

JRPP Ref No:	2010SYW015
DA N0:	DA 166.1/2010
Proposal:	Construction of a mixed-use development within 6 multi-storey buildings comprising a medical centre, offices and 147 residential apartments and associated car parking and landscaping
Location:	Lot 10, DP 1061484, No. 368 Hamilton Road and Lots 1-3, DP 1083074, No. 80-84 Tasman Parade, Fairfield West
Owner:	Brenex Constructions Pty Ltd
Proponent:	Economia PDS
Capital Investment Value:	\$24,624,046
Author:	Nelson Mu, Senior Development Planner, Fairfield City Council

RECOMMENDATION

1. That the application proposing the construction of a mixed-use development within 6 multi-storey buildings comprising a medical centre, offices and 147 residential apartments be approved subject to conditions as outlined in Attachment D of this report, including the following amendments to the development, which also specifies a reduction in the number of units:
 - i. The three (3) residential apartments on the top floor of Building A, along the southern edge of the building shall be deleted in order to ensure that the height of the proposal along the northern boundary of the site is not higher than the tallest dwelling at the northern boundary at 1 Baudin Crescent at RL 43.18m, and in order to provide a more appropriate scale to the northern adjoining residential properties.
 - ii. The four (4) residential apartments on the top floor of Building G along the eastern edge of the building shall be deleted in order to lessen and provide a more appropriate transition to the neighbouring residential properties to the west.
 - iii. The proposed flat concrete roof to the buildings shall be replaced with single pitched metal skillion roof pitched at an appropriate angle that would allow clerestory windows to be provided to the topmost north facing residential apartments to facilitate solar access as well as better define the top of the buildings.
 - iv. The access driveway to Building A shall be widened to a minimum of 6m so as to allow 2 cars to pass each without the need to install a warning signal. Accordingly, Unit A101 on the ground floor of Building A shall be amended to provide the required driveway width.

- v. The driveway to Building G shall be widened to a minimum of 6m so as to facilitate a two-way driveway.
- vi. Fixed louvres shall be provided to the western edge of the balconies of Units A201, A206, A301, A306 & A403 to address potential overlooking of the outdoor play area of the western adjoining child care centre and also to minimise the potential for rubbish or projectiles to be thrown onto the child care centre site. Alternatively, these residential units shall be re-designed such that their balconies are re-positioned away from the western boundary.

SUPPORTING DOCUMENTS

AT-A	Locality Plan	1 page
AT-B	Architectural Plans	21 pages
AT-C	Legal Advice regarding permissibility	3 pages
AT-D	Draft Conditions of Consent	21 pages
AT-E	Letter of Objection	30 pages
AT-F	Section 150 Certificate detailing zoning	1 page

EXECUTIVE SUMMARY

This development application, as amended, proposes the construction of a residential and retail development within 6 multi-storey buildings, comprising a medical centre, offices and 147 residential apartments upon 368 Hamilton Road and 80-84 Tasman Parade, Fairfield West, within the Fairfield West Local Business Centre. The development is proposed on top of and adjacent to an approved single storey shopping centre development that is presently under construction.

The subject site is zoned 3(c) Local Business Centre under Fairfield Local Environmental Plan 1994 and a small parcel of the site is within Residential 2(a) zone under Fairfield Local Environmental Plan 1994. The proposal, defined as 'residential flat buildings', 'medical centre' and 'business premises' is a permissible use within the 3(c) Local Business zone. With respect to the Residential 2(a) zone, these activities are prohibited uses. However, Clause 20C(1) of Fairfield LEP allows *development on a site that is divided by a zone boundary and where the proposed development is prohibited within one of the zones, the Council may grant consent to the development if the development does not extend more than 20 metres into the zone where the development is prohibited*. In this case, the applicant has sufficiently demonstrated that the proposal is permissible within the zones and the development is consistent with the objectives of the zones.

The application was advertised in the local newspaper and notified to neighbouring property owners twice in accordance with Fairfield City-Wide DCP 2006. Six (6) submissions were received in response to the initial

advertising process and three (3) further submissions were received when the application was re-advertised, plus a submission received from Fairfield City Council.

The application is referred to the Joint Regional Panel for consideration pursuant to Clause 13B(1)(a) of State Environmental Planning Policy (Major Development) 2005, as the development has a capital value in excess of \$10 million.

This report discusses the relative merits of the application, provides an assessment of the relevant matters of consideration in accordance with the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy 65, Fairfield Local Environmental Plan 1994 and Fairfield City Wide Development Control Plan 2006 and the particular circumstances pertaining to the site. It is noteworthy that Council's Local Environmental Plan and Development Control Plan do not contain FSR or building height controls for the site.

The key planning consideration associated with the application relates to the scale and height of the proposal, the provision of communal open space and how the development responds to its development context in that development is at a scale that significantly departs from the surrounding low scale residential building stock. Concerns were initially raised that the development was likely to result in adverse amenity impact within and upon neighbouring properties in terms of visual/acoustic privacy and overshadowing, due to the scale and built form of the development.

However, as a result of extensive negotiation with the applicant, the development has been amended. Significantly, Building H has been deleted from the development, resulting in the central communal open space area being significantly increased to match the scale of the development, and the building height along the northern and western edges has been lowered to better respond to the northern and western adjoining residential properties.

In order to ensure that the proposed development lessens the degree of transition and visual impact to the northern and western boundaries, it is considered appropriate three (3) units on the top level of Building A and four (4) units on the top level of Building G be deleted so as to ensure that height of the proposal along the northern and western boundaries facing residential properties is equivalent to the tallest dwelling in the area. Consequently, the total number of residential units proposed will be reduced from 147 to 140 units.

Otherwise, it is considered that the development reasonably responds to its development context, the development potential of neighbouring sites and achieves compliance with the ten design quality principles of SEPP 65. Consequently, the development would positively contribute to the character of the area without having an adverse impact upon amenity. Accordingly, the application is considered to have planning merit and warrants support and it is recommended that the proposal be approved subject to conditions.

SITE DESCRIPTION AND LOCALITY

The context for the development is the Local Business Centre 3(c) of Fairfield West. The Fairfield West Local Business Centre is situated at the north-eastern intersection of Hamilton Road and Tasman Parade. Unlike most local business centres in the LGA which generally comprise low scale, one and two storey attached buildings, this centre is a relatively large rectangular shaped allotment. It is bounded by Hamilton Road to the south, Tasman Parade to the west, Fairfield West Primary School to the east and residential properties to the north fronting Hartog Avenue and Baudin Crescent. Otherwise, this centre is surrounded by single detached dwellings within a residential context.

