixed-use development comprising; two-level supermarket, ten (10) one-bedroom residential dwellings on the 1st and 2nd [mezzanine] levels, customer/resident parking within two basement levels, ground level loading dock/ staff car park area with vehicle access via Trafalgar Street, strata subdivision and site remediation. Trading hours of the supermarket are 7am - Midnight, 7 days with after hours Midnight - 7am, 7 days for staff packing and stocking shelves.
Date of Receipt	➤ 16 August 2010
Value of Works	➤ \$12,000,000
Applicant's Details	➤ Mrs G King and D King C/- BONUS + ASSOCIATES 1/597 Darling St ROZELLE NSW 2039
Owner's Details	➤ Mr D R King and Mrs G L King 61 Parramatta Rd ANNANDALE NSW 2038
Notification Dates	➤ 9th September 2010 to 8th October 2010
Number of Submissions	➤ 327 in opposition. Two (2) in support. Two (2) petitions containing 1,565 signatures of objection.
Building Classification	➤ Classes 2, 5, 6, & 7a
Integrated Development	➤ Yes

Main Issues

- Privacy; Visual bulk and scale; Streetscape; Floor Space Ratio
- Impacts of increased traffic on residential neighbourhood; Internal access & servicing; Pedestrian Safety
- Lack of internal residential amenity

Recommendation

- Refusal
-

Attachment A

- Plans of proposal
-

1. PROPOSAL

This application seeks consent for demolition of all structures on the site and construction of a mixed-use development comprising; two-level supermarket, ten (10) one-bedroom residential dwellings on the 1st and 2nd [mezzanine] levels, customer/resident parking within two basement levels, ground level loading dock/ staff car park area with vehicle access via Trafalgar Street, strata subdivision and site remediation. The trading hours of the supermarket are proposed to be 7am - Midnight, 7 days with after hours Midnight - 7am, 7 days for staff packing and stocking shelves at 69-73 Parramatta Road, ANNANDALE NSW 2038.

Original Development

The application as originally lodged and notified, sought consent for the redevelopment of the site for a supermarket and residential purposes. Specifically, the original plans and details included the following:

- Demolition of all existing structures on the site.
- Remediation of the site.
- Excavation of the site to allow the provision of two basement levels for use primarily for parking.
- A two level supermarket (Woolworths) including loading dock and staff parking area, administration area, and access to basement parking levels. Access to the supermarket is from the Trafalgar Street frontage.
- Ten (10) residential dwellings located above the vehicular entryways/ loading dock/ supermarket administration area. The dwellings included:
 - Eight (8) bi-level one bedroom dwellings;
 - Two (2) single-level one-bedroom dwellings. One of which is designated as an adaptable housing unit.
- An open loading dock & turn-table at the northern side of the site, located beneath the supermarket administration/ residential units, accessed via a separate vehicular entry point in Trafalgar Street.
- Off-street parking for 103 vehicles, 7 of which are designated as staff parking and contained in the loading dock area; the remainder being located within the two basement levels accessed via a separate vehicular entry point in Trafalgar Street.
- Bicycle Storage within the basement.
- Store areas located immediately to the rear of 10 parking spaces (not specified, but assumed to be for allocation to the residential units).
- Basement garbage storeroom.
- Separate passenger and goods lifts serving the supermarket from the basement levels, and a passenger lift serving the residential units from the basement levels.

Consent for the remediation of the site is also required.

Amended Development

In response to concerns raised by Council, amended plans and details were submitted to Council between 2 & 10 November 2010.

Key changes include:

- Reduction in the assessed Floor Space Ratio of the development including a reduction in the area of the supermarket gross floor area.
- The raising of the floor levels of the supermarket by 0.25m at Ground Level & 0.3m at First Floor Level, so as to be located above the flood level as specified in a Council issued Flood Certificate sought by the applicant. These changes being accommodated within the building with the external height of the building remaining unaltered.
- Internal redesign and enclosure of the loading dock and staff parking area within the building. This area was originally proposed to be open. This involves provision of a new northern side wall at this level of the building abutting the northern setback.
- A southward relocation of the northern extremity of the building (at and above ground level) and provision of an extension to the existing reserve (3.05m wide), currently forming the northern boundary of the site, through to the Trafalgar Street frontage. Landscaping of this setback and to 'Dedicate' it as an extension to the 'Laneway', providing pedestrian access through this area.
- Reduction in the northern extent of the two basement levels.
- Provision of landscaped planter beds to the northern edge of the terrace serving the supermarket administration area.
- Relocation of the stormwater detention tank to be adjacent the proposed northern wall of the building adjacent to the reserve extension.
- Alteration to the internal design of the basement parking levels including an increased northern boundary setback, changes to aisle & parking space design, deletion of 'unit storage' areas behind [residential] parking spaces, specific nomination of ten (10) residential parking spaces on 'Basement Level 1', change to lift lobbies, and provision of designated pedestrian walkways.
- Increase in total off-street parking provision to 105 vehicles, 7 of which remain designated as staff parking and are contained in the now enclosed loading dock area.
- Widening of the vehicular entry point in Trafalgar Street from 16.5 to 16.725m.
- The southern point of the opening now being relocated to a point 20.3m from the northern boundary of the site (Originally 17.3m).
- Alteration to the Trafalgar Street façade of the building, including fenestration, to accommodate the changes to the loading dock and vehicular entry (including new supporting structure).
- Relocation of the supermarket customer entry doors southward.
- Alterations made to the two eastern single level residential units including window placement and deletion of a balcony dividing blade wall.
- Provision of a glazed balustrade to the northern bounding wall of the remaining open entry area to the vehicular access.
- Alteration to the footway awning to provide a stepping of the awning following the contours of both street frontages, including glazed separations between each step, setback from the edge of the awning.
- Circular glazed roof lights in the footway awning located above both the residential and supermarket entryways.
- Enlargement of the supermarket 'Administration' area and the external 'Terrace' area accessed from that space.
- Introduction of a raised 'Landscaped Green Roof' over part of the now enclosed loading dock area.
- Provision of planter beds to the northern edge of the building, located below the levels of the 'Terrace' and 'Landscaped Green Roof' areas.
- Relocation of the eastern lift shafts and stairs toward the south to accommodate the widened vehicular access opening and the increased width of the setback from the northern site boundary.

- The western side of the building has been setback from the boundary with 75-75A Parramatta Road at Ground Floor Mezzanine, First Floor, and First Floor Mezzanine Levels, by 2.51m opposing the existing side setback on that site. A Pebble Roof is provided to the roof of the ground floor where the ground floor forms a boundary wall to this neighbouring property.
- Provision of rooftop plant area. This area is set down below roof level and is not roofed. This area is accessed via doors to the residential hallway at 'First Floor Mezzanine Level'.

These amended plans were not notified pursuant to Part 2.3.4 of Development Control Plan 36 - *Notifications*, as the amended plans do not satisfy Council's concerns and the recommendation of this report is for refusal.

These amended plans form the subject of the assessment contained in this report.

In the case that the amended plans were supported or met the issues raised in this report, notification of the amended application would be required to satisfy *DCP-36 – Notifications*.

2. SITE DESCRIPTION

The site is approximately 2,104m² in area and has a frontage of 34.175m to Parramatta Road and 52.51m to Trafalgar Street. The site is located on the western side of the intersection of Trafalgar Street & Parramatta Road.

The site presently accommodates a tyre repair retail business on the portion of the site on the intersection with Parramatta Road, and a warehouse associated with King Furniture to the rear of the site on Trafalgar Street. The adjoining properties consist of a boarding house at 75-75A Parramatta Road, residential properties to the north of the site, and business uses to the east and south of the site on the opposite side of both Trafalgar Street & Parramatta Road.

Access to the site is currently available via footway crossings to both Parramatta Road and Trafalgar Street.

The site is located within the distinctive neighbourhood of Parramatta Road Commercial Neighbourhood - Annandale.

The subject site is not a heritage item. The site is located within a Conservation Area and is also identified as a Flood Control Lot in DCP2000.

3. SITE HISTORY

The following table outlines the development history of the subject site.

Date	Application Details
	69-73 Parramatta Road
18 Apr 1956	DA719 - Erect Service Station - Approved Conditionally.
1 Sep 1959	DA1296 - Extend Service Station - Approved.
21 Sep 1993	DA/326/1993 - Use for fitting car telephones & ancillary sales - Approved
16 Nov 1993	DA/440/1993 - Advertising sign - Approved.
24 Aug 2000	D/2000/318 - Use existing land and buildings for sale and fitting of tyres, and mechanical repairs to motor vehicles - Approved
12 Mar 2010	PRED/2009/159 - Demolition of existing warehouse and shop, construction of retail and residential mixed use with basement level car parking - Advice letter issued.

The following table outlines relevant history of the surrounding properties.

Date	Application Details
	75 Parramatta Road
15 Nov 1977	DA5674 - Replace Sky Sign on Premises -
	61- 67 Parramatta Road
2 Jun 1981	DA62/81 - Manufacture of Furniture & Bedding including extension of existing building – Approved
2 Feb 1982	DA62/81 [lt 4211] Amendment to design - for Furniture and bedding manufacture

4. ASSESSMENT

The following is a summary of the assessment of the application in accordance with Section 79C of the Environmental Planning & Assessment Act 1979.

(a)(i) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- State Environmental Planning Policy No. 1 – Development Standards
- 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 (BASIX: Building Sustainability Index) 2004
- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (Infrastructure) 2007
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2000

The proposal meets the above Environmental Planning Instruments except where concluded below. Other matters have also been discussed for information.

The following summarises the assessment of the proposal against the development standards and lists the other relevant clauses of the Leichhardt Local Environmental Plan 2000.

Development Standard	LEP 2000 Requirement	Proposal m ²	Proposal ratio / %	Compliance	% of Non-compliance
Floor Space Ratio	1.5:1	4,263.5m ²	2.01:1	No	35.1%

- Clause 12 – Vision of the plan
- Clause 13 – General Objectives
- Clause 15 – Heritage Objectives
- Clause 16(8) – Development in Conservation Areas
- Clause 17 – Housing objectives
- Clause 19(6) – Diverse housing
- Clause 19(7) – Adaptable housing
- Clause 20 - Employment Objectives
- Clause 23(1) - Commercial floor space control

The application satisfies the provisions of the above Environmental Planning Instruments with the exception of cl.23(1) - *Commercial Floor Space Control*. These issues are discussed in the following:

Clause 13 – General Objectives

As a consequence of the various issues with the proposal identified within this report, the application is considered to be contrary to these objectives.

Clauses 15 & 16(8) - Heritage

The existing buildings on the site comprise a converted service station and a warehouse building, neither of which are of any intrinsic or contributory heritage value to the Conservation Area.

The proposed building works are assessed in detail elsewhere in this report with respect to appropriate heritage design and compatibility with the Conservation Area, and found to be unsatisfactory in this regard. A significant redesign of the façade treatment of the building would be required before it could be considered appropriate in this location.

On this basis, the proposal is not considered satisfactory under *Clause 16(8) – Development in Conservation Areas* of the Leichhardt Local Environmental Plan 2000.

Clause 19(6) Diverse Housing

Pursuant to Clause 19(6) of the LEP, the proposal is required to provide a minimum of 25% of the dwellings as one (1) bedroom, and maximum of 30% as three (3) bedroom dwellings.

As the residential component of the development comprises 10 x 1-bedroom dwellings, the requirements of this clause are met.

Clause 19(7) – Adaptable housing

Pursuant to Clause 19(7) of the LEP, the proposal is required to provide a minimum of one (1) adaptable dwelling.

The residential component of the development includes 1 x adaptable dwelling. Consequently, the requirements of this clause are met.

Cl.23(1) Commercial Floor Space Control

The proposal is subject to a maximum Floor Space Ratio of 1.5:1 given that the proposal incorporates residential development above the ground or street level of the building. The amended proposal has been assessed as having a Floor Space Ratio of 2.01:1. This represents a significant breach of the development standard by 35.1%. [Excluding gross floor area contained within the basement levels of the building, the portion of the building on the remaining 'above ground' levels is equivalent to a floor space ratio of 1.78:1].

The impact of the breach of the development standard is reflected in the excessive external height and bulk of the building. This form results in certain adverse impacts on the vicinity of the site, including adverse amenity impacts on adjoining residential properties. Specifically, these include adverse overlooking, overshadowing, and acoustic impacts, primarily resulting from the residential component of the development.

State Environmental Planning Policy No. 1 – Development Standards

State Environmental Planning Policy No.1 - Development Standards makes development standards more flexible. It allows councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary. The applicant has submitted an objection pursuant to the provisions of the SEPP. The proposal has been considered against the following assessment criteria:

1. *Is the control a development standard?*

Clause 23(1) states that the maximum allowable floor space ratio permitted within the Business zone is 1.5:1 only if all floor space on the ground floor or street level is used for non-residential purposes (except for any floor space used for service and access purposes required for the residential component of the building in the floors above). The control is a numerical development standard and therefore, capable of being varied under the provisions of *State Environmental Planning Policy No. 1 - Development Standards*.

2. *What is the underlying object or purpose of the standard?*

The purpose of the standard in accordance with Clause 13 (General Objectives), and Clause 20 (Employment) is to ensure that the proposed works ensure sustainable growth of Leichhardt's economy, reinforce & enhance the role, function and identity of established business centres, integrate residential & business development in business centres, and ensure buildings are located and designed to minimise the generation of noise, traffic, car parking, waste, pollution and other adverse impacts, maintaining the amenity of surrounding land uses, and avoid harm to the environment.

3. *Is compliance with the standard consistent with the aims of the Policy? Does compliance with the standard hinder the object of the Act under s5a(i) and (ii)*

The aims and objectives of State Environmental Planning Policy No.1 – Development Standards is:

“To provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.”