The centre presently contains 4 parcels of land: a fruit shop and an Aldi Supermarket and a vacant parcel of land, fronting Hamilton Road and the subject site. The Aldi Supermarket contains a large rectangular brick building with dual pitched metal gable roof and is surrounded by a large car park. Access to the Aldi site is via a combined entry/exit driveways from both Hamilton Road and Tasman Parade. To the east of Aldi is a fruit shop, which is housed within a brick building that is setback from Hamilton Road. To the west of Aldi is a vacant parcel of land that recently received an approval from Council for the construction of a 2-storey mixed-use development containing 5 retail shops on the ground floor with 4 residential apartments on top.

The sitting and configurations of the existing commercial buildings in the centre are considered to be fragmented and lack cohesion which gives the impression that these buildings have been constructed as separate entities with little or no relationship between them. What these buildings have in common is that they are surrounded by large car parks.

To the rear of these sites is the subject site, which was previously occupied by a K-mart department store until a few years ago, when the building was demolished. However, the site is presently under construction for a single storey shopping centre development that will contain a supermarket and 19 specialty shops and associated car parking.

The site is irregularly shaped, having frontages to Tasman Parade, Hamilton Road and Baudin Crescent. Its site area is approximately 19,183m² and it has a significant fall across the site from north to south with an overall level difference of roughly 6metres.

BACKGROUND

- On 22 January 2004, Fairfield City Council issued a 'deferred commencement consent (DA 1075/2003) for the erection of a mixed-use development comprising 65 (29 x 3-bedrooms & 36 x 2-bedrooms)

residential dwellings, 7 retail shops and associated car parking at 368 Hamilton Road, Fairfield.

- On 24 February 2004, Fairfield City Council issued an operative letter to the applicant confirmed that the deferred commencement consent became operative.
- On 20 February 2007, Fairfield City Council issued a Section 96 Modification (MA 9/2007) approval for the staging of the approved development into 3 stages, as follows:

Stage 1 – Earthworks, excavation and landscaping;

Stage 2 – Construction of the retail component of the development; and

Stage 3 – Residential component of the development.

- On 10 December 2007, Fairfield City Council issued development consent (DA 1072/2007) for demolition of existing structures, bulk excavation, retaining works and the establishment of finished levels.
- On 17 September 2008, Fairfield City Council issued development consent (DA 1127/2007) for the construction of a single storey retail shopping centre incorporating a supermarket, specialty shops and associated parking for 201 cars. The approved shopping centre is currently being constructed.
- On 2 March 2010, Fairfield City Council received the subject development application (DA 166.1/2010) for the construction of a residential and retail development on top and adjacent to the approved shopping centre development.
- On 6 May 2010, the Sydney West Joint Regional Planning Panel was briefed of the proposed development where a number of issues were discussed, including the scale and built form of the development, loading/unloading facilities and impact upon neighbouring residential properties.

PROPOSAL

The application seeks approval for the construction of a residential and retail development within 6 multi-storey buildings above and adjacent to the approved single storey shopping centre development presently being constructed at the subject site. The applicant advised that the proposal will replace the previously approved sixty-five (65) residential dwellings for the site.

Initial Development Application

The application, as initially submitted, incorporated the following:

- The construction of seven (7) multi-storey buildings, 6 of which (Buildings A, B, D, E, F and H) were proposed on top of the approved shopping centre whilst Building G was proposed on natural ground level adjacent to the shopping centre, fronting Tasman Parade;
- Buildings A, B, D, E, F & H vary between 3 and 4 storeys in height and are grouped around a central communal open space on the podium. However, when viewed from the public domain, these buildings are 5-6 storeys in height, given that the approved shopping centre, whilst being of single storey construction, has a building height similar to a 2-storey building. These residential flat buildings only contain residential apartments. Building G is proposed to the side of the approved shopping centre fronting Tasman Parade and has a building height of between 4 and 6 storeys. It comprises a medical centre, offices and residential apartments and associated car parking;
- The buildings are positioned along the edges of the site, with the exception of Building H, which was cited towards the centre of the site;
- All the residential apartments are provided with on-grade car parks;
- The development proposed 151 residential apartments, a medical centre (183m², consisting of 3 consulting rooms with associated reception area, kitchen, toilets, etc), offices (391m²), and 189 car parking spaces;

The following provides a break up of the proposal, as initially submitted:

1. Ground Floor – Building G (adjacent to shopping centre)

This level comprised: medical centre (183m²) and office lobby and twenty-four (24) enclosed car parking spaces. Access to the car spaces is via a separate driveway to the rest of the development.

2. Mezzanine Floor – Building G

This level comprised: four (4) residential apartments, offices (391m²) and store/plant room and water retention tank.

3. Podium Level – Buildings A, B, D, E, F, G and H

This level comprised: 30 residential apartments; 127 enclosed car parking spaces; 38 open visitor car parking spaces; and community open space.

4. First Floor – Buildings A, B, D, E, F, G and H

This level comprised: 45 residential apartments.

5. Second Floor - Buildings A, B, D, E, F, G and H

This level comprised: 44 residential apartments.

6. Third Floor - Buildings A, D, F, G and H

This level comprised: 28 residential apartments.

Amended Development Application

The application was amended on two occasions. The following details the application as depicted in the amended plans lodged on 1 September 2010:

- The removal of Building H from the proposed development. As a result, the central communal open space has now been increased and the spatial separation between buildings has also been increased. This amendment was requested by Council staff as part of the assessment of the application;
- The deletion of three (3) residential apartments from the northern edge of Building A. As a result, Building A is now part 3 and part 4-storey in height, with the 4-storey component facing internally;
- The addition of two (2) residential apartments on top of Building E within its roofline;
- The relocation of one (1) residential apartment from the western edge (Tasman Parade frontage) of Building G to the eastern edge as well as the addition of two (2) additional residential apartments along the eastern edge. As a result, Building G is now part 4 and part 5 storey residential flat building with a 6th level behind;
- An additional level has been added on top of Building F, increasing its height to 5-storeys above the podium and providing an additional 8 residential apartments. This was the outcome of discussions with the applicant where it was considered to be a better design solution to provide an additional level on top of Building F rather than maintaining its height but broaden its envelope to accommodate more units per floor;
- The previously proposed dual pitched hipped roof have been replaced with flat concrete roof;
- The internal road system on the podium has been amended where the road has been widened in parts and two (2) loading bays are provided. As a result, furniture/removal trucks would be able to be driven onto the podium for loading/unloading purposes instead of having to utilise the loading bay provided within the shopping centre at the bottom level. This amendment was requested by Council staff with a view to improve services and the functionality of the proposal. Previously, it was proposed that both furniture/removal trucks and garbage trucks be

loaded/unloaded from the designated loading bay adjacent to the loading bay for the shopping centre at the lower level of the site;

- The pedestrian access to Building G off Tasman Parade has been amended so that the pedestrian access path now extends 20metres or less into the Residential 2(a) zone where it can be approved pursuant to Clause 20C of Fairfield LEP;
- The proposed residential flat buildings are connected to the shopping centre being constructed via lifts and stairs. Vehicular access to the development is via an elevated ramp off Tasman Parade.

The applicant has advised that the proposed landscape plan incorporates the following features, which are detailed in the landscape plan:

- Use of both feature trees to provide a focal point in the landscape and internal trees planted in raised planter beds to help humanise the scale of the development at a pedestrian level from within the development;
- Centrally located communal outdoor courtyard incorporating reflection ponds, raised turf areas, planter beds and tables and chairs;
- Shared communal courtyards which provide additional open space for residents where can sit and meet visitors in a more intimate and private setting;
- Use of coloured paving to distinguish between communal outdoor spaces and private courtyards and act as a visual indicator of these areas;
- Boundary planting which will help shade the proposed buildings and reduce ambient temperatures as well as reduce the visual impact when viewed from neighbouring properties;
- Avenue tree planting along the main entry driveway to help define the pedestrian and vehicular shareway; and
- Entry signage at the main entrance of the site to be mounted on curved sections of rendered wall bordered by stone pillars which will frame the driveway and provide a stately effect.

STATUTORY REQUIREMENTS APPLICABLE TO THE SITE

1. Fairfield Local Environmental Plan 1994

The subject site is located within two zones: Local Business Centre 3(c) and Residential 2(a) pursuant to Fairfield Local Environmental Plan 1994. The majority of the site is zoned Local Business Centre 3(c) and a small portion of

the site fronting Tasman Parade is zoned Residential 2(a) (refer to Attachment F for a copy of a Certificate pursuant to s.150 of the EP&A Act).

Buildings A, B, D, E & F are located within the 3(c) zone but Building G is located within the 2(a) zone part of the site.

In the table to zone 3(c) Local Business Centre and zone 2(a) Residential under LEP 1994 development for a purpose specifically identified in item 4 is specifically prohibited and development for any other purpose is permissible with development consent.

The proposed development, which is considered to fall under the definition of 'residential flat buildings', 'medical centre' and 'business premises' under the LEP, are not development that is for a purpose identified in item 4 in the table to zone 3(c) and therefore would be permissible with development consent subject to Clause 8(2) of the LEP which provides as follows:

- '(2) The Council must not grant consent to development on land within a zone unless it is of the opinion that the carrying out the development would be consistent with one or more of the objectives of that zone'.*

'Residential flat buildings', 'medical centres' and 'business premises' are developments that are specifically identified in item 4 in the table to zone 2(a) Residential and therefore, are prohibited developments.

However, the applicant is relying on Clause 20C of Fairfield LEP with respect to these prohibited uses within the Residential 2(a) zone, which relevantly reads as follows:

- (1) Where it is intended to carry out development on a site that is divided by a zone boundary and the proposed development is prohibited within one of the zones, the Council may grant consent to the development if the development does not extend more than 20 metres into the zone where the development is prohibited.*

Having regard to Clause 20C of the LEP, the applicant advises that Building G, involving residential flat building, medical centre and business premises, has been sited such that it does not extend more than 20metres into the 2(a) zone. Accordingly, the applicant has made the case that the proposed development would meet the criteria for Council to issue consent for the proposed residential flat building, medical centre and business premises within the 2(a) zone.

Notwithstanding such, concerns were raised in the assessment of the application with respect to the permissibility of the proposal within the 2(a) zone. As a result, the applicant has obtained legal advice in relation to Clause 20C of the LEP (refer to Attachment C), which concludes as follows:

The DA proposes that, with the exception of minor landscaping elements and a pedestrian walkway, Building G and its associated uses of residential flat building, including parking and access way, medical centre, and offices extend 20metres or less into the Residential 2(a) zone and are authorised for approval under clause 20C of Fairfield LEP.

The minor landscaping elements, and pedestrian walkway should be excluded from the subject DA as they are not covered by clause 20C in the writers view. This can be done by adding a note to the plan to the following effect

This DA does not authorise works in that part of the site zoned 2(a) Residential which are located more than 20metres from the boundary between the 2(a) Residential zone and the 3(c) Local Business centre zone.

As a result of the legal advice and discussions with the applicant, the development has been further amended such that the pedestrian access to the entrance to Building G has been reconfigured where the pedestrian path connecting the footpath in Tasman Parade to Building G now does not extend beyond 20metres of the Residential 2(a) zone.

In view of the above, it is considered that the applicant has sufficiently demonstrated that Building G and its associated uses of residential flat building, medical centre and business premises are uses that are able to be approved under Clause 20C of Fairfield LEP 1994.

The objectives of Local Business Centre 3(c) zone are as follows:

- (a) to provide for the establishment in a business centre of retail, commercial, professional and community service activities to serve local residents; and*
- (b) to provide for residential development to support business activities in the centre.*

The proposed development involving a mixed residential and commercial development is considered to be consistent with the above objectives in that it provides for the establishment of retail activities to serve local residents and provides for residential development to support business activities in the centre.

The objectives of the 2(a) zone are as follows:

- (a) to set aside land primarily for the purposes of housing and associated facilities,*
- (b) to provide for the orderly development of detached housing, essentially domestic in scale and character,*
- (c) to achieve attractive high quality residential development,*

- (d) *to allow people to carry out a reasonable range of business activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours, and*
- (e) *to allow a range of non-residential uses that:*
 - (i) *are capable of integration with the immediate locality,*
 - (ii) *serve the demands of the surrounding population, and*
 - (iii) *do not place demands on services beyond the level reasonably required for residential use.*

The applicant has submitted that Building G, which is located within the Residential 2(a) portion of the site will provide affordable housing that is within walking distances to public transport, schools and services such as supermarkets, fruit and vegetable shop, physio, pharmacy, child care centre. In addition, the applicant has submitted that the proposed residential apartments represent a more orderly and economic use of the site than detached housing as envisaged by the 2(a) zone in that the traditional detached type housing would not successfully integrate with the immediate surroundings characterised by retail development.