The objects set down in Section 5(a)(i) and (ii) are:

“(a) to encourage:

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

“(ii) the promotion and co-ordination of the orderly and economic use and development of land,

As is discussed in further detail below, it is considered that a reduction in the floor space ratio to a complying situation would alleviate a number of streetscape and amenity impacts, particularly visual and acoustic privacy, and also visual bulk and scale concerns. This might conceivably involve a substantially redesigned development which does not involve residential dwellings as proposed.

The proposal represented in the current amended plans is considered to hinder the attainment of the objects of the Act, which are to promote and coordinate the orderly and economic use and development of land, whilst having consideration for the environmental, social and economic impacts of the development.

It is therefore considered inappropriate that the SEPP No.1 objection put forward be supported in this instance where it seeks to permit a variation to clause 23(1) of Leichhardt Local Environmental Plan 2000.

4. *Is compliance with the standards unreasonable or unnecessary in the circumstances of the case?*

The applicant's State Environmental Planning Policy No.1 objection states:

‘In our opinion, the development standard is unnecessary and unreasonable. The site is located within a Business zone and is surrounded by mixed use and commercial developments with FSRs that exceed the current development standard. This is common for many developments along Parramatta Road that were constructed prior to the gazettal of the Leichhardt LEP.

From a merit point of view, the proposal will replace a collection of buildings which are unsympathetic to the surrounding built form with a new mixed use development that relates in scale, height, built form and proportion to the Parramatta Road streetscape. The proposal provides an improved appearance and contains uses which will have significant social benefits to the Leichhardt municipality, including the remediation of a contaminated site.

Given that much of the excess GFA occurs either at the rear or below ground level and does not result in any impacts on the adjoining residential area in terms of privacy, solar access and views, compliance with the development standard is unnecessary and unreasonable. The proposal will permit the improvement of a mixed use development that is currently accepted and seen as desirable in the Parramatta Road Commercial Neighbourhood.

Accordingly, it is considered that strict compliance with the floor space ratio standard would unnecessarily and unreasonably restrict the evolution of the

subject site in the circumstances of the case. Indeed, in order to comply with the development standard, some areas would need to be deleted and the loading dock would become an open (undercroft) structure, which would be far less desirable from an amenity point of view than the current enclosed configuration.

The proposed development does not meet the FSR development standard and as identified elsewhere in this report, the additional floor space would contribute to adverse impacts on neighbouring residential properties and the local environment and is considered to be inappropriate. The applicants statement that the proposal *'does not result in any impacts on the adjoining residential area in terms of privacy, solar access and views'*, is considered incorrect as a result of assessment of the proposal. However, it might be correct in stating that *'much of the excess GFA occurs either at the rear or below ground level'*. This admission reinforces the assessment conclusion that the rear residential component of the development is unsatisfactory in terms of maintenance of local amenity, an outcome arising from a breach of the Development Standard, and therefore, the variation sought by the SEPP-1 objection cannot be supported.

In considering the applicants argument in support of the variation the following observations area made:

- The form and density of surrounding development has arisen due to the historic development of the area which includes a predominance of smaller narrow allotments. The subject site is nearly 2,104m² in area and of a broad shape. Consequently, potential exists to carry out a redevelopment of the site which could comply with the standard.
- Compliance with the standard would result in a reduction of approximately 1,100m² of gross floor area on the site. By comparison, the floor area of the residential component of the development equates to approximately 861m².
- A significantly redesigned development for the site involving a reduction in floor space ratio, including the exclusion of the currently proposed residential component, might result in a form of development with significant improvement in privacy, visual bulk and scale impacts.
- By virtue of the amenity impacts that would be created by the proposed development, the objectives of Clauses 17 & 20 of the LEP are not achieved.

In conclusion, it is considered that the proposal would cause undue loss of amenity to adjoining properties, and have a detrimental impact upon the locality. The later discussion of the proposal with regard to the suite of planning controls contained within Leichhardt Development Control Plan 2000 concludes that the development would result in significant adverse impacts on the amenity of the area.

As a consequence, it is not possible to conclude that compliance with the standards would be unreasonable or unnecessary in the circumstances of the case.

5. Is the objection well founded?

A variation to the density standard would be contrary to the underlying objective of the standard.

It is considered that:

- the scale and intensity of the proposal is inappropriate to the setting of the site;
- the proposal will result in adverse amenity impacts to neighbouring properties; including loss of privacy and traffic impacts.

Consequently, the variation sought in the applicant's objection under SEPP-1 to the floor space ratio development standard is not supported for the reasons outlined above and as contained in the recommendation to this report.

State Environmental Planning Policy No.55 – Remediation of Land

The applicant has submitted appropriate environmental investigation reports in support of the application, including a Remedial Action Plan.

The chosen remediation method for the site is to remove the contaminated material.

The proposal complies with State Environmental Planning Policy No.55 and the site is able to be made suitable for on-going residential and commercial/retail uses.

State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development

SEPP 65 applies to development being:

- The erection of a new residential flat building (RFB); and
- The substantial redevelopment or the substantial refurbishment of an existing RFB; and
- The conversion of an existing building to a RFB.

An RFB is defined as a building that comprises or includes:

- Three (3) or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2m above ground level), and
- Four (4) or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops),

but does not include a Class 1a building or a Class 1b building under the Building Code of Australia.

In this instance the portion of the building at the northern side of the site (containing 10 x 1 bedroom dwellings) is defined as a residential flat building and the SEPP is applicable to this portion of the building.

For reasons outlined elsewhere in this assessment, it is considered that the proposal does not meet the 'context' and 'scale' principles of the State Environmental Planning Policy.

Given the site is located both within the 20+ ANEF aircraft noise footprint for Runway 16L/36R at Sydney Kingsford Smith Airport, and have all external opening facing almost directly north, cross flow ventilation is provided from ground floor northern windows through the internal dwelling stairwell to the upper level northern windows, with a small ventilated skylight/window placed above the stairwell. It is reasonable to assume that should the northern doors serving the balconies be open, given the northern aspect, no noise attenuation is achievable within the dwelling. If the doors are closed to achieve exclusion of noise, then the skylight provides limited if any sound attenuation to the internal spaces of the dwelling, particularly because it is located above the stairwell thereby promoting transmission of aircraft noise to both levels of the two level dwellings. Further, the skylight is the only source of ventilation to the dwelling. Consequently, in this particular location and dwelling orientation, these units could be expected to significantly rely on artificial heating/cooling.

These single aspect/two level dwellings do not comply with the relevant amenity requirements of the State Environmental Planning Policy.

Taking into consideration the Design Quality Principles and the Guidelines, it is considered that the residential component does not satisfy, or has not demonstrated compliance with, all of the design quality principles of State Environmental Planning Policy 65 – Residential Flat Design. In particular, it does not comply with aspects of the following provisions of the Residential Flat Design Code:

- a) Part 01 – *Local Context* with regard to whether the development is in keeping with optimum capacity of the site and local area;
- b) Part 02 – *Site Design* with regard to matters including:
 - i) Visual Privacy - particularly with regard to adverse visual privacy conflicts between the proposed dwellings and neighbouring dwellings.
- c) Part 03 – *Building Design* with regard to matters including:
 - i) Apartment Layout / Circulation – In regard to inadequate internal and external amenity; and environmental performance.
 - ii) Storage – It has not been demonstrated that adequate and convenient storage is provided to all units;
 - iii) Acoustic privacy – In regard to orientation of the single faceted dwellings toward the north and the source of aircraft noise;
 - iv) Natural Ventilation – In regard to inadequate cross ventilation within dwellings, given the likelihood of external north facing windows/doors being kept closed in order to achieve adequate noise reduction/attenuation.
 - v) Mixed use – In regard to inadequate separation of non-residential /residential uses – either with regard to basement level conflicts, or through potential internal noise and vibration disturbance to the proposed dwellings from the supermarket use.
 - vi) Facades – In regard to the appearance of the amended residential component from the Trafalgar Street frontage.
 - vii) Energy Efficiency - In regard to relatively low environmental performance of the residential component; orientation of the units/ aircraft noise constraints resulting in greater reliance on artificial heating/cooling.

State Environmental Planning Policy (Major Development) 2005

The proposal has a Capital Investment Value (CIV) exceeding \$10 million and comprises 'regional development' pursuant to the State Environmental Planning Policy.

The Joint Regional Planning Panel is the consent authority for such development.

State Environmental Planning Policy (Infrastructure) 2007

As the development is proposed to occur immediately adjacent to an electricity substation, clause 45(1)(b)(ii) of the SEPP applies, and the application was referred to Energy Australia for comment.

(a)(ii) Draft Environmental Planning Instruments

The application has been assessed against the relevant Draft Environmental Planning Instruments listed below:

- Draft State Environmental Planning Policy (Competition) 2010

In July 2010 a Draft State Environmental Planning Policy was placed on exhibition by the NSW Department of Planning. Although a Draft Policy, it is a matter which must be taken into account in the assessment of a development application under Section 79C of the Environmental Planning & Assessment Act 1979, as amended.

The aims of the Draft Policy are:

- (a) to promote economic growth and competition, and*
- (b) to remove anti-competitive barriers in environmental planning and assessment.*

In particular, the Draft SEPP states the following with relation to loss of trade, etc for other commercial development:

(1) The likely impact of proposed commercial development on the commercial viability of other commercial development is not a matter that may be taken into consideration by a consent authority for the purposes of determining a development application under Part 4 of the Act to carry out the proposed development.

(2) However, any such likely impact may be taken into consideration if the proposed development is likely to have an overall adverse impact on the extent and adequacy of facilities and services available to the local community (having regard to the likely impact on existing facilities and services and the facilities or services to be provided by the proposed development).

(3) Likely impacts referred to in this clause include likely loss of trade.

Pursuant to subclause (1), it is considered that the size of the supermarket/retail component of the proposal is likely to increase competition with similar businesses in the local area. However it is not likely to cause any significant overall adverse impact on the extent and adequacy of facilities and services available to the local community.

Consequently, having regard to the provisions of the Draft SEPP the likely competition arising from the supermarket does not form the basis of a refusal of the supermarket portion the subject application.

(a)(iii) Development Control Plans

The application has been assessed against the relevant Development Control Plans listed below:

- Leichhardt Development Control Plan 2000
- Leichhardt Development Control Plan No.32 – Equity of Access
- Leichhardt Development Control Plan No.36 – Notifications
- Leichhardt Development Control Plan No.38 – Waste: Avoid, Reuse, Recycle
- Leichhardt Development Control Plan No.42 – Contaminated Land Management
- Leichhardt Development Control Plan No.48 – Managing Activities on Footpaths & Street Verges

More specifically, the application has been assessed against the following clauses of Development Control Plan 2000.

- Part A2.0 – Urban framework plans
- Part A3.0 – Principles of ecologically sustainable development
- Part A3a.0 – Sustainable water and risk management
- Part A4.0 – Urban form and design
- Part A5.0 – Amenity
- Part A6.0 – Site analysis
- Part A7.0 – Heritage conservation
- Part A8.0 - Parking standards & controls
- Part A9.0 - Advertising & signage
- Part A9a.0 - Colours & tones
- Part A10.3.7 - Parramatta Road Commercial Neighbourhood - Annandale Distinctive Neighbourhood
- Part B1.1 – Demolition, site layout, subdivision and design
- Part B1.2 – Building Form, Envelope and Siting
- Part B1.3 - Car parking
- Part B1.4 – Site drainage and stormwater control
- Part B1.5 – Elevation and materials
- Part B1.6 – Front gardens and Dwelling Entries
- Part B1.7 – Fences
- Part B1.8 – Site facilities
- Part B1.9 - Corner site controls
- Part B3.1 - Solar Access
- Part B3.2 – Private open space
- Part B3.3 – Visual privacy
- Part B3.4 – Access to views
- Part B3.5 – Acoustic privacy
- Part B4.3 - Laneway development
- Part B4.6 - Residential development in business areas
- Part B4.7 - Diverse & affordable housing
- Part C1.1 - Site layout & building design
- Part C1.2 - Parking layout, servicing & manoeuvring
- Part C1.3 - Landscaping
- Part C1.4 - Elevation & materials
- Part C1.5 - Site facilities
- Part C1.6 - Shopfronts
- Part C1.7 - Protective structures in the public domain
- Part C2.1 - Site drainage & stormwater control
- Part C2.2 - Energy efficient siting & layout
- Part C2.3 - Building construction – mass & materials
- Part C2.4 - Solar control
- Part C2.5 - Insulation
- Part C2.6 - Ventilation
- Part C2.7 - Space heating & cooling
- Part C2.8 - Using solar energy
- Part C2.9 - Appliances & equipment
- Part C3.1 - Noise & vibration generation
- Part C3.2 - Air pollution
- Part C3.3 - Water pollution
- Part C3.4 - Working hours
- Part C4.9 - Licensed premises

The application satisfies the provisions of the above Development Control Plans with the exception of those issues discussed in the following:

Part A3.0 – Principles of ecologically sustainable development

The proposed development is located on Parramatta road which has traditionally been occupied by low intensity retail and commercial uses in this area. The DCP identifies specific areas to be reinforced, such as the Annandale town centre located generally within a precinct from the intersection of Booth and Johnston Streets to the intersection of Booth & Nelson Streets. The DCP calls for the reinforcement of these specific areas, whereas the current development is located well away from that identified precinct. Although comprising a single supermarket use, the proposals location is well away from such traditionally located uses. Being located at the residential business interface, the significant increase in retail use intensity in this location would result in significant impacts to the character of the immediate location which would be at odds with the intent of the Plan.

Part A3a.0 – Sustainable water and risk management

This topic is further addressed by Council's Engineers elsewhere in this report. It considered that the proposal, in its current form, would result in risk of flooding to the basement levels via the vehicular entryways in Trafalgar Street. The rectification of this matter may result in significant changes to the façade and floor levels of portions of the building.