Furthermore, the applicant has made the case that the proposed business premises and medical centre will integrate with the immediate surrounding non residential land uses.

Notwithstanding the above, it is considered unnecessary for the development to satisfy the objectives of the Residential 2(a) zone in that the development is required to be consistent with the objectives of the 3(c) zone, for which the development achieves consistency.

STATE ENVIRONMENTAL PLANNING POLICY NO. 65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT

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

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development is applicable to the subject application, as the proposal exceeds 3 storeys in height and contains more than 4 dwellings. The overriding objective of the SEPP is to improve the quality of residential flat development in NSW through the establishment, inter-alia, ten design quality principles that must be taken into consideration in the design and assessment of an application.

The application is accompanied by an urban design and SEPP 65 report prepared by GMU Urban Design and Architecture providing an urban design analysis of the proposed development as well as an assessment against SEPP 65, including the Residential Flat Design Code (RFDC).

The key findings identified in the report include:

- *The proposal introduces a greater scale into the neighbourhood than currently exists however this must be assessed taking into consideration the unique situation of the site. The development sits on top of an approved retail development and therefore is raised in its relative height to the surrounding development by this fact. Its role is to reinforce and support the centre and greater intensity of development is appropriate given the scale of facilities approved within the centre. The greater height is located generally away from the residential lots which occur on the northern side and where they exist to the west they are separated from the development by a street and a substantial setback to Building G with the remainder of the development located behind the existing child care centre. Therefore the proposal meets the intent of Council's DCP for setbacks and does not impact on the privacy or amenity of adjoining lots;*
- *There is an opportunity for this locality to be reconsidered by Council to provide greater intensity to support the current facilities and meet some of the housing need for the LGA. The site is appropriate for such development;*
- *The 3-4 storey development provides improved passive surveillance and activity for the centre as a whole and will improve safety for the school and surrounding area;*
- *The proposal locates the greatest scale away from the existing residential and in areas where its impact is reduced. It will serve to mark the centre and provides greater resident population close to the key facilities already in place. The form is broken up above ground floor to development parcels that comply with the RFDC separation requirements and are in keeping with the greater scale and footprint of the edge development to Hamilton Road;*
- *When considered against the built form pattern and scale of the surrounding area and the objectives of the LEP and potential future for this area the proposal achieves an appropriate scale to the street and does not create adverse visual impacts when viewed from the public areas surrounding the site;*
- *The built form of the proposal results in a reasonable outcome given the context and Council controls ... It provides a character to the streetscape through the design of the articulation of facades with satisfactory treatments for balconies, screens and the new finishes which is appropriate for the area;*
- *Given the sites location within a neighbourhood centre it is considered that the density of the proposed development is appropriate for the site particularly when considered against the lack of any FSR or height controls for the site;*

- *Given the challenges associated with creating a landscape environment upon an approved podium structure the proposed landscape design is deemed satisfactory. It provides deep soil planting where possible and provides plantings throughout the site to try and achieve a quality landscape environment;*
- *In regard to the visual impact it must be considered that this site is intended to facilitate a local centre. While being sympathetic to long distance views across the neighbouring suburbs it is also important that a local centre can be visually recognised as a focal point within the immediate vicinity where higher density or activity occurs.*
- *The majority of open space provided is well contained and situated on a raised podium which helps improve the level of safety and security on this site. Access into and away from the site is clear and unambiguous yet offers multi opportunities for pedestrian entry and exit*
- *This development will assist younger residents to stay in the area and allow older residents to downsize to apartments close to medical facilities, shopping and public transport.*
- *The architecture of the proposal is consistent with the aesthetic set out in Council's DCP. It is conservative but in character with the existing area ... In line with the level of affordability the proposal is trying to satisfy the materials are simple brickwork with painted render panels to break up the facades. Overall the proposal is unassuming and acceptable based on the context and Council's desired character.*

It is considered that the submitted urban design analysis and SEPP 65 report has generally demonstrated that the proposal achieves compliance with the ten design quality principles of SEPP 65 and the development has been designed with due regard to the surrounding developments. The scale and built form of the development, whilst out of scale with the existing character of the area, it is considered that generally sufficient consideration has been given to provide an appropriate transition to the adjoining residential development to the northern and western boundaries of the site so as to ensure reasonable amenity is maintained. The tallest part of the proposal is positioned away from residential properties in order to lessen amenity impacts.

Notwithstanding the findings of the Urban Design Analysis and SEPP 65 report in relation to the proposal, it was considered that the scale of the development along the northern edge of the site adjoining residential properties as well as the western edge of the site fronting Tasman Parade should be reduced in order to ensure that the transition to these adjoining residential properties is lessened. Accordingly, the applicant was requested to give consideration to reducing the scale of the development along the northern edge and the Tasman Parade frontage of the site such that the overall height of the development along these edges is equivalent or similar to

the tallest dwelling in the area, being 1 Baudin Crescent with its ridge at an RL 43.18.

In response, the development has been amended as follows:

- Three residential apartments have been deleted from the northern edge of Building A. In doing so, Building A is now part 3 and part 4 storey in height, with the 4 storey component positioned internally and away from the northern adjoining residential properties, and is setback roughly 19m from the site's northern boundary. The applicant submits that the removal of the northern edge of Building A would provide the necessary transition to the northern adjoining residential properties, as the closest part of the development to the northern adjoining residences is not higher than the tallest northern adjoining dwelling, even though the height of the building increases to 4-storeys and thus, exceeds the tallest adjoining dwelling by a storey.
- The massing of Building G has been slightly reconfigured and redistributed from the western edge to the eastern edge. In this regard, the presentation of Building G to Tasman Parade is now part 4 and part 5-storey with an additional floor at the rear, not 4 to 6 storeys as initially proposed. In doing so, one (1) residential apartment along the western edge (Tasman Parade frontage) of Building G has been relocated to eastern edge as well as the addition of two (2) additional residential apartments.