Part A4.0 – Urban form and design

The site is located at the business zone - residential zone interface between the Annandale residential area and the Parramatta Road commercial strip. The DCP requires any proposed development at this interface to recognise and take into account the existing form of development (and that likely to occur) within adjoining land zoned residential. Specifically, that where development in excess of two stories is proposed within the Business zone at the interface, any storey above the second storey should not be visible (or at most partially visible) from the rear yards of adjoining land zoned residential.

Assessment of the development including inspection from the rear yards of residential properties to the north of the development site revealed the likely visibility of the development to those rear yards would be a dramatic change to the type, form and scale of development currently on the subject site. This impact is significantly compounded by the proposed residential units to the north of the site. These units would cause acoustic and visual privacy impacts to adjoining residential properties. Such impacts would be exacerbated by the height of the units above the neighbouring properties.

Consequently, the development would be contrary to the provisions of the DCP in this regard.

Part A8.0 - Parking standards & controls

The proposal has been assessed with regard to on-site parking provision as follows:

Required Residential

10 x 1-bedroom dwellings	=	Minimum - 5 car parking spaces Maximum - 10 car parking spaces
Visitors	=	Minimum - 1 car parking space Maximum - 2 car parking spaces

Required Retail

3,376.5m² (GFA retail - **DCP**) = Minimum - 51 car parking spaces
Maximum - 102 car parking spaces

[2,069m² (Retail/administration floor area only) = Minimum - 31 car parking spaces
Maximum - 62 car parking spaces]

Total Parking Required

Minimum = 57 car parking spaces
Maximum = 114 car parking spaces

Required Accessible Parking Spaces = 1 Residential
3 Public /Customer
1 Staff
= 5 Accessible car parking spaces

Required Bicycle storage spaces = 9 spaces

++++++

Total Parking Provided

Residential = 10 car parking spaces [1 accessible space]
Residential Visitors = Nil Specified
Retail Customer = 88 car parking spaces [3 accessible spaces]
Retail Staff = 7 car parking spaces
Total = 105 car parking spaces

Accessible car parking spaces = 4 car parking spaces

Provided Bicycle storage spaces = 18 spaces

The development as proposed provides for total on-site parking which is within the range of 57-114 car parking spaces, contemplated by Council's requirements for on-site parking provision for general retail uses. Therefore, the design shortfall in accessible parking could be accommodated through redesign of parking layout.

Council's Engineers consideration of the proposal is contained elsewhere in this report. That assessment raises various issues with the design of the vehicular access and loading facilities, which in order to resolve, would result in both a reduction in on-site parking provision, and significant redesign of the vehicular access arrangements to the site. These issues include:

- Traffic distribution methodology.
- Increase relative traffic levels in residential neighbourhood streets.
- Pedestrian safety both within the site and in neighbouring streets.
- Increased on-street parking demand where existing supply is limited.
- Loss of existing on-street parking at frontage of site.
- Inadequate internal basement access, design and functioning.
- Redesign would possibly result in a loss of 17 spaces (including 3 existing on-street spaces).

- Inadequate truck access and loading, with regard to manoeuvrability, safety, turning movements both within the site and at the intersection of Parramatta Road.
- Lack of goods storage area, including garbage storage, within the loading staff parking areas of the building.
- Requirement to significantly alter basement level entryway levels (raising) in order to ensure adequate prevention of flood water entry.

Consequently, the actual effective provided on-site parking and loading facilities would be unsatisfactory.

Part A10.3.7 - Parramatta Road Commercial Neighbourhood - Annandale distinctive neighbourhood

The neighbourhood controls call for a maximum wall height of 8m to new buildings at the street frontage of Parramatta Road. A maximum wall height of 11m may be achieved where a stepped setback of at least 3m from the building frontage above the 8m maximum is provided.

The proposal is significantly higher than the 8m limit, rising to a point above the 11m limit at the corner of Parramatta Road and Trafalgar Street. Due to the fall in the levels of Trafalgar Street away from the corner, the breach of the 11m limit is greatest at the north-eastern corner of the building in Trafalgar Street. At the edge of the glazed supermarket wall in this location the height of the building is 12.94m. At the northeast corner of the residential portion of the building the height is 12.62m, representing a breach of 4.62m.

At the corner of Parramatta Road and Trafalgar Street the parapet height is 11.745m. At the westernmost point of the Parramatta Road boundary of site the parapet height is 10m. At all these points the specified building height limit at the boundary line is 8m. Therefore the breach ranges between 2.0m - 4.94m.

The height of the proposed façade to Parramatta Road takes its cue from the predominant height of building facades to the west of the site. The façade of the building, as contained in the amended plans, the subject of this report, maintains a constant height, whereas the street awning below has been stepped to follow the fall in both Parramatta Road and Trafalgar Street. The existing form of development to the west of the site involves buildings with narrow frontages and deep street awnings stepping down Parramatta Road. Despite the stepping of the awning, the parapet above maintains the originally proposed height over its entire frontage. The appropriateness of the breach of the height control is tempered by the existing historical form and height of facades to Parramatta Road. However, there is no such precedent in façade height and form in the Trafalgar Street frontage. Despite this, the height of the façade continues to increase, relative to existing footpath levels, toward the northern boundary of the site. Consequently, the apparent bulk of the building is greatest at its furthest point from Parramatta Road. This is uncharacteristic of this portion of Trafalgar Street and as discussed elsewhere in this report results in significant bulk and amenity impacts to neighbouring residential properties.

Further the controls specify that unsympathetic development, including excessive window glazing, is discouraged. The proposed facades of the supermarket portion of the development is largely all glazing interspersed with solid elements in order to promote a sense of the more traditional vertical proportions of commercial buildings in the vicinity to the west of the site. The presentation of the building as represented in the amended plans is further discussed elsewhere in this report. The development does not satisfy this part.

Part B1.9 - Corner site controls

The controls specified in this Part are as follows:

- *These controls apply to development on corner sites in residential and business zones.*
- *1) Development extending to two distinct streetscapes should maintain the existing pre dominant character and adjoining building scale on each frontage.*
- *2) A higher building scale on the frontage with the lower scale may be permitted where the following applies:*
 - a) Where a variation in scale is permitted under the Town Plan DCP and:*
 - b) The variation in scale will not adversely impact on the streetscape, surrounding properties or areas of public domain by virtue of:*
 - *Amenity;*
 - *Solar access;*
 - *Views;*
 - *Privacy; and*
 - *Urban Design.*
- *Any variation in scale must include a transitional area to enable the development proposal to blend with the existing scale within the street frontage.*
- *Where awnings or balconies are incorporated into the design of a corner building, they are to reflect the controls in Design Element 7 - Protective Structures in the public Domain.'*

The proposal does not maintain the predominant scale of existing development on the Trafalgar Street frontage. The building bulk increases to its maximum height where closest to the adjoining single storey residential development to the north. The relationship of the scale of the building adjacent to these residential properties to the north of the site is excessive and inappropriate.

The higher scale of the building on the Trafalgar Street frontage does not satisfy the requirements of the DCP with regard to satisfying the prerequisites, in 2(b) above in order to justify departures from this design principle.

As noted elsewhere in the report, the amended plans have incorporated an extension to the reserve to form a laneway link through to Trafalgar Street. However, the setback of the building from the northern site boundary has remained in the originally proposed position.

In this regard, it is noted that any minor increase in the upper level setback of the northern section of the building would not produce the transition contemplated by the controls in this Part. A significant reappraisal of the building design would be required.

Part B3.1 - Solar Access

The properties adjoining the northern boundary of the site are aligned either east-west or north-south. The submitted shadow diagrams demonstrate that these properties are not overshadowed by the proposed development at the specified assessment times in mid-winter.

The adjoining property to the west at 75-75A Parramatta Road is used for residential purposes and is aligned north-south with windows in the eastern wall of the building facing the site. The submitted shadow diagrams indicate that the amended proposal has reduced the extent of overshadowing impact to these windows through the provision of a side setback.

The current amended plans will result in the loss of existing solar access to the side windows of the residential rooms on all three levels within 75-75A Parramatta Road between 9am and 11:30 at mid-winter. Despite the significant reduction in available solar access, as these windows serve side habitable rooms, the maintenance of solar access to which is not required under the provisions of this part. Therefore the proposal satisfies the controls within this Part.

Part B3.2 – Private open space

The residential dwellings do not have access to any Landscaped Area as defined. However, they are provided with elevated balconies with cumulative areas ranging between 19m² and 33m² to each dwelling. The minimum individual balcony size, accessible to principle living areas, is 9m² with minimum dimensions of >2m. In this respect the proposal satisfies the control.

Given the setback of the windows of the residential flat buildings at Nos.68 & 72 Albion Street, 14m from the balconies of the proposed residential dwellings, there is potential for the mid-level of those proposed dwellings to be overlooked from the northern properties. The proposed administration terrace, located 3.9m from the northern site boundary, would be overlooked by these residential dwellings to the north of the site. Therefore it is unlikely that the private open space areas of the proposal will achieve a level of privacy sought by DCP2000.

Part B3.3 – Visual privacy

The proposed residential dwelling component has been assessed as being likely to cause significant loss of privacy to neighbouring residential properties to the north. It is noted that some of these properties, particularly including 6 to 12 Trafalgar Street, and 64-66 Albion Street, have the rear yards overlooked from windows in the flat building at 68-70 Albion Street. However, these windows are fitted with dark coloured metal screens which may have the effect of reducing the perception of active overlooking from that property.

The residential dwellings proposed in the subject application will contain large external balconies from the principle living areas which are also likely/intended to be used for entertainment, and otherwise frequent use. The balustrades of which are glazed and therefore contributing to a sense of perceived overlooking from the residences to the north of the site.

Given the height of the dwellings above the rear yard level of the neighbouring northern residences, the expanse of glazed openings presented to the northern elevation of the proposed units, the open balconies located 8m from the rear yard boundaries of adjoining northern residential properties, and moreover, the necessity to maintain adequate internal amenity to the proposed units, the likelihood of a design solution by condition, eg. further screening, noting that solid balustrades may contribute to a reduction in overlooking but may reduce internal amenity of the units further.

Part B3.4 – Access to views

The adjoining property to the west at 75-75A Parramatta Road currently enjoys extensive views to the east from the windows in the eastern wall of that building at the mid and upper levels. These views are extensive district views to the central city skyline. Outlook from ground level windows is limited by the relative levels and the existing structures on the subject site. The proposed development would result in the obstruction of the upper levels views and restrict outlook generally.

Having regard to the Land and Environmental Planning Principle *Tenacity Consulting v Warringah Council [2004] NSWLEC 140* it is likely that any development of the subject site that complies with the 8m/11m height limit and the maximum permissible Floor Space Ratio would result in loss of views from 75-75A Parramatta Road. It is further noted that this view is obtained across a side boundary.

However, the current proposal exceeds both the height limit and the maximum permissible Floor Space Ratio, thereby potentially exacerbating (at least) the loss of outlook. It is concluded that a complying proposal might result in a reduction in the level of affectation.

Part B3.5 – Acoustic privacy

Further to the issue of visual privacy and overlooking noted above, the proposed residential dwellings would also result in likely adverse acoustic impacts to neighbouring properties. These impacts would affect both residential open space but also the dwellings themselves. In this regard, the rear windows of the residential flat buildings at both 68-70 Albion Street & 72 Albion Street are located within approximately 13m from the balconies of the new dwellings.

It is considered that the potential for adverse acoustic privacy impacts is substantial. Further, an attempt to alleviate this impact through further minor amendment of the dwellings would be ultimately unsuccessful given the fundamental orientation and constraints of the development site and the fundamentals of the proposal.

The amended plans make reference to 'Ventil Louvres' to the residential balconies. Such fixtures if fitted so as to allow the total enclosure of the balconies would be considered to constitute external wall to the dwellings resulting in further assessable 'gross floor area' as defined. However, it is noted that should this level of screening be required to these balconies in order to address inherent environmental concerns including privacy and/or solar shading, then it may be concluded that the fundamental orientation and design of the units is unsatisfactory. Further, the installation of any form of screening which would totally or substantially enclose the balcony areas is considered unsatisfactory on building design grounds.

It is however noted that the placement of a large building between the northern and western residential uses and Parramatta Road may in a reduction in existing background noise levels. Despite this, the acoustic privacy impacts of the residential component of the development are considered unsatisfactory as this outcome could be achieved without introducing new adverse acoustic privacy impacts.

The internal acoustic amenity of the proposed units within the development is dealt with elsewhere in this report and is considered questionable given their extensively glazed single northern aspect, a lack of cross ventilation exacerbated by the presence of aircraft noise in this location (20+ANEF), and rooftop skylights.

In consideration of both the likely external and internal amenity impacts of the proposed residential dwellings, this aspect of the overall development is unsatisfactory.

Part B4.6 - Residential development in business areas

The proposed development generally complies with the provisions of this Part. However, the proposal incorporates on-site residential parking where such is discouraged by the Plan. As the site is proximate to both Parramatta Road and Johnston Street greater reliance on public transport alternatives for the residential component has not been incorporated in the proposal. Rather, provision toward the maximum allowable on-site parking provision has been allowed for in the proposal.

Assessment of internal acoustic design of the proposal, particularly regarding the internal amenity of the proposed residential dwellings is dealt with elsewhere in this report.

Part B4.7 - Diverse & Affordable housing

The proposal incorporates one designated adaptable housing unit which satisfies the requirements of LEP2000. This dwelling is served by lift. However, the location of accessible parking spaces within the basement has been assessed as being unsatisfactory, requiring another redesign of the basement layout of the proposal in order to comply with *DCP32 – Design for Equity of Access*.

Part C1.1 - Site layout & building design

As noted elsewhere in this report, with respect to specific matters of building form/design, scale, and height, the proposal is considered to be unsatisfactory.

Of note the proposed Woolworths Administration Area on the Ground Floor Mezzanine Level is served only by a (goods) lift. There is no internal stair access to this administration area.

Further, the basement design does not nominate a mechanical ventilation method. Should natural ventilation be used no provision should be made for ventilation grills discharging to the proposed 'laneway' extension due to the potential disturbance to residential properties both within and surrounding the site due to noise and fumes.

With regard to access, servicing and parking facilities, as dealt with elsewhere in this report, the amended proposal has not demonstrated that it incorporates a form that functions satisfactorily. Consequently, the proposal does not satisfy this Part of the DCP.

Part C1.2 - Parking layout, servicing & manoeuvring

The on-site parking provision satisfies the numerical provisions of the Plan. However, it is noted that the proposal lacks allocation of one (1) accessible staff parking space.

The design of the parking and vehicular access to the site is specifically addressed by Council's Engineers and is dealt with elsewhere in this report. The proposal requires significant amendment in order to provide for adequate basement parking/ access design. This access issue being exacerbated by a requirement of Council that the basement vehicular entryway be raised so as to preclude the entry of floodwaters. This requirement would result in flow-on redesign of the building façade and levels.

The servicing access of the site has been found to be unsatisfactory by Council's Engineers whereby truck servicing movements both to the site and within the site are unsatisfactory with regard to adequate manoeuvring movements, and obstruction/conflict with traffic in Trafalgar Street, particularly at the intersection of Parramatta Road.

Particular design issues identified (not previously specified elsewhere in this report) include:

- Internal basement ramp gradient non-compliances.
- Internal ramp vehicular movement conflicts.
- Pedestrian/ shopping trolley negotiation of internal ramps.
- Excessive distance of provided accessible parking spaces from accessible entry points to the building. ie. lifts.
- Parking area design contains parking spaces which effectively impede pedestrian thoroughfare to the lifts/stair lobby areas

In its current form the proposal does not function adequately. Given the specific circumstances of the site and concerns raised by Council and in submissions, significant compromise on this aspect of the proposal is neither warranted, or to be justified in this case. This particular aspect of the building design must be demonstrated to be practical, functional and complying.

Part C1.3 - Landscaping

The amended plans the subject of this report have been amended to incorporate an extension to the existing reserve bordering part of the northern boundary of the site. It is intended that the new 'Laneway' be used as a landscaped pedestrian link through to Trafalgar Street, and also, to increase the separation of the now enclosed loading dock northern wall from the residential properties immediately to the north. Given the location of the residential component remains unchanged, the separation only occurs at ground/street level and does not mitigate the other identified adverse impacts of the northern portion of the development on neighbouring residential properties. The landscaping in the lane and on the raised garden bed, although providing some softening of the building, is effectively remote, and disassociated from, the proposed dwellings.

Part C1.4 - Elevation & Materials, and Part C1.6 - Shopfronts

This matter is dealt with elsewhere in the report. The extensive use of glazed facades is at odds with the traditional painted masonry and ground level 'shop facades' of nearby properties, particularly to the west of the site on Parramatta Road. The proposal has been assessed as not satisfying these Parts.

Part C1.5 - Site facilities

The amended plans have reduced the proposed retail waste storage area adjacent to the loading dock by approximately 9m². The applicant has not provided details as to whether the area provided will be sufficient for the proposed development (with the anticipated waste & recycling volumes) and managed on a daily basis.

The submitted plans do not identify that portion of the supermarket gross floor area which is to be used for "back of house" goods storage and waste management. Further, how this is proposed to be managed in conjunction with the waste storage area adjacent to the loading dock.

Part C1.7 - Protective structures in the public domain

The current amended plans have provided for the stepping of the footway awning to both the street frontages. This approach results in a more compatible façade treatment bearing a closer relationship to the predominant historical form of development in the vicinity, particularly, located to the west of the site. The depth of the awning on the Trafalgar Street frontage maintains a similar depth as that on the Parramatta Road frontage despite the footpath being substantially deeper on Trafalgar Street.

The awning fascia is indicated to be thinner than the existing traditional awning to the west of the site. This element would be out of character with the Parramatta Road frontage.

Part C2.1 - Site drainage & stormwater control

This matter is dealt with elsewhere in the report. The development does not satisfy this part.

Part C2.2 - Energy efficient siting & layout

This matter is dealt with elsewhere in the report. The proposed residential portion of the development does not satisfy this part.

Part C2.4 - Solar control; Part C2.5 – Insulation; Part C2.6 – Ventilation; Part C2.7 - Space heating & cooling; and, Part C2.8 - Using solar energy

These Parts apply to the non-residential portion of the development. In this regard, extensive glazed frontages allow for significant natural lighting of internal spaces which is satisfactory. No specific details have been provided with regard to insulation within the non-residential section of the building. No specific details have been provided with regard to ventilation within the non-residential section of the building. Given the extensive Plant area within the roof above, and common practice in the case of similar uses, it is expected that the supermarket will be mechanically ventilated and air conditioned. No specific detail is provided with respect to the ventilation of the basement parking levels and loading area. It could be expected that these areas will also be mechanically ventilated.

Part C2.9 - Appliances & equipment

No details have been provided with regard to appliances and equipment to be used in the supermarket section of the building. Details of rooftop plant and the residential air conditioning units have not been provided. Details of any other ventilation systems for both the supermarket and the residential component.

Part C3.1 - Noise & vibration generation

This matter is discussed further elsewhere within the report. The residential use may well be adversely affected by internally generated noise and vibration being located both above and behind the supermarket and its rooftop plant area, and also being physically linked to that use by the common building structures.

The supermarket use is likely to result in a relatively significant increase in noise, both traffic and pedestrian, to the surrounding area. The residential component will likely introduce an adverse acoustic privacy source to residentially zoned dwellings to the north of the site.

The bulk of the development is likely to significantly restrict/ decrease the existing level of noise from Parramatta Road to the northern residential properties.

Part C3.2 - Air pollution

It is anticipated that the proposed development will not result in any particular adverse air pollution. It is noted that any carbon emissions associated with a development of the size and type proposed are essentially fixed should the facility be provided in any given location. As CO₂ emissions are essentially borderless in terms of effect, the exclusion of the current development due to carbon footprint concerns would likely represent a false economy, as a

similar such development (re)located in the general vicinity of the Leichhardt Council area would negate any reduction in emissions achieved on this site.

Part C3.3 - Water pollution

It is anticipated that the proposed development will not result in any particular adverse water pollution.

Part C3.4 - Working hours

This Part states that:

'Where residential buildings are physically attached to non-residential buildings, hours of operation should not normally fall outside the hours of 7.30am and 6.00pm Monday to Friday and 7.30am and 1pm on Saturday having regard to the provisions of design elements C3.1 – C3.4'.

The proposal includes hours of the supermarket as 7am - Midnight, 7 days a week. Provision is also specifically sought in the application to permit after hours packing and stocking of shelves by staff during the hours of Midnight - 7am, 7 days. Consequently the proposal does not satisfy this section Part, and on the basis of the cumulative non-compliances identified in the proposal, the proposed hours of operation sought could not be supported.

C4.5 Public domain

The proposed 'laneway' dedication would constitute 'public domain'. This part requires that on development sites greater than 1000m² 1% of the value of the development is to be provided in the form of public art. The development application makes no provision for same.

There is no provision in this laneway extension for appropriately designed lighting which would provide security without contributing light spillage disturbance to adjacent residences.

The laneway dedication has not been sought by Council, nor is it supported.

Part C4.9 - Licensed premises

The proposed development does not specify whether alcohol sales are proposed. Liquor outlets are often included in, or attached to, supermarkets.

Regardless, the provisions of this part are intended to control the location and operation of liquor outlets in the form of hotels, etc, rather than the sale of alcohol.

In the form submitted, the proposal is not contrary to this Part.

Leichhardt Development Control Plan No.48 – Managing Activities on Footpaths & Street Verges

The proposed awning does not meet the requirements of the Plan as it has been assessed as out of character with traditional form of awnings on Parramatta Road. Further, the solid concrete construction is contrary to the lightweight awning structures sought by the Plan.

(a)(iv) Environmental Planning and Assessment Regulation 2000

The Development Application has been assessed against the relevant clauses of the Environmental Planning and Assessment Regulation 2000. The Development Application fully complies with the Environmental Planning and Assessment Regulation 2000.

Clause 92(1)(b) of the Regulation Council to consider the provisions of *Australian Standard AS 2601-1991: The demolition of structures*. The demolition of the existing structures is to be carried out in accordance with a construction/demolition management plan, which is to be submitted prior to the issue of a Construction Certificate. Conditions to this effect are included in the recommendation section of this report.

(b) The likely environmental both natural and built environment, social and economic impacts in the locality

The assessment of the Development Application within this report demonstrates that the proposal will have an adverse impact on the locality and is not supported.

(c) The suitability of the site for the development

The site is zoned *Business*. It is considered that the proposal will have an adverse impact on the adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development.

(d) Any submissions made in accordance with the Act or the regulations

The originally submitted plans with the Development Application were notified for a period of 30 days.

The notification period of the originally submitted plans was from 9th September 2010 to 8th October 2010.

The amended plans the subject of this report were not notified as the application was not required to be advertised under clause 2.3.4 of *Development Control Plan 36 - Notifications*.

The notification of the original plans and details included:

- Letters sent to 7142 properties.
- A yellow site notice placed on the site.
- Listing under the notification section on Council's website.
- Notification in newspaper.

In response to that notification, 327 submissions by way of objection, and 2 submissions by way of support, were received to the proposed development.

In addition to the matters raised in individual submissions, Council has received petitions citing similar concerns with the proposed development. These petitions contain a total of 1,565 signatures by way of objection.

The numerous individual reasons for objection can be summarised under the following major topics of concern, as follows:

Traffic impact to amenity of quiet streets

Council's assessment of the traffic study information submitted with the application confirms that the proposal will result in adverse impacts on the road network in the immediate vicinity

of the site and within surrounding streets and intersections. In this regard, the proposal has been identified to be likely to result in:

- Conflict at the intersection of Trafalgar Street and Parramatta Road.
- Increased queuing at this intersection due to service truck existing eastbound to Parramatta Road.
- Increased traffic flow in surrounding streets, particularly Albion Street, which is narrow.
- Decreased pedestrian safety in the vicinity of the site and with regard to several nearby sites where children congregate, eg. two primary schools and childcare centre in Trafalgar Street.
- Increased traffic noise in surrounding streets as a result of the increase in traffic generation caused by the development, and also including the likely provision of shopping trolley retrieval vehicles in the area.

However, although the on-site parking provision generally complies with the Council's DCP minimum and maximum provision requirements, it is reasonable to conclude that the proposed usage of the site will result in increased traffic and associated noise in residential streets in close proximity to the site which will be significantly greater than is currently the case. This impact would involve a level of receiver perception of the increased traffic, which could be expected to subside over time as receivers become more accustomed to the increased traffic. Despite this, residential properties in the immediate vicinity of the site in both Albion and Trafalgar Streets will suffer the most significant adverse amenity impacts from associated customer & servicing traffic.

Lack of parking

This matter is dealt with in detail elsewhere in the report. The proposal generally satisfies the generally complies with the Council's DCP minimum and maximum on-site parking provision requirements. The identified shortcomings with accessible parking provision/allocation could be met through redesign of the proposal without a reduction in total parking provision below the minimum provision required by the DCP.

However, as identified elsewhere in the report, the current functioning of both the basement parking levels and the loading/servicing area are unsatisfactory. In this regard, it is noted that significant redesign is required in order to bring these portions of the development into satisfactory operating form. In achieving this outcome it is expected that this redesign will result in a decrease in the number of on-site parking spaces within the basement levels. Any reduction in on-site supermarket parking provision is considered unsatisfactory.

Further, the current constrained parking levels, if considered difficult to negotiate by future supermarket customers, may result in increased demand for on-street parking as a 'quicker or easier' alternative, thereby increasing adverse impacts on existing on-street residential parking in the vicinity of the site. This would also increase the use of shopping trolleys in nearby streets. It is considered that such outcomes should be avoided.

Pedestrian & Children Safety

The proposal meets the on-site parking provision requirements of Council's DCP. However, although the submitted traffic study establishes the use will not result in significant adverse impact to the roadway Level of Service and Intersection saturation in the vicinity, it has been assessed as being likely to cause a significant increase in traffic, relative to that currently the case in neighbouring residential streets. This is particularly the case in Albion Street. As a consequence, given the lack of specific pedestrian safety facilities in proximity to the site, there would be an increased risk to pedestrians on surrounding streets.

Further, in the immediate vicinity there are two Primary Schools, a Children's Day Care Centre, and a Monastery/Temple in Trafalgar Street, south of Collins Street. It is considered that the proposal will result in increased traffic in Trafalgar Street south of Collins Street, thereby increasing the level of risk to users of these facilities, particularly younger children, and therefore more vulnerable to vehicular /pedestrian conflict. Traffic levels will also increase during peak periods exacerbating the conflict with the schools and child care facility.

With regard to internal design of the development, it is noted that the proposed steep gradients of the internal pedestrian ways and vehicular ramps would preclude the safe pedestrian transition between the split levels of each basement level. This would raise unacceptable internal conflicts between pedestrians/customers and vehicles within the basements, as well as practical usage difficulties.

Increased Pollution / Noise from traffic

Given the nature of the use and the predicted level of traffic generated by the use, the impact of the development with respect to pollution and noise from traffic is expected to be low.

However, the level of noise from the development as a whole, including the residential portion, is considered in relativity to the existing uses on the site, and also that which could reasonably be expected to be produced by a development which complies with both the statutory Floor Space Ratio development standard and the suite of controls contained within Council's Development Control Plans.

It is noted that the development will result in the remediation of the site, which has been identified as being contaminated. This is a satisfactory outcome.