Whilst it is considered that the above amendments have, to a degree, reduced the scale of the development along the northern and western edges in response to low scale adjoining residential properties, it is recommended that the remaining 3 residential apartments on top of Building A also be deleted. Therefore, the overall height of Building A would be equivalent to the tallest northern adjoining dwelling. Consequently, the northern edge of the development, being Building A and Building B, would have similar height to the tallest northern adjoining dwelling, thereby providing a more sensitive transition.

With respect to Building G, it is recommended that its topmost floor be deleted. As such, the overall height of Building G, whilst varying between 4 and 5-storeys, it is not taller than the tallest northern adjoining dwelling. As a result, 4 residential apartments would have to be deleted.

With the exception of the above suggested amendments, whilst the proposed development is at a scale and built form that are over and above those currently existing in the area, it is accepted that the proposed development would reinforce and accentuate the retail centre of the site and yet reasonably responds to the character of the area. In addition, it is considered that the development is unlikely to prejudice any neighbouring properties in terms of their development potential nor adversely affect their amenity in terms of visual/acoustic privacy and overshadowing.

However, the assessment against the NSW Residential Flat Design Code found that the proposal does not comply with the numerical requirement of the rules of thumb with respect to deep soil zone, communal open space and private open space for ground level apartments. These are addressed as follows:

1. Minimum 25% of open space should a deep soil zone

The rules of thumb of RFDC require a minimum of 25% of the open space of a site should be deep soil zone. In this case, the proposal only provides roughly 11% of the open space area as deep soil area along the northern, western and the Tasman Parade frontage of the site, which does not comply. However, the applicant has made the case that the circumstances of the site preclude the minimum required deep soil zone areas to be provided here given that the development is proposed on top of an approved shopping centre development and the scope to provide more deep soil zone areas is therefore limited. Nonetheless, the RFDC allows exceptions in urban areas where sites are built out and there is no capacity for water infiltration and in which case, stormwater treatment measures must be integrated with the design of the residential flat building.

To offset the non-compliance, the applicant has advised that the stormwater treatment measures to control erosion have been integrated into the design of the development, including:

- Landscape design which incorporates appropriate vegetation;
- Stable (non-eroding) flowpaths which convey water at non-erosive velocities; and
- Collection of rainwater for site irrigation.

Whilst it would be desirable for greater deep soil zone areas to be provided on site, the nature of the development proposed on top of the approved shopping centre development makes it difficult to provide the required soil zone area and therefore the numerical non-compliance is considered acceptable in this instance.

2. 25-30% of the site should be communal open space

As amended, and in particular with the removal of Building H from the proposal, the development has considerably increased the amount of communal open space provided on site. The communal open space areas are provided at the north-eastern corner of the site, the centre of the site and the front landscape setback in front Building G, as well as the deep soil zone areas along the northern and western boundaries of the site. The total communal open space provided for the development is now equivalent to 25% of the site area or 4,852m², thus complies.

3. Minimum recommended private open for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m²; the minimum preferred dimension in one direction is 4metres

Each residential apartment is provided with the minimum recommended private open space in the form of balconies or terraces. Principal balconies are directly off the main living areas and in some cases secondary balconies or terraces are also provided. Exception being on the podium level where areas of private open space provided for residential apartments range between 12m² and 29m², which do not comply with the minimum recommended area of 25m² with a minimum dimension of 4m. The applicant has argued that the inability of the ground floor apartments to comply with the minimum required private open space is due to the depth of car parking that limits the available area for external space. Instead, the applicant has made the case that the development provides a range of communal open space areas which assists in offsetting the non-compliance and the each area of private open space is bordered by 900mm high planter boxes which provide an outlook from the units and contributes to the overall amenity of the place.

The non-compliance with the recommended private open space of 25m² for the podium residential apartments could be overcome but it would mean that the balconies/terraces will impinge upon the landscaping area separating the buildings from the driveways, resulting in an unsatisfactory impact to the overall amenity of the development. In this regard, and given that the each podium residential apartment is provided with at least 12m², which is more than the minimum recommended of 10m² for above podium residential apartment, it is considered that the minor non-compliance is acceptable in this instance.

STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

BASIX certification has been submitted for all dwellings and is provided with the development application documentation, demonstrating that the proposal will meet the NSW Government's requirements for sustainability. The following scores have been achieved: Water – 47 (Target 40), Thermal comfort – pass (Target pass), Energy – 47 (Target 35).

FAIRFIELD CITY WIDE DEVELOPMENT CONTROL PLAN 2006

Fairfield City Wide Development Control Plan 2006 (the DCP) applies to all land in the City of Fairfield including the subject site, except the Fairfield Town Centre, Cabramatta Town Centre, Fairfield Heights Town Centre, Canley Vale and Canley Heights Town Centre and Bonnyrigg Town Centre which are covered by specific Development Control Plans. The DCP is a detailed document that supplements the statutory provisions of Fairfield LEP 1994.

Chapter 8 – Commercial Development in Local Centres

This Chapter outlines the retail assessment criteria that Council will use when making decisions about the appropriateness of a commercial development in a local centre zone and the development controls for car parking and advertising relating to local centres.

The following provides an assessment of the proposed development against the development standards of Chapter 8 of the DCP.

Chapter 8 – Commercial Development in Local Context		
Criteria	Proposed	Compliance
Car Parking Rates Refer to Chapter 12 of this DCP for car parking rates, access and vehicle management.	Car parking complies, see comments elsewhere in the report.	Yes
Advertising The following advertising signs are exempt development that do not development consent: <ul style="list-style-type: none"> • Community information sign • Awning signs • Fascia signs • Identification signs • Real estate signs • Top hamper • Window The following advertising signs are prohibited in local centre zone: <ul style="list-style-type: none"> • Fin signs • Mobile advertising sign • Roof signs. 0.6m ² of advertising will be allowed per lineal metre of street frontage. Amount of advertising space can also be increased by 0.1m ² for each lineal metre of street frontage for every storey above 2 storeys.	At this stage, no advertising signs are proposed. The applicant has advised that advertising signs will be subject to separate applications in the future.	Yes

<p>The advertising must relate to the business being carried out on the property.</p> <p>Where multiple occupancy of a building will occurs, only 1 sign (other than an under awning sign or fascia sign) per occupant will be permitted with Council consent.</p>		
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The proposal is consistent with the provisions of Chapter 8 of the DCP.

Chapter 12 - Car Parking, Vehicle and Access Management

The intention of Chapter 12 of the DCP is to ensure that adequate car parking is provided for developments that are physically attractive yet visually and functionally subservient to the buildings they serve and the environment in which they are set, meets the needs to users, function efficiently and safe.