Impact on local businesses

This matter is dealt with in detail elsewhere in the report. It is concluded that having regard to the provisions of the Draft *State Environmental Planning Policy (Competition) 2010*, the likely competition arising from the proposed supermarket does not form the basis of a refusal of the supermarket portion the subject application.

Existing adequate provision of major supermarket/retailers in surrounding areas

This issue is essentially similar to the matter of competition with existing businesses in the area, which is dealt with in detail elsewhere in this report. The applicant has sought development consent for a development including a supermarket. It is reasonable to assume that the application would not have been made if the applicant was of the opinion that there currently was adequate provision of similar retail premises in the area. In this regard, it is noted that Council currently has two other development applications pending assessment for other similar retail facilities within the area, at 4-8 Booth Street Annandale and 408 Catherine Street, Lilyfield.

Inappropriate Design

This matter is dealt with in detail elsewhere in the report.

Dumped Trolleys / Litter

It is reasonable to conclude that the supermarket use, despite the best intent, and management of the operator, will not prevent shopping trolleys being abandoned in nearby streets. Any consent for a supermarket use should be conditioned to ensure that shopping trolleys are fitted with mechanisms that prevent them being taken off the site, similar to those in use in supermarkets in central Sydney and that any trolleys that do leave the site are retrieved from local streets continually during operating hours and for a suitable period after cessation of operating hours.

Negative impact on Annandale's image

The cumulative non-compliances identified in this report area such that the development as a whole in its proposed form would adversely impact on the character of the immediate vicinity.

Privacy/ Amenity Impact Concerns

This matter is dealt with in detail elsewhere in the report. The overlooking and potential acoustic impacts from the proposed residential dwellings represent a serious amenity impact to existing residential properties to the north of the site. Resolution of this particular issue would require either the deletion of these dwellings, or alternatively a substantial redesign of the proposed development such as would fundamentally change the appearance and form of the proposal.

Impact on 75-75A Parramatta Road including, obstruction of the top advertising structure on the building, solar access, and loss of views.

The amended proposal has increased the western boundary side setback of the building so as to allow for increased solar access to the side windows in that building. Consequently, solar access to the mid and upper level windows is maintained from approximately 10:30am to Midday at midwinter. The ground floor windows would receive direct solar access between approximately 11:30am to Midday at midwinter.

With regard to loss of views, this matter is dealt with elsewhere in the report.

The existing lower level sign will be obstructed by the development. This outcome would be expected from any development of the subject site.

The upper level sign would be obstructed in the immediate vicinity, but still visible at longer distances to the east along Parramatta Road. The level of obstruction of this upper sign is exacerbated by the parapet height to Parramatta Road being greater than the 8m/11m height limit in DCP2000.

(e) The 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 appropriately managed.

The proposal is contrary to the public interest.

5. SECTION 94 CONTRIBUTIONS

Section 94 contributions are payable for the proposal. Were the application recommended for approval a condition of any development consent would require payments of such contributions.

Note: Planning Circular PS 10-022 issued by the NSW Department of Planning on the 16 September 2010 limits contributions to a maximum of \$20,000 per dwelling.

6. INTERNAL REFERRALS

The Development Application was referred to the following Council Officers:

Building

The current amended plans for the proposed development have been assessed with regard to the Building Code of Australia in order to identify any significant issues. In this regard the following matters have been identified which would require amendment at the Construction Certificate stage should the application be approved.

- The egress passageway widths in the basement levels 1+2 to the required fire egress staircase and access to the lift lobby on basement level 2 does not comply and is blocked by car parking spaces. A clearly defined access passageway width must be provided to the required fire egress staircase and for wheelchairs, prams and trolleys for entry/exit purposes into the lift lobby areas, in order to maintain a clear path of travel at all times.
- Egress travel distances serving the residential units and exit from the Administration Area does not comply with the part D of the BCA.
- The required external exit staircase No.3 must comply with the requirements of part D1.8 of the Building Code of Australia. The non-combustible external staircase must discharge to a road or open space.
- The basement car park must be provided with an Automatic Sprinkler System in accordance with Table E1.5 of the Building Code of Australia.
- Disabled access, car parking spaces and accessible toilet facilities must be provided in accordance with part D3 of the BCA and comply with the Design, Construction and fitout requirements of Australian Standard AS1428.1
- A Mechanical ventilation system must be provided to the basement car park in accordance with part F4 of the BCA and complying with AS1668.2
- A BCA Audit Report must be submitted confirming compliance with parts B,C,D, E, F, G+ J of the Building Code of Australia.

Traffic Engineer & Development Engineer

Council's Engineers have advised that the 'Traffic and Parking Assessment' dated 1 December 2010 prepared by Varga Traffic Planning Pty Ltd has been reviewed it has been concluded that the current amended plans for the proposal cannot be supported for the following reasons:

- Traffic Distribution

1. The submitted Traffic Report is deficient and underestimates adverse impacts on the local road network for the following reasons:
 - i) Concerns are raised regarding the assumption that the majority of trips to the development (over 50%) arrive from the Marrickville area and along Parramatta Road (west of the site) rather than from Annandale and Camperdown. This is not considered realistic, and no rationale is provided to support this figure.
 - ii) Traffic distribution within the Traffic Report does not reflect a reasonable volume of traffic arriving from Annandale and Camperdown. It assumes 30% arriving from this area which is not considered realistic and no rationale is provided to support this figure. It is considered that this figure is too low. Information requested in relation to intersection analysis has not yet been provided by the Applicant. Based on the information provided to date, concerns are raised on what level of impact the development would have on the surrounding intersections due to the revised traffic distribution from and to the proposal. It is likely that this will have considerable impacts (queuing and delays) on the following intersections:
 - Parramatta Road/Young Street
 - Parramatta Road/Johnston Street
 - Parramatta Road/Trafalgar Street
 - Albion Street/Trafalgar Street
 - Albion Street/Johnston Street
 - Albion Street/Annandale Street
 - Albion Street/Young Street
 - Johnston Street/Collins Street
 - Trafalgar Street/Collins Street
 - Nelson Street/Collins Street

The intersection analysis provided in the above assessment is based on the previous traffic distribution (*Traffic and Parking Assessment Report* dated 9 November 2010).

As noted with the original proposal, concern is raised on the basis of the traffic distribution adopted in the traffic analysis. Therefore, the intersection analysis provided is incomplete. Further, as stated in the Council's letter to the applicant dated 30 September 2010, in addition to LOS, DS and AVD, potential queuing must be provided in the intersection analysis.

2. The additional traffic (development) would double the two-way traffic volume in Albion Street between Johnston Street and Trafalgar Street (increase by 138veh/hr) in the PM peak. Given the narrow width of travel lanes (two-way, approximately 5.6m), this increase raises safety concerns in this residential street.
3. Inadequate pedestrian safety measures exist within the vicinity of the development to cater for the additional demand caused by the development, in particularly noting the development generates approximately 110veh/hr towards Trafalgar Street/Albion Street intersection. Although the Level of Service (LOS) at the intersection is satisfactory, this amount of traffic and the increase in pedestrians (attracted to the supermarket) is likely to generate pedestrian/vehicular conflicts as there are no designated pedestrian crossing facilities in the vicinity of the development. It should also be noted that the majority of streets in this area have designated bike routes.

4. Concern is raised that the development is likely to generate a considerable amount of traffic during school PM peak by school parents. Therefore, as stated in the point 3 (above), appropriate measures to improve pedestrian safety in the area are required.

- Parking

5. Council is currently investigating the parking situation in Trafalgar Street and Annandale Street between Albion Street and Collins Street, as requested by residents. The residents have stated that parking occupancy levels in these streets are high due to commuter/employee parking. Although the development provides off-street parking spaces, the parking demand for on-street parking would further be impacted on by shoppers, staff and resident's visitors.
6. The design of the car park ramps does not comply with AS/NZS 2890.1-2004. The following concerns/ non-compliances have been identified:
 - i) The internal ramps do not comply with AS/NZS 2890.1-2004 in relation to width and manoeuvrability from the aisles. Addressing this will result in the loss of parking spaces.
 - ii) The location of adjacent ramps, providing access to the same level (one up, one down) result in areas of conflict. That is, there is inadequate separation and sight lines to vehicles utilising each ramp. Therefore when the vehicles access the same level there is risk of accidents, posing safety concerns.
 - iii) Ramps do not comply with the Grade and Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle. No grade transitions are provided. Note that sections have not been provided demonstrating compliance.

Note that addressing these issues will result in the loss of parking spaces.

7. The proposed car park layout and accessible parking do not comply with AS/NZS 2890.1-2004 and AS/NZS 2890.6-2009. The following concerns/ non-compliances have been identified:
 - i) Parking spaces block access to the Lift Lobby and Stairwell on Basement Level 2. Clearly defined access paths must be incorporated within the design, and take into account the location of accessible parking spaces.
 - ii) The accessible parking spaces must be relocated to provide direct access to the lift system.
 - iii) The pedestrian ramps between upper and lower basement levels are too steep for trolley access.
 - iv) No trolley storage areas are provided.
 - v) The residential parking on Basement Level 1 is mixed with customer parking. Residential parking should be limited to Basement Level 2.
 - vi) It is unclear whether adequate headroom clearance is achieved above Parking Spaces 4 to 6 on Basement Level 1. A section through these spaces has not been provided.

- vii) It is not clear whether minimum headroom clearance of 2500mm is achieved above accessible parking spaces in accordance with AS/NZS 2890.6-2009. Note that sections have not been provided demonstrating compliance.
- viii) Structural barriers are required for cars in accordance with Clause 2.4.5 of AS/NZS 2890.1-2004 between the middle parking bays within Basement Level 1 and 2 due to the change in levels. Addressing this will result in reduced aisle widths.
- ix) The two (2) proposed parking spaces beneath the internal ramps on Basement Level 2 are not supported as they create a point of conflict due to inadequate sight lines. In addition, the space does not achieve adequate headroom clearance.

Note that addressing these issues will result in the loss of parking spaces.

8. In accordance with Clause of 3.2.4 of AS/NZS 2890.1-2004 no on-street parking spaces are allowed between 45 and 69 metres from the driveway. This would result in at least three on-street parking spaces, between the access and Parramatta Road, being removed.

Note that the proposed street trees will also need to be repositioned to take into account the above Clause.

9. The car park layout requires significant redesign to address the requirements of AS/NZS 2890.1-2004 as detailed above, which will result in the loss of at least seven (7) off-street parking spaces and three (3) on-street parking spaces. It is also likely that the seven (7) staff parking spaces will need to be relocated into the Basement car park area as above. This would result in a total loss of 17 parking spaces.

- Truck Access and Loading

10. Concern is raised in relation to truck manoeuvrability at the Parramatta Road/ Trafalgar Street intersection.

The submitted swept path analysis shows that a truck would need to manoeuvre across three lanes of traffic to access Parramatta Road from Trafalgar Street. This poses a significant road safety concern, with potential queuing affects behind a truck waiting for three lanes to be clear.

Trucks entering Trafalgar Street would need to approach the intersection at a slower speed to achieve a swept path so as to remain within the northbound lane of Trafalgar Street.

As this intersection is not signal controlled, the above truck movements are likely to create significant disruption to traffic in Parramatta Road.

The RTA has raised concern with manoeuvring at this intersection and require the swept path plans to be submitted for their approval. No such approval has been submitted to Council.

11. The proposed loading dock relies on a turntable for trucks to facilitate entry and exit in a forward direction. The loading dock must provide for entry/exit in a forward direction without the use of a mechanical device.

In the event of power or mechanical failure, trucks would need to reverse into or out of the site to access the loading dock. This poses a safety risk for pedestrian movements in Trafalgar Street in close proximity to the main entry, and the potential for queuing of traffic behind manoeuvring trucks into Parramatta Road.

12. The extent and depth of structural support that would be required for the proposed truck turntable does not appear to have been accurately represented on architectural drawings. This is likely to significantly impact on the available headroom at Basement Level 1 and the entry ramps.
13. The headroom clearance through the truck loading dock and access does not comply with Clause 4.2 of AS/NZS 2890.2-2002 (minimum 4500mm required). This may impact on floor levels above. Long-sections through the access and loading dock are required showing compliance.
14. Inadequate manoeuvrability is provided for trucks entering the loading dock with significant traffic implications to Trafalgar Street and Parramatta Road:
 - a) The following issues are raised based on the swept path analysis submitted by the applicant:
 - i) According to the submitted truck swept path analysis, it requires the full width of the loading area to access the turntable. Lack of any manoeuvring clearances in the loading dock area raises concerns on feasibility of achieving this exact turn path to enter the loading area without reversing onto the footpath and/or roadway. Given the high pedestrian activities in the area and in proximity to Parramatta Road, the design of the loading dock is not acceptable.
 - ii) The submitted swept path analysis indicates that trucks entering the loading dock from Trafalgar Street need to come to a complete stop before manoeuvring into the development. This would create disruption to northbound traffic in Trafalgar Street and also potentially cause queuing back to Parramatta Road.
 - iii) The submitted truck swept path analysis shows trucks manoeuvring into the site from the western Lane of Trafalgar Street. However no truck manoeuvring clearances have been applied to the swept path.
 - iv) The swept path analysis indicates that trucks accessing the waiting bay will need to reverse a number of times on to the footpath and road to align it onto the bay. As this causes safety issues, this is not acceptable.
 - b) Council applied the swept path of a 12.5m rigid vehicle template (with 12.5 radius) as per AS 2890.2 to the entry of the loading dock. The following issues are raised:
 - i) This analysis indicated that the driveway and the width of the loading dock is inadequate to accommodate a truck undertaking a left turn from Trafalgar Street into the loading dock. The loading dock and driveway would need to be widened by a minimum of 1000mm.
 - ii) The truck exiting the loading dock will require the full width of the southbound carriageway, including the parking lane. As the demand for

on street parking in this area is high, any loss of on street parking in Trafalgar Street is not acceptable.

The short length of Trafalgar Street between Parramatta Road and the entry of the loading dock (approx. 80m) is a constraint for a truck to be aligned before it turns left into Parramatta Road. This manoeuvring would cause a significant impact on traffic and road safety in this section of Trafalgar Street.

15. There appears to be inadequate capacity for goods storage within the loading dock and this would be in conflict with the area designated for staff parking. The parking must either be relocated to the basement or storage provided within the commercial floor space.

Note that addressing this issue may result in an overall loss of parking spaces.

- Stormwater

16. The Integrated Water Cycle Plan does not include water balance or water quality calculations in support of the proposal.
17. Site discharge must be amended to be directly connected to the adjacent kerb inlet pit in Trafalgar Street. The site stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
18. The extent of excavation immediately adjacent to the northern boundary is likely to have adverse impacts on Councils existing adjacent stormwater pipeline.
19. No trees are permitted within the proposed Albion Lane extension to Trafalgar Street due to Councils existing stormwater drainage pipeline below. Planting in this area should be limited to low level landscaping.

- Flooding

20. The proposed Basement Parking Facilities are located below the 100 year Average Recurrence Interval (ARI) flood level. The applicant proposes Flood Barriers to provide protection to the Basement. This is not supported as it relies on a mechanical device to provide protection. In the event of power or mechanical failure, the device would not activate resulting in the inundation of the basement with flood waters. This poses a significant safety concern. The driveway must be redesigned in accordance Clause C1.8 of Section A3a.0 of DCP2000. This will require raising the driveway to a crest of at least the Probable Maximum Flood Level before sloping into the basement car park.

This will have a significant impact on headroom clearance throughout the access which may only be resolved by raising the ground floor level. Note that long-sections would be required demonstrating compliance with the above.

- Supermarket Entry

21. The existing electrical sub-station at the Trafalgar Street frontage is in conflict with the supermarkets main entry. The available footpath width between the entry and sub station is approximately 1900mm. This is inadequate to provide clear access to the supermarket, in particular, noting DDA requirements and the use of trolleys by customers. The sub-station will need to be relocated.

Heritage Advisor

Councils Heritage advisor has considered the current amended design, including the peer reviews by Architectural Projects; NBRS + Partners; and Ruth Daniell, of the Heritage Impact Statement by Graham Brooks and Associates, and does not support the application.

The current amended plans for the development have been assessed in terms of compatibility with the Conservation Area and with regard to the design and siting controls within DCP2000 whereby the following Heritage design comments are made.

The amended design demonstrates the following fundamental shortcomings:

- 1/ The proposed building has no visual relationship to the character of Parramatta Road streetscape;
- 2/ The proposed façade is uncharacteristic of the locality;
- 3/ The building is lacking in identification; and
- 4/ The building is lacking in form, detail and articulation.

The Peer Reviews produced by Architectural Projects; NBRS + Partners; and Ruth Daniell, of the Heritage Impact Statement by Graham Brooks and Associates P/L have been assessed and the heritage assessment of the current amended design has not significantly altered to that prepared in response to the originally submitted proposal/plans.

The following points contain the recommendations made on the original design in the Council's heritage assessment dated 23 September 2010. The heritage comments in response to the design in the current amended plans follow immediately in "bold" type.

- [Original Plans] Proposed building is not complimentary to the traditional character of Parramatta Road commercial precinct.

[Current Amended Plans] The proposed building does not require "imitation of the traditional" to be complimentary to the character of the streetscape. The

proposed façade treatment however, is more an imitation of the cubic form adjacent on the corner of Parramatta Road and Trafalgar Street than complimentary to the conservation area character.

- “Presentation to streetscape is too flat and needs articulation of the façade to create shade and shadow”.

There has been no change to the Supermarket facades relating to this recommendation.

- “Verticality required to provide sympathetic characteristics relating to the existing shopfronts”.

The horizontal emphasis of the flat masonry parapet has been only slightly modified by the stepping of the awning around the corner. It is recommended that the parapet be raised on the corner panels to create a tower element.

- “Voids between proposed shopfront panels require widening of spacing, greater depth and to continue the full height of the shopfront from parapet to awning height.”

No change has been made to the spacing between masonry panels.

- “Provide more traditional solid to void proportions between masonry and glazing”

A monolithic facade is emphasised with the slight proportions of glazing to masonry. This has not been modified to provide more emphasis on the recessed glass panels.

- “Pick up on traditional forms within Parramatta Road streetscape. ie. pedimented parapets, etc.

The unified parapet over the full length and return of the facades has the effect of creating a large cubic form which would be better served by stepping the height of the corner element to a greater height than the returns to emphasise the corner element.

It is noted that any such amendments would need to take into consideration the suite of controls in DCP 2000 that seek to limit the height at the Parramatta Road frontage. Any ‘tower’ element to reinforce a vertical emphasis would need to entail an overall lowering of the development, particularly at the northern side of the site.

- “Step awning around corner and lower towards the northern end.”

The awning has been stepped around the corner providing a greater visual impact on the character of the façade.

- “Enlarge the actual depth of awning fascia to provide a stronger emphasis on such a large building. “

The depth of awning remains narrow in comparison to the traditional awnings. Recommend that they be widened to match traditional awning depth.

- Provide visual identification of shop entry on Trafalgar Street facade.

Recommend that the awning height be raised over the main entrance to visually identify the entrance door.

It is noted that the level of design amendment required to resolve these issues is significant, and would likely result in other flow-on design issues arising elsewhere within the development. Consequently, the proposal could not be recommended with such level of conditioning to redesign.

An assessment of the amended proposal has also been undertaken with specific regard to the publication, *Design in Context Guidelines for Infill Development in the Historic Environment*, NSW Heritage Office, June 2005, Section 06. Residential/Commercial Development in a Transitional Context (Main Street To Residential). In this regard the following assessment is provided:

- Character

The streetscape character consists of largely intact (if sometimes poorly maintained) one and two storey retail/commercial buildings with a small number of industrial style buildings grouped at either end of the district. The over-riding character of each block is of a line of one and two storey shop/residences of average width, bookended at each corner by a three storey building, usually a former retail store or hotel.

- Site

The area is in a conservation area with a character of mixed nineteenth-century masonry buildings, predominantly two and three-storey in height.

The existing buildings on the site (69-73 Parramatta Road., Annandale) are not listed heritage items nor considered as contributory items to the streetscape or context of Parramatta Road or Annandale Conservation Area in which the site is located. The site is the consolidation of a number of allotments and is a highly visible corner site on the north western intersection of Trafalgar Street with Parramatta Road. The site is located close to the eastern end of the Leichhardt Local Government Area.

Any development of this site can be considered as part of the eastern entrance to the Parramatta Road Commercial District which is a largely intact streetscape of properties which identify the retail and commercial character of Leichhardt.

- Scale

The scale of the current proposed redevelopment is of a large building of similar height to the two storey shop/residences which make up the body of each block. The proposed building is on a much wider site than the two storey buildings (the result of consolidating a number of allotments). The result of this consolidation has been:

- The general character of the block has been lost with the width of the new building and the façade treatment which emphasises the width.
- The loss of the 'bookend' character with a continuous overall height throughout the whole site.
- The dimensions of the panels which emphasise the cubic form of the building

- Form

The traditional parapeted form of the existing buildings is indicative of the character and age of the existing Parramatta Road streetscape. Groups of shops exhibit a simple rectilinear form with parapeted roof lines and vertically proportioned fenestration.

- The current proposal with its cubic form and slightly articulated roofline takes no reference from the earlier parapeted styles. The only building within the immediate context that has any relationship to the proposal is the two storey building on the opposite north-east corner (King Furniture).
- The angled glazing and the horizontal banding and strong horizontal line of the awning (the current stepping of the awning only slightly reduces this horizontality) takes away any verticality that may have been intended by the minute vertical glazed breaks between the solid panels.
- Even with lighting at night this vertical glazing will only be identified as a line in the façade and not a change of form, such as the case with the verticality of the individual shop facades.
- The “bookend “ character to the end of the block is seen as one element which could be incorporated into the design to create a relationship between the traditional streetscape and the proposed contemporary design.

- Siting

The siting of buildings within the streetscape provides a major façade with main entrances located opening to Parramatta Road.

- The siting of the proposed building has a primary frontage to Parramatta Road, but this frontage has no entrance.
- The main entrance to the supermarket is located to the side road however the amended elevation does not satisfactorily identify this entrance within the ground floor facade.

- Materials & Colours

Materials for use on the proposed building are contemporary and have no reference to the traditional materials such as masonry and timber detail as used throughout the district. As most of the traditional buildings within the streetscape are painted rendered masonry, the proposed contemporary materials and colours are considered to be unacceptable.

- Detailing

This is a contemporary building located within a very intact traditional area and there is no requirement to copy traditional form or detailing. However it is considered that the design could make references to its neighbouring buildings with modern interpretations of details. Also there are some areas where the details should relate:

- The thickness of the awnings, even with the stepped detail appear much thinner in depth than the traditional awnings (See photomontage). This may have been acceptable on a single width frontage, but this reduced thinness is exaggerated over the extended length of the proposed façade.

- Conclusion

The general conclusion to this evaluation of the amended design by the application of the Design Criteria from “Designing in Context Guidelines for Infill Development in the Historic Environment” is that the proposed new building makes little if any reference to the traditional character of the Parramatta Road Streetscape.

The ‘guidelines’ note that the ‘existing historic context is not a constraint but an opportunity to add something new that results in the whole being greater than the sum of the parts’. Unfortunately, it is considered that the current infill proposal not only remains

in complete contrast to the character of the existing streetscape, but actually emphasises the fact that it has no relationship to the existing character.

The definition of “good infill” within the “guidelines” is a “building that is sympathetic to the surrounding buildings and historic context and creates new structures that enhance and compliment the existing urban, suburban and rural character...” The amended design does not achieve this outcome.

Environmental Health Officer

The following issues are raised in response to the proposal:

Acoustic Report Assessment

On the 10 September 2010, a review of the initial acoustic report prepared by Renzo Tonin & Associates and dated 9 June 2010 was carried out and the following comments were made:-

The report generally adequately highlights criteria that must be met for compliance however many details remain unknown.

The report serves to provide general 'in principal' support and concludes the site is "capable of complying with all relevant acoustic criteria".

However additional information must be provided demonstrating specifically how this is to be achieved prior to approval.

Specific issues include:

Additional detail to be provided indicating the expected number of vehicle movements and the manner in which they will occur and their impact in terms of noise. All vehicles attending the site must be considered including staff vehicles, customer vehicles, delivery vehicles, forklifts, pallet jacks, trolley collection vehicles, etc.

Additional detail to be provided in relation to size, type and location of all mechanical plant to be installed and method of compliance with established noise criteria for residential receivers. All plant to be considered including a/c units, refrigeration, mechanical extraction equipment, truck turntable, rubbish compactor etc.

Additional detail to be provided relating to hours of specific activities and their projected impact. Including operating times for plant, staff arrival, opening hours, garbage collection etc.

Operable windows and doors to residential buildings should be assumed open for the purposes of acoustic evaluation.

Additional details to be provided in relation to noise impacts on adjoining neighbouring residential receivers and methods of compliance with established noise criteria for residential receivers. No reference has been made in the report as to the noise impacts on the adjoining residential properties.

Based on the comments above, a peer review of the acoustic report was required.

On the 9 November 2010 a revised acoustic report was submitted. The revised report was prepared by Renzo Tonin & Associates numbered TE766-01F02 (Rev 3) and dated 9 November 2010.

Upon receipt of the amended acoustic report, Council has engaged an independent acoustic consultant to undertake a peer review of the report as the applicant had not submitted a peer review as requested.