The following provides an assessment of the proposed development against the development standards of Chapter 12 of the DCP.

Criteria	Proposal	Compliance
Parking Rate		
<p>Business Premises: <i>1 space per 40 m² gross leasable area when provided on site or 1 space per 66m² gross leasable area if provided by way of contribution to a centralised carpark.</i></p> <p>Medical Centres: <i>3 spaces per consulting room or per health care professional, which ever is the greater</i></p> <p>Residential: <i>Business Zones – 1 space per dwelling plus 1 visitor space per 4 dwellings where a development has more than 2 proposed</i></p>	<p>As amended, the proposal requires the following number of car spaces:</p> <ul style="list-style-type: none"> • Office (business premises): (528.8m²/40) - 13; • Medical centre: (3 consulting rooms x 3) – 9; • Residential: 147 residents and 37 visitors. <p>A total of 206 car spaces required.</p> <p>The proposal provides</p>	Complies.

<i> dwellings.</i>	151 enclosed resident car spaces & 38 open visitor car spaces, or a total of 189 car spaces, which does not comply. However, the approved shopping centre for the site is provided with 201 car spaces, being 77 car spaces more than required and it is proposed that the medical centre and office utilise the surplus car spaces within the shopping centre. Thus, the proposal complies in terms of parking.	
Design Guidelines		
Dimensions of spaces & aisles - This Code adopts the parking requirements in the current Australian Standards 2890 – Parking Facilities, which allows various combinations of minimum bay length, bay width and access way width.	All proposed car parking spaces have been designed to comply with AS2890.	Complies.
Access, Manoeuvring & Layout		
Streetscape & Parking The following principles should be observed when designing for vehicular access: <ul style="list-style-type: none"> • The design and location of vehicular access points should not interrupt the continuity of a streetscape. • Footpath re-direction to allow vehicular access will not be permitted; • Entry/exit points should be clearly identified. Larger sites or those 	It is considered that the design and location of the driveways are satisfactory.	Complies.

<p>with a high vehicle turnover should provide separate entry/exit points to minimise potential vehicle conflict;</p> <ul style="list-style-type: none"> On-street queuing of vehicles should be minimised through the creation of adequate on-site 'waiting areas'. The depth of the queuing bays required will depend on the traffic expected to be generated by the development. 		
<p>Driveway & Ramp Width</p> <p>The appropriate driveway width is dependent upon:</p> <ul style="list-style-type: none"> Whether entry and exit points are combined or separate; The types of vehicles using the site; The number of vehicles using the site; and The amount of traffic on the access road. 	<p>The proposed driveway width is considered adequate to accommodate the proposal.</p>	<p>Complies.</p>
<p>Vehicle Movement Direction</p> <p>Whenever possible, vehicle movement within the car park should be in a forward direction to lessen the chance of collision.</p>	<p>The parking arrangements allow vehicles to enter and exit the site in a forward direction.</p>	<p>Complies.</p>
<p>Manoeuvring</p> <p>To function effectively a car park must provide appropriate manoeuvring room. The amount of manoeuvring space required is dependent upon the number and size of vehicles using the site</p>	<p>The proposed car park layout provides satisfactory manoeuvring area on site complying with Australian Standards.</p>	<p>Complies.</p>

and the arrangement of parking and loading bays.		
Pedestrian & Car Park Layout When sites have both pedestrian and vehicular access there is a reasonable change of conflict. To help minimise the likelihood of such conflict:- <ul style="list-style-type: none"> • Parking areas should be designed so that through traffic is either excluded or minimised; • Pedestrian entrances/exits should be separated from the vehicular entrances/exits: • Those developments generating a significant amount of pedestrian movement throughout the car park (such as shopping centre or office parks) should establish a clear and convenient pedestrian route. This route should minimise the number of points which cross vehicle paths and be appropriately marked to heighten driver awareness (eg. through zebra crossings, a change in pavement material, lighting or signage). 	An identified pedestrian path is proposed through the car park to be used by customers.	Complies.
Site Works		
Landscaping Perimeter Planting – on those sites where the building is set back from the front or side	The proposed landscaping within and around the car park is considered adequate to provide some visual	Acceptable.

boundaries landscaping should be carried out along the perimeters. Front planting beds should have a minimum depth of 3m and side beds a minimum of 1m.	relief of the carpark.	
Line Marking Maximise the capacity of parking areas can be achieved through clear identification of all parking spaces. Line marking parking bays provides drivers with a clear guideline on where to locate vehicles.	The drawings clearly show all the car parking spaces. It is to be made as a condition of any development consent that all the car parking spaces be line marked.	Complies.
Pavement Materials Those areas of a car park which will be traversed by vehicles and pedestrians need to be constructed of materials which will resist wear and offer sufficient traction in order to allow safe, effective movement by users. Pavement materials which are appropriate for car park surfaces include pattern stamped concrete, paves (clay or concrete), pebble crete, concrete and asphalt.	The driveway and carpark are likely to be concrete.	Complies.
Signage To ensure the efficient operation of parking areas:- <ul style="list-style-type: none"> • Vehicle entry and exit points to the site should be clearly marked with either pavement arrows or signage; • The location of any parking/loading areas which are out of sight of 	This is to be made as conditions of consent.	Complies.

<p>the driver should be clearly indicated with signage;</p> <ul style="list-style-type: none"> Desired traffic movement should be indicated through the use of arrow painted on the pavement preferably in a highly visible colour such as white or yellow. 		
<p>Lighting</p> <p>The safety of vehicles and occupants in a car park can be enhanced through the use of appropriate illumination.</p> <p>Suitable lighting will allow easy observation/monitoring of car parks and thereby limit the cover darkness provides to anyone contemplating vehicle theft or vandalism.</p> <p>Lighting can also clearly outline paths and roadway details to pedestrians and drivers who are attempting to navigate the car park at night. Lighting can provide drivers with an early warning of approaching pedestrians thereby minimising possible conflict.</p> <p>Lighting may be either wall mounted, free standing pole lights or bollard lights. In some instances all three forms of lighting may be incorporated to provide effective illumination.</p>	<p>This is to be made as conditions of consent.</p>	<p>Acceptable.</p>
Special Requirements		
<p>Drivers with a disability</p> <p><u>Spaces required</u> – A minimum of 2 spaces in</p>	<p>The required disabled car parking spaces are provided as part of the</p>	<p>Complies.</p>

<p>every 100 spaces provided is to be designated for use by drivers with a disability.</p> <p><u>Location</u> – Spaces should be located close to the entry of the building to minimise travel distances and maximise accessibility. Spaces should be located on level ground.</p> <p><u>Access</u> – Parking areas should recognise the needs of the disabled by ensuring gutters/stairs or other obstacles do not impede access into the building.</p> <p><u>Identification</u> – Spaces for the disabled should be clearly identified by both signage and stencilled disabled symbol on the surface. The space should be painted blue.</p> <p><u>Width of Space</u> – Car spaces for the disabled should have a minimum width of 3.8m.</p>	<p>approved shopping centre development.</p>	
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Overall, the proposal complies with the requirements of Chapter 12 of the DCP.