A peer review was undertaken by Koikas Acoustics Pty Ltd with reference number L22111Onk.docx and dated 22 November 2010. The following comments were made:-

- *'There are no noise logger graphs attached to the report (taken at 7 Trafalgar Street);*
- *There are no spectral noise attached to the report of the attended monitoring;*
- *It is likely, that RT&A did not take spectral noise levels during the night time which may include higher low frequency noise on account of there being a higher percentage of heavy vehicles traversing along Parramatta Road during the night time;*
- *Without the above two sets of data Council cannot ascertain whether the conclusions derived by RT&A in the report will provide adequate traffic noise attenuation to the proposed new residential flat unit and commercial premises.*
- *If one was to consider the site location of the unattended logger, it would be reasonable to assume that noise levels at this position would be significantly less than a site adjacent to Parramatta Road.*
- *On this basis, it is unknown whether this data was used by RT&A to determine external traffic noise levels to all facades along the periphery of the proposed building envelope. Generally, there would be a greater traffic noise reduction requirement along the front facade of the building adjacent to Parramatta Road and a lesser traffic noise reduction along the sides and less again at the rear of the proposed building.*
- *The report states that 6.38mm thick glazing is required and does not differentiate if lesser glazing is required to any other facades;*
- *There are no calculation details attached as an Appendices to the report demonstrating what the external and internal traffic and aircraft noise levels are and to show that what has been proposed will adequately achieve the nominated internal noise criteria. In my opinion, 6.38mm thick glazing is inadequate for residential flat units located adjacent to Parramatta Road.*
- *I do not have architectural drawings of this development, but RT&A also do not reference any drawings in their report as being used for the purpose of their assessment;*
- *The same applies to aircraft noise intrusion regarding calculations and recommendations;*
- *With respect to mechanical plant, it is unknown whether the drawings nominate where the plant will be located;*
- *The type of mechanical plant proposed for the use is not specified, nor their spectral sound power levels;*
- *It is unknown as to how they will discharge the hot air from the plant room;*
- *What additional plant will they use in the exhaust shafts and what are its spectral noise levels;*
- *What impact will this exhaust plant have on surrounding residents and proposed new residents if it is to operate 24 hours per day especially in the summertime.*
- *What of structure-born noise impacts to the new residential flat units of the proposed new development from the use of refrigeration plant and exhaust fans mounted in the concrete shafts that may traverse alongside the new residential flat units;*
- *Similarly for car park ventilation plant and equipment;*
- *It is all ok to say that we will use common engineering methods, but what are these measures, what is their extent;*

- *What are the background noise levels at the rear of the proposed residential premises;*
- *Did RT&A use background noise levels from the No. 7 Trafalgar Street monitoring site location. Noise levels at this site location may not be representative for residential premises at the rear of the subject assessment site;*
- *In regards to the predicted traffic noise generated by the development, it is not reported what the peak traffic movements would be during the night time period and whether the target traffic noise criteria will be achieved;*
- *It is also unknown whether their conclusions were based on existing traffic noise levels pertaining at 7 Trafalgar Street and whether they considered this data to be representative for residents at the rear of the assessment site;*
- *Calculations are normally undertaken to demonstrate the extent of noise propagation from all plant, equipment and transportation noise to surrounding and existing residents, sometimes in the form of noise level contours or, as single point calculations. Nothing of this work has been mentioned in the report nor attached as an Appendices to the report which leads me to believe that it was either not done or the levels at sensitive receiver points derived show non-compliance and/or the building materials required to the building envelope would be too costly for the developer;*
- *The discussion re the loading dock and the noise impact to surrounding residential premises appears to be too onerous with noise mitigation measures especially as the premises that these acoustic measures are proposed for are to reduce noise impacts to commercial premises across Trafalgar Street;*
- *There is no worse case noise scenario discussed in the report regarding the super-market trolleys collected from the street, whether they are collected by foot or by mini tractor or other;*
- *In regards to construction noise impacts, in my opinion, best practices should be considered and excavation works should be undertaken as quickly as practically possible to minimise the duration of noise disturbance.'*

This peer report prepared by Koikas Acoustics Pty Ltd concluded that the acoustic assessment undertaken by Renzo Tonin & Associates was not acceptable because:-

- It does not satisfactorily address traffic noise intrusion to the new residential development, and
- It does not satisfactorily address the noise impact of the development to surrounding and proposed new residential premises in respect to vehicular movement and mechanical plant.

On the 30 November 2010, the applicant submitted a peer review of the acoustic report which was prepared by Day Design Pty Ltd with reference number R/4497-R1 and dated 26 November 2010.

The peer review prepared by Day Design concluded that the level of noise emitted by the proposed development will meet the DECCW noise level requirements detailed in Section 5 of their (Renzo Tonin & Associated) report and will therefore be acceptable.

Summary

There were two peer view reports undertaken on the acoustic report. Day Design Pty Ltd was engaged by the applicant to undertake a review of the acoustic report. Day Design undertook a review of the original acoustic report dated 9 June 2010. Koikas Acoustics Pty Ltd was engaged by Council to undertake a peer view of the amended acoustic report by the applicant. The amended acoustic report was dated 9 November 2010.

The peer review reports are considered to be in conflict as they do not review the same acoustic report. The review prepared by Day Design Pty Ltd states that the proposed development will be considered acceptable provided that the recommendations in the Renzo Tonin & Associates report are implemented. Council's initial assessment of the same acoustic report peer reviewed by Day Design Pty Ltd was considered unsatisfactory for the following reasons:-

- Additional details were required to be provided to include the expected number of vehicle movements and the manner in which they will occur and their impact in terms of noise. All vehicles attending the site must be considered including staff vehicles, customer vehicles, delivery vehicles, forklifts, pallet jacks, trolley collection vehicles, etc.
- Additional details were to be provided in relation to size, type and location of all mechanical plant to be installed and method of compliance with established noise criteria for residential receivers. All plant to be considered including a/c units, refrigeration, mechanical extraction equipment, truck turntable, rubbish compactor etc.
- Additional details were to be provided relating to hours of specific activities and their projected impact. Including operating times for plant, staff arrival, opening hours, garbage collection etc.
- Operable windows and doors to residential buildings should be assumed open for the purposes of acoustic evaluation.
- Additional details were to be provided in relation to noise impacts on adjoining neighbouring residential receivers and methods of compliance with established noise criteria for residential receivers. No reference has been made in the report as to the noise impacts on the adjoining residential properties.

Upon receipt of the amended acoustic report, Council engaged in acoustic consultant Koikas Acoustics Pty Ltd to undertake a peer review of the amended acoustic report submitted by the applicant. The amended acoustic report was dated 9 November 2010 and prepared by Renzo Tonin & Associates.

Based on the amended acoustic report, Koikas Acoustics concluded that the report was unacceptable as the report did not address the following:-

- Traffic noise intrusion to the new residential development, and
- The noise impact of the development to surrounding and proposed new residential premises in respect to vehicular movement and mechanical plant.

In addition to the above, the peer review submitted by Day Design Pty and the acoustic reports prepared by Renzo Tonin & Associates do not address the following:-

- Noise impacts on adjoining neighbouring residential receivers and methods of compliance with established noise criteria for residential receivers. No reference has been made in the reports as to the noise impacts from the residential balconies on the northern elevation of the proposed development onto the existing residential properties to the north of the site.
- The reports have not adequately considered the impacts of aircraft noise on the proposed residential units. In order to ensure that the residential units receive sufficient cross ventilation, roof lights have been proposed in the stairwells, these are internal stairwells of each residential unit. These roof lights have the potential to transmit aircraft noise throughout each unit.

- Recommendations in the acoustic report are based on noise levels within the residential units provided that the windows and external doors are closed. Operable windows and doors to residential buildings should be assumed open for the purposes of acoustic evaluation.
- The report fails to adequately address the noise impacts of trolley noise and trolley collections. The report states that the co-operation of trolley users and retailers is required to minimise the number of trolleys being abandoned or left unattended in public places. The report needs to take into account that some patrons may abandon trolleys or leave them unattended in public places such as local streets and consideration needs to be given to the noise impacts upon adjoining residents.

Supermarket Fit-out Assessment

- A review of the ground floor plan indicates there is a conflict between the loading dock and the staff car park which would result in no food storage areas. Plans do not accurately illustrate the location of food storage areas for the proposed supermarket.

The application is not supported for the reasons given below:-

Acoustic Assessment

Based on the review of all acoustic reports submitted by Renzo Tonin & Associates and both peer reports prepared by Day Design Pty Ltd and Koikas Acoustics Pty Ltd, the proposed development is not considered acceptable in its current form because:-

- In accordance with the NSW EPA Industrial Noise Policy, the proposed development does not satisfactorily address all the potential noise impacts on adjoining neighbouring residential receivers and the methods of compliance with established noise criteria for residential receivers.

Supermarket Fit-out Assessment

- The fit-out of the supermarket will not comply with the Food Act 2003 and Food Standards Code as there is no separation between the loading dock area and food storage areas for the supermarket.

Comments:

It is noted that the Peer Review and the comments prepared by Council's Environmental Health Officer incorrectly refer to 7 Trafalgar Street in lieu of 6 Trafalgar Street Annandale.

Community Development

Councils Manager of Community Development has reviewed the proposal whereby it is advised that:

Residential Component: While provision of diverse housing stock is beneficial and in keeping with Council's Draft Affordable Housing Policy, the amenity of the residential units is compromised, and current proposal cannot be supported due to cumulative negative impacts. This includes:

- Lack of cross ventilation.
- Lack of natural light.
- No indication is provided on the plans about location of mechanical exhaust extraction from the underground car park with an unknown impact on open space/ balconies of dwellings above.
- The proposal should incorporate design for crime prevention in relation to the proposed 'laneway' area to the north of the site.

Parking Areas: Constrained circulation and travel distance issues exist in the car park which would negatively impact people with disabilities accessing the lift or returning to vehicles with shopping.

Waste Services

The amended plans have reduced the proposed retail waste storage area adjacent to the loading dock by approximately 9m². The applicant has not demonstrated how this proposed reduction will be sufficient for the proposed development (with the anticipated waste & recycling volumes) and managed on a daily basis.

Also, the applicant has not provided drawings and details for "back of house" waste management and storage and how this is proposed to be managed in conjunction with the waste storage area adjacent to the loading dock.

Property Services

Council's Manager of Property Services has considered the application and provided the following specific advice.

- 'Laneway' extension and dedication

With regard to the applicant's proposal to dedicate the 'Laneway' extension to the north of the site it was advised as follows:

On DP 1023, what is now lot 36 is shown as a "Reserve" being a reservation by the subdivider/vendor. It is not marked as a "drainage reserve" or "public reserve" or "lane" and so does not fall into the provisions under which they become vested in Council, or as a public road under Council's control.

The applicants' solicitors, Colin Biggers and Paisley, have lodged a letter of advice with three different arguments for their clients' claim to have a right of access. The arguments generally are mutually exclusive and the letter of advice is insufficient to satisfy the requirement for a legal right of access to be demonstrated.

If the applicants wish to pursue their second argument, that they have an implied easement, then they should make the appropriate application to Land and Property Management

Authority, or if necessary first to the Court, and have the right of way recorded on the titles burdening lot 36 and benefiting their property. It is noted that a small part only of 69-73 was part of DP 1023 so any such right of way may need to benefit the whole of the applicants' land. Further, the terms and conditions of the right of way must be wide enough to allow the proposed use.

Alternatively, the applicant may wish to make an application under s.88K of the Conveyancing Act for an easement to be created.

Evidence should then be lodged with Council that there is a registered right of way over lot 36 benefiting the subject site.

It is noted that the plans show an extension of "Albion Lane." I am unsure of the intention of this, that is, the reference to it being an extension of a "lane" rather than a mere paved area. As lot 36 is not a public lane, there may need to be a permanent block to vehicular traffic crossing the boundary of the subject site onto lot 36.

- Awning over Public Footpath

The proposed footway awning is to remain an awning only, not a balcony or verandah.

In addition to any specific design requirements for construction which may be imposed by Councils Engineers should the application be granted consent, then particular conditions must be included as "Ongoing Conditions of Consent" [before] Council (as the roads authority, at least of Trafalgar Street) would agree, as owner, to the awning being erected over the public footpath.

As the recommendation of this report is for refusal, such conditions have not been appended here.

Strategic Planning

Comments

- The future zoning of site under Council's new LEP 2011 (currently being prepared) is likely to be B4 – Mixed Use. The uses proposed for the site will be permitted in that zone. The proposed uses are also consistent with the draft objectives of that zone.
- While the subject site is not in a centre as such it does sit on a corridor (Parramatta Road) that has traditionally supported a broad range and scale of commercial and industrial uses – this is likely to continue into the future. Council will be undertaking further strategic work into the Parramatta Road corridor over the next few years to identify and illustrate the ways in which urban development can be managed to fulfil objectives relating to: business and employment activity, housing, social infrastructure and environment.
- The actual uses included in the proposal will be complementary with the surrounding land uses - however the scale of the proposal might not.
- The proposal will facilitate a permanent employment-generating activity.

Concerns

- Is the existing public infrastructure capable of servicing the proposed site?
- Does the proposal give sufficient regard to the character of the residential area adjacent to its northern boundary?

7. EXTERNAL REFERRALS

The Development Application was referred to the Roads & Traffic Authority, Local Police, & Energy Australia for comment. The amended plans the subject of this report have not been further referred.

Roads & Traffic Authority/ Local Police

In relation to the referrals to the Roads & Traffic Authority and local Police, the application was considered by the *Sydney Regional Development Advisory Committee*. The Committee advised Council by letter dated 18 October 2010 in its meeting minutes of 6 October 2010 that:

1. *The applicant advised the RTA that Council are requesting that the RTA give consideration to vehicular access directly off Parramatta Road. The RTA advised that current practice is to limit the number of vehicular conflict points along the arterial road network to maintain network efficiency and road safety. This current practice is reflected in Section 6.2.1 of the RTA's current publication of the Guide to Traffic Generating Developments, which states 'access across the boundary with a major road is to be avoided wherever possible'.*

In addition to the above, the Australian Guidelines "Planning for Road Safety" is based on the widely accepted principle of conflict reduction by separating the traffic movement and land access functions as much as possible.

Friction along the arterial road frontage is reduced by limiting the number of driveways and intersections on arterials and highways to control turning movements. This tends to maintain uniform travel speeds, reduce congestion delays and reduce crashes. Parramatta Road is a major arterial road, which carries a high volume of traffic, where transport efficiency of through traffic is of great importance.

Further to the above, Council as the consent authority should give attention to Clause 101 (2a) of State Environmental Planning Policy (Infrastructure) 2007, which reads as follows:

'The consent authority must not grant consent to development on land that has frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road.'*

As the subject site has alternate vehicular access via Trafalgar Street, the RTA will not grant its concurrence to a driveway on Parramatta Road under Section 138 of the Roads Act, 1993.

2. *It is noted that the proposed loading dock can only cater for one truck at anyone time with a maximum length of 12.5 metres. In this regard, the RTA is of the view that the proposed loading dock may be insufficient and undersized to cater for the needs of the*

supermarket. In this regard, the loading dock provision and size of vehicle shall be provided to the satisfaction of Council.

Should the proposed loading dock be approved by Council, the RTA recommends Council to include the following consent conditions:

- a) Access to the loading dock shall be restricted to only one vehicle at anyone time.
 - b) Vehicles longer than 125 metres are prohibited from accessing the subject site.
 - c) A Loading Dock Management Plan (LDMP) shall be undertaken to Council's satisfaction and shall implement appropriate measures to prevent more than one vehicle accessing the loading dock at anyone time. In addition, the LDMP shall outline alternative loading arrangements when the turntable is out of order. The LDMP shall be submitted to Council for review prior to the release of the Occupation Certificate.
 - d) The proposed development should include a Loading Dock Manager so that all deliveries to the subject site can be appropriately managed. The Loading Dock Manager shall be a certified Traffic Controller.
3. The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site shall be in accordance with AUSTRROADS. In this regard, swept path plans which illustrate compliance with this requirement shall be submitted to Council and the RTA for approval. Swept path plans will also be required to demonstrate the manoeuvrability of a 12.5m heavy rigid vehicle through the intersection of Trafalgar Street and Parramatta Road.
 4. The layout of the vehicle accessible areas associated with the subject development (including; driveways, grades, aisle widths, turning paths, sight distance requirements, and parking bay dimensions) should be, in accordance with AS 2890.1-2004 and AS 2890.2 - 2002 for heavy vehicles.
 5. Clear sight lines shall be provided at the property boundary line to ensure adequate visibility between vehicles leaving the car park and pedestrians along the frontage road footpath in accordance with Figure 3.3 of AS 2890.1 - 2004 for light vehicles and AS 2890.2 - 2002 for heavy vehicles.
 6. The proposed development will generate additional pedestrian movements in the area. Consideration should be given to ensuring pedestrian safety.
 7. The developer shall submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to the RTA for assessment (prior to the approval of any Construction Certificate). The developer shall meet the full cost of the assessment by the RTA.

The report would need to address the following key issues:

- a. The impact of excavation/rock anchors on the stability of the Parramatta Road and detailing how the carriageway would be monitored for settlement.
- b. The impact of the excavation on the structural stability of the Parramatta Road.
- c. Any other issues that may need to be addressed (Contact: Geotechnical Engineer Stanley Yuen on Ph: 8837 0246 or Graham Yip on Ph: 8837 0245) for details.

8. *The proposed development should be designed such that road traffic noise from Parramatta Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 of the State Environmental Planning Policy (Infrastructure) 2007.*
9. *Car parking provision shall be to Council's satisfaction.*
10. *Retail parking should be separate from residential parking and should be clearly sign posted.*
11. *The proposed turning areas within the car park are to be kept clear of any obstacles, including parked cars, at all times.*
12. *All vehicles are to enter and leave the site in a forward direction.*
13. *All vehicles should be wholly contained on site before being required to stop.*
14. *All loading and unloading shall occur on site.*
15. *Council should ensure that post development storm water discharge from the subject site into the RTA drainage system does not exceed the existing development discharge.*

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RTA for approval, prior to the commencement of any works. Details should be forwarded to:-

*The Sydney Asset Management
PO Box 973
Parramatta CBD NSW 2124*

A plan checking fee maybe payable and a performance bond may be required before the RTA's approval is issued. With regard to the Civil Works requirement please contact the RTA's Project Engineer, External Works Ph: 8849 21 14 or Fax: 8849 2766.

16. *A Road Occupancy Licence should be obtained from the RTA for any works that may impact on traffic flows on Parramatta Road during construction activities.*
17. *All demolition and construction vehicles are to be contained wholly within the site.*
18. *A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for review prior to the issue of a. Construction Certificate.*
19. *The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.*
20. *All works/regulatory signposting associated with the proposed development shall be at no cost to the RTA.'*

The amended plans the subject of this report have not adequately address these issues.

Energy Australia

The Development Application was referred to Energy Australia for comment under the provisions of the SEPP (Infrastructure) 2007 as the proposal seeks to carry out significant works in the immediate vicinity of an electricity 'kiosk' located in the Trafalgar Street footpath.

In response Council received advice from Energy Australia that:

'The applicant must contact EnergyAustralia to arrange the electrical supply requirements for the site.'

The applicant was advised of this requirement whereby Council subsequently received advice that such an application had been made directly to Energy Australia.

No further details have been provided to Council in this regard from either Energy Australia, or the applicant. The applicant has verbally advised Council that it is not proposed to relocate the existing above-surface electrical substation enclosure (kiosk) located in the Trafalgar Street footpath. It is noted that this kiosk is in close proximity to the supermarket customer pedestrian entry doors. Consequently, footpath width to the north of the supermarket doors will remain constrained by this kiosk. It would be preferable to relocate the substation from its current the footpath location.

8. CONCLUSION

The Development has been assessed in accordance with Section 79C(1) of the Environmental Planning and Assessment Act 1979 and all relevant instruments and policies. The proposal is unsatisfactory in respect of:

- Internal & external amenity regarding the residential component; in particular the likely adverse visual and acoustic privacy impacts on the northern adjoining residential properties
- Parking/access design
- Traffic impacts due to relative increase in number of vehicle movements in residential streets
- Inappropriate scale with regard to the business zone/ residential zone interface
- Excessive floor space ratio
- Heritage and streetscape impacts
- Visual bulk, particularly to the northern side of the building to neighbouring properties.
- Building Code of Australia

and will result in adverse impacts on the locality. Accordingly, the application is recommended for refusal for the reasons listed below.

9. RECOMMENDATION

That the **Joint Regional Planning Panel** as the consent authority pursuant to s80 of the Environmental Planning and Assessment Act 1979 **refuse** the Development Application No. D/2010/408 for demolition of all structures and construction of a mixed-use development comprising; two-level supermarket, ten (10) one-bedroom residential dwellings on the 1st and 2nd [mezzanine] levels, customer/resident parking within two basement levels, ground level loading dock/ staff car park area with vehicle access via Trafalgar Street, strata subdivision and site remediation. Trading hours of the supermarket are 7am - Midnight, 7 days with after hours Midnight - 7am, 7 days for staff packing and stocking shelves, at 69-73 Parramatta Road, ANNANDALE NSW 2038 for the following reasons.

REASONS FOR REFUSAL

1. The proposed amendments to the proposal contained in the plans the subject of this report have not demonstrated that the proposal can be brought into a satisfactory state of compliance with the relevant State and Local Planning Instruments and Policies, such that the identified deficiencies could be resolved through a conditional approval.
2. The proposal provides an excessive floor space ratio, failing to comply with Clause 23(1) of the Leichhardt Local Environmental Plan 2000, resulting in unnecessary and unsatisfactory levels of adverse amenity impacts to neighbouring properties and adverse impacts of scale on the conservation area.
3. The proposed dwellings do not provide adequate privacy to neighbouring residential properties, and will result in a significant loss of amenity and fail to comply with Parts *B3.2 – Private Open Space*, *B3.3 – Visual Privacy* of the Leichhardt Development Control Plan 2000, and the Design Principles 1 - *Context* & 7 - *Amenity* of SEPP-65.
4. The residential component of the proposal results in a development which is of both unacceptable visual bulk and scale with respect to the existing residentially zoned properties to the north of the site. The proposal does not achieve compliance with clause 20(d) of Leichhardt LEP2000, and the Planning Design Principles 2 – *Scale* & 3 – *Built Form* of SEPP-65.
5. The proposal results in unacceptable height, bulk, streetscape and heritage impacts and fails to comply with the heritage objectives in *Clause 16(8) – Conservation Areas* of the Leichhardt Local Environmental Plan 2000; *Part C1.4 – Elevations and Materials*; and *Part A10.3.7 - Parramatta Road Commercial Neighbourhood - Annandale Distinctive Neighbourhood* of Leichhardt Development Control Plan 2000.
6. The proposed facades fail to comply with the specific building height controls under *Part A10.3.7 - Parramatta Road Commercial Neighbourhood - Annandale Distinctive Neighbourhood* of Leichhardt Development Control Plan 2000 resulting in unacceptable Streetscape; and Amenity impacts on neighbouring properties.
7. The proposed dwellings are not afforded adequate internal amenity with regard to effective cross-ventilation and noise attenuation given a combination of factors being, the single faceted dwelling orientation, extensive north facing glazing, site position and orientation with respect to aircraft noise, inadequate sound proofing evidenced by rooftop skylights, and the consequent need to mechanically ventilate/air condition these dwellings. Therefore the proposal fails to comply with *Part C3.1 - Noise & vibration generation*, and the Design Principles 5 - *Resource, Energy & Water Efficiency* & 7 - *Amenity* of SEPP-65.
8. The State Environmental Planning Policy No.1 objection to Clauses 23(1) of the Leichhardt Local Environmental Plan 2000 is not considered to be well-founded or worthy of support.
9. The proposal does not satisfy, or has not demonstrated compliance with, all of the design quality principles of State Environmental Planning Policy 65 – Residential Flat Design on the basis that it does not comply with the following provisions of the Residential Flat Design Code:
 - a) *Part 01 – Local Context* with regard to whether the development is in keeping with optimum capacity of the site and local area;

- b) Part 02 – *Site Design* with regard to matters including:
 - i) Visual Privacy - particularly with regard to adverse visual privacy conflicts between the proposed dwellings and neighbouring dwellings.
 - c) Part 03 – *Building Design* with regard to matters including:
 - i) Apartment Layout / Circulation – In regard to inadequate internal and external amenity; and environmental performance.
 - ii) Storage – It has not been demonstrated that adequate and convenient storage is provided to all units;
 - iii) Acoustic privacy – In regard to orientation of the single faceted dwellings toward the north and the source of aircraft noise;
 - iv) Natural Ventilation – In regard to inadequate cross ventilation within dwellings, given the likelihood of external north facing windows/doors being kept closed in order to achieve adequate noise reduction/attenuation.
 - v) Mixed use – In regard to inadequate separation of non-residential /residential uses – either with regard to basement level conflicts, or through potential internal noise and vibration disturbance to the proposed dwellings from the supermarket use.
 - vi) Facades – In regard to the appearance of the residential component from the street frontage
 - vii) Energy Efficiency - In regard to relatively low environmental performance of the residential component; orientation of the units/ aircraft noise constraints resulting in greater reliance on artificial heating/cooling.
10. The proposal does not comply with the Heritage, Housing and Employment Objectives in clauses 15, 17 and 20 of the Leichhardt Local Environmental Plan 2000. Specifically; Clause 15(a)-(c) – *Heritage Conservation*; Clause 17(a) – *Housing*, and Clause 20(a)(b)&(d) – *Employment*.
 11. The proposed development fails to demonstrate compliance with the guidelines or controls within a significant number of the design and siting provisions contained in Leichhardt Development Control Plan 2000.
 12. The application has not demonstrated that the visual and acoustic impacts of the development would result in satisfactory levels of amenity for residents within, and near the site, and complies with the relevant visual and acoustic privacy provisions of the Leichhardt Local Environmental Plan 2000 and Development Control Plan 2000.
 13. The proposed hours of operation of the supermarket are excessive and will have adverse implications for the amenity of the surrounding residents within the residentially zoned neighbourhood generally located to the north of the site. The application has not demonstrated compliance with the relevant provisions of the Leichhardt Development Control Plan 2000, including with regard to working hours.
 14. The application has not demonstrated that the proposal meets the energy efficiency provisions contained in the Leichhardt Local Environmental Plan 2000 and Leichhardt Development Control Plan 2000.
 15. The proposal is unsatisfactory on car parking and traffic grounds as:
 - a) It has not demonstrated how the traffic generation and access outcomes of the development will satisfy the objectives of the Leichhardt Local Environmental

- Plan 2000 and the planning principles of the Leichhardt Development Control Plan 2000;
- b) Proposed access and egress arrangements to/via Trafalgar Street and Parramatta Road, are unsatisfactory and will likely result in traffic and pedestrian conflicts
 - c) The significant relative traffic generation within the nearby residential streets as a result of the development are not consistent with the underlying objectives of the Leichhardt Local Environmental Plan 2000 and Leichhardt Development Control Plan 2000.
 - d) The proposed internal loading/unloading, access and parking provisions for both the supermarket and residential portions of the development have not been demonstrated to satisfy the relevant Australian Standards, and are likely to result in decreased vehicular and pedestrian safety both within the site/building, and in the surrounding residential neighbourhood;
 - e) It has not been demonstrated that the proposal complies with the car parking and traffic controls of the Leichhardt Local Environmental Plan 2000 and Development Control Plan 2000.
 - f) The proposal will result in increased potential for pedestrian vehicular conflict in the vicinity, particularly with regard to existing nearby primary schools, child care centre, and a monastery.
16. The proposal is unsatisfactory with regard to provision of garbage and goods storage within the supermarket loading/staff parking area; and no details have been provide as to the design of 'back of house' goods storage and its relationship to the active retail floor area. Further, the supermarket Administration Area is not provided with direct stair access to the remainder of the supermarket, being served only via a lift.
17. The proposal is unsatisfactory with regard to potential flooding risks to the basement levels of the building without significant design amendment to the vehicular access point, with likely consequent adverse impacts on the design of the remainder of the development, and is inconsistent with Part A3a.0 of DCP2000.
18. The proposed laneway extension and dedication has not been requested by Council, will result in potential further amenity impacts on neighbouring residential properties, and relies on access to land over which the applicant has not demonstrated legal rights of access, and would result in adverse security and crime prevention outcomes to neighbouring residential properties.
19. The proposed development, in regard to amenity, streetscape, urban design, form, bulk, scale, privacy, traffic, parking, accessibility, and environmental efficiency, has failed to demonstrate compliance with the following vision and general objectives of the Leichhardt Local Environmental Plan 2000:
- a) Clause 12 - *Vision of Plan*;
 - b) Clause 13(1), (2)(a)-(e)&(g), (3)(d)&(e) - *General Objectives*;
20. The proposal has not demonstrated compliance with the Building Code of Australia; and with Leichhardt Development Control Plan No. 32 – Design for Equity of Access with regard to fire egress and provision of adequate access and facilities, particularly with regard to accessible thoroughfare to and within the basement levels.
21. The proposal is considered to be an overdevelopment of the site.
22. The site is not suitable for the proposal as submitted due to its numerous inconsistencies with relevant Council statutory and policy controls.

23. The approval of this application would be contrary to the public interest.