INTERNAL REFERRALS

During the assessment process, comments were sought from a number of sections within Council, as detailed below:

Building Control Branch	No objection, subject to standard conditions
Development Engineering	No objection, subject to standard conditions
Open Space Branch	No objection, subject to detailed landscape plans to be submitted to and approved by Council staff prior to the issue of a Construction Certificate
Traffic and Road Safety Branch	No objection, subject to standard conditions See below for a more detailed assessment

Environmental Management Branch	No objection, subject to standard conditions See below for a more detailed assessment
Strategic Planning Branch	No objection, subject to standard conditions See below for a more detailed assessment

Environmental Management Branch

As the residential flat buildings are proposed on top of an approved shopping centre and is located adjacent to an existing supermarket, Council's Environmental Management Branch requested that an acoustic report prepared by a suitably qualified acoustic consultant in accordance with the requirements of the NSW EPA Industrial Noise Policy be submitted.

The purpose of the report is to demonstrate that the proposed development will not be adversely affected by noise from both commercial activities within the subject premises (from both this proposal and the approved shopping centre development) and from neighbouring commercial activities, including mechanical plants, vehicle movements and loading facilities.

Having reviewed the submitted acoustic report as prepared by Reverb Acoustics, Council's Environmental Management Section has advised as follows:

The noise monitoring was undertaken within the boundary of the subject premises (without construction or other noise occurring) over a period of seven (7) days. The EMS is satisfied that the background monitoring was undertaken in accordance with the Industrial Noise Policy (INP).

The acoustic report provided predicted noise levels from the following sources:

- *Noise from the use of the loading dock (vehicles reversing; raised speech; refrigerated vehicles etc) and mechanical plant at the Aldi Supermarket on the neighbouring premises;*
- *Cars and trucks on the site – travelling on internal roads, in the north eastern corner, car park and southern end of the site; and*
- *Mechanical/air conditioning plant installed at the individual flat buildings.*

Overall, Council's Environmental Management Section is satisfied with the acoustic report submitted in support of the application and raises no objection to the proposal subject to conditions, including the following:

• Environmental Reports Certification

Prior to the issue of an occupation certificate (Interim or Final), written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and Fairfield City Council, stating that all works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

- a. Acoustic Report No.10-1492-R1, dated July 2010, prepared by Reverb Acoustics Pty Ltd.

- **Unreasonable Noise and Vibration**

The development, including operation of vehicles, shall be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like. In the event of a noise or vibration problem arising at the time, the person in charge of the premises shall when instructed by Council, cause to be carried out, an acoustic investigation by an appropriate acoustical consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the recommendations of the consultant and any additional requirements of Council to Council's satisfaction.

- **Garbage Rooms and Chutes (as amended)**

The garbage storage room identified on the approved plans shall be fully enclosed and shall be provided with a concrete floor, with concrete or cement rendered walls coved to the floor. The floor shall be graded to an approved sewer connection incorporating a sump and galvanised grate cover or basket. A hose cock shall be provided within the room. Garbage rooms shall be vented to the external air by natural or artificial means. The garbage storage room will provide for a designated space for dry recycling facilities.

Garbage chutes shall be constructed of impervious materials which facilitate cleaning.

- **Air Conditioning/Mechanical Plant**

Prior to the issue of a construction certificate, an acoustic report shall be submitted to Fairfield City Council which provides an assessment of noise from air conditioning/mechanical plant to be installed, once the specific plant has been selected.

The assessment shall be undertaken in accordance with the NSW EPA Industrial Noise Policy and shall demonstrate that the cumulative impacts of the proposed mechanical plant and all other internal and external noise sources will comply with the following:

- **NSW Department of Environment, Climate Change and Water (DECCWW) Amenity Criteria**
- **NSW DECCW Intrusiveness Criteria**
- **NSW DECCW Sleep Disturbance Criteria**

The assessment shall also demonstrate that the internal noise levels within the residential flat buildings will comply with the following:

- ***Australian Standard (AS) 2107:2000 Acoustics – Recommended design sound levels and reverberation times for building interiors.***

- **Acoustic Report**

An acoustic report is to be prepared and submitted to Council for its assessment and approval within **six (6) months** of occupation of the development. The report shall include but is not limited to the following information:

- a. Noise measurements taken at the locations indicated in the Acoustic Report No.10-1492-R1, dated July 2010, prepared by Reverb Acoustics Pty Ltd.
- b. Verification that noise levels at the nearest potentially worst affected residential receiver comply with all relevant assessment criteria detailed in the above-mentioned report. This shall include residential receivers both on-site and off-site;
- a. In the event that the noise measurements indicate that noise emissions do not meet the relevant assessment criteria as detailed in point b. above, recommendations shall be provided in relation to any noise attenuation measures required in order for noise emissions to comply with the relevant noise assessment criteria.

Initial Strategic Planning Advice – 8 April 2010

Council's Strategic Planning Branch has provided the following advice with respect to the proposal:

Retail Centres Study and Fairfield draft Comprehensive Local Environmental Plan 2010

Council is currently in the process of preparing a new Comprehensive LEP based on the State Governments Standard Instrument – Local Environmental Plan (SI LEP) and having regard to strategic plans developed by Council.

Under Fairfield LEP 94, the site is currently zoned 3(c) Local Business Centre (Neighbourhood Centre). The Fairfield Retail and Commercial Centre Study (2005) initially identified the site as retaining a lower scale neighbourhood status under Council's new Comprehensive LEP.

In 2007, as part of consideration of the DA for a supermarket on the site (currently under construction) a review of the proposed neighbourhood status of the site was undertaken by Council's consultant (Leyshon Consulting). This review recommended elevation of the centre to that of a medium scale local centre.

This recommendation was subsequently supported by Council in granting approval to the supermarket proposal.

Based on the above events, under further preparation of its new Comprehensive LEP, a proposed SI LEP zoning of B2_Local Centres would need to be considered for the site.

The objectives of the B2 Local Centre Zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*

In regards to the objectives of the B2 zone, the proposed nature and density of residential development and provision of commercial floor space are consistent with and help support the centre reaching the status of a Local Centre as follows:

- *Provide employment opportunities, including people who live in the residential development;*
- *Maximising public transport patronage along the bus route on Hamilton Road; and*
- *Encouraging walking amongst the residents of the development to the services provided within the centre.*

Draft West Central Sub Regional Strategy

Under the draft West Central Sub Regional Strategy local centres incorporate a broad cross section of classifications for centres ranging from small neighbourhood centres to town centres.

The Dept of Planning has previously issued advice to the effect that these classifications are not intended to act strictly as a guide for the zoning of centres, however it is noted that the proposed B2 zoning of the subject site would be on a par with the status of a 'small village' under the Sub Regional Strategy.

In this regard, the previous approval granted by Council for the supermarket on the site, reasonable proximity of the site to infrastructure, public transport and services (including schools) is consistent with the centre achieving the status of a small village.

Draft Fairfield Residential Development Strategy

Under the draft West Central Sub Regional Strategy, Fairfield City is required to be able to accommodate an additional 24,000 dwellings by 2031.

Council has developed a draft Fairfield Residential Development Strategy (RDS) to identify where additional residential dwellings could be located. The first stage of the draft Fairfield RDS looks at the established residential areas within eastern half of the local government area (LGA):

- *Fairfield*
- *Cabramatta*
- *Canley Vale*
- *Canley Heights*
- *Fairfield Heights*
- *Villawood, and*
- *Strategic Transport corridors such as the Cumberland railway line / Polding Street*

The draft Fairfield RDS identifies that there are a number of constraints that would limit Council achieving its residential dwelling target of 24,000. These constraints include:

- *Existing lot size in many high density areas are quite small for residential flat buildings and would generally require amalgamation, which is difficult to achieve;*
- *Strata titling of exiting three storey red brick walk-up flats make it difficult to redevelop in existing high density residential areas;*
- *Flooding / overland flow which would restrict basement car parking or make it to expensive to develop.*

The second stage of the RDS will look at the opportunities within the newer residential areas in western half of the City that would also incorporate the subject site.

At this stage the western side of the City does not have the benefit of a new residential development strategy, where additional residential dwellings are planned to be accommodated.

However, if a similar centres and corridors context followed under the draft RDS is applied to the western half of the LGA, it can be assumed that the areas surrounding the larger and medium scale centres of Prairiewood and Bonnyrigg, the Liverpool to Parramatta Bus Transit Way and the local centres (such as Hamilton Road/Tasman Parade) will accommodate the majority of new dwellings targeted for the City.

This unique style of the proposed development and the large development size negate some of the constraints mentioned above, creating the capacity for a higher residential density to be achieved on the subject site. Realising this yield would also greatly assist Council achieving its residential dwelling target (which it is noted the application discusses in its supporting information).

In addition, this type of development will also increase dwelling mix in the locality, while potentially providing more affordable dwellings.

Accordingly, if the height of the residential buildings in this centre is limited to one or two storeys, it will potentially 'sterilise' the centre from future higher density if it is identified by the second stage of the Fairfield RDS.

Housing Mix

The current housing mix within Fairfield West is generally low density separate dwellings, with very little medium density residential and no high density residential. This can be seen in the table below with 92.9% of dwellings being separate houses:

Dwelling structure (separate dwellings)	Fairfield West 2006			2006			Change 2001 to 2006
	number	%	Fairfield City %	number	%	Fairfield City %	
Low density separate	1,141	92.9	94.3	1,141	92.9	94.3	0
Medium density	83	6.7	6.7	83	6.7	6.7	0
High density	0	0.0	0.0	0	0.0	0.0	0
Caravan, trailer, houseboat	0	0.0	0.0	0	0.0	0.0	0
Not stated	0	0.0	0.0	0	0.0	0.0	0
TOTAL unoccupied dwellings	83	6.7	6.7	83	6.7	6.7	0

Source: Australian Bureau of Statistics, Census of Population and Housing, 2006, 2001, 1996, and 1991.

Although the draft Fairfield Residential Development Strategy, only reviews the eastern half of the City, it also provides figures on potential dwelling mix within the western half of the City as part of achieving the 24,000 dwelling target.

It has been identified in the draft Fairfield RDS that the western half of the LGA could achieve approximately 9,600 additional dwellings, with 3,850 of these low density dwellings and 5,760 medium / high density residential dwellings. The development proposal would increase the mix of housing within Fairfield West, catering for other household types within the suburb.

As can be seen in the table below, there are a large number of couples with children. However, there are approximately 12% of lone person households, which have the potential to increase as the ageing population increases and children in lone parent families move out of home. These smaller household sizes would generally require smaller dwellings such as town houses/units.

Household type (household)	Fairfield West 2011			2011			Change 2011 to 2006
	number	%	Fairfield City %	number	%	Fairfield City %	
Unimputed data							
Couple with child(ren) 0-5 years and one	384	50.7	50.9	383	50.8	50.9	-1
One parent family with child (ren) under 15 years	585	35.5	35.5	591	35.9	35.9	7
Total one parent family	969	56.2	56.4	974	56.7	56.8	5
Other family	81	3.5	3.4	81	3.4	3.4	0
Total family households	2,050	79.7	79.8	2,055	80.1	80.2	-1
Total family households	2,050	79.7	79.7	2,055	80.1	80.2	-20
Group households	48	1.9	1.9	48	1.7	1.9	-9
Total households	2,098	100.0	100.0	2,103	100.0	100.0	20

Source: Australian Bureau of Statistics, Census of Population and Housing, 2006, 2011, 1996, and 1991.

The above statistics point towards the need for a greater housing mix within the City and suburb, which the development proposal provides.

Proposed Development

Urban Context – without the assistance of the second stage of the Fairfield Residential Development Strategy, which will look at the western half of the LGA, what will be proposed in terms of additional residential density around the centre is unknown at this stage. The indicative density of surrounding sites as suggested by the proponent in the Urban Design and SEPP 65 Report (see page 16) could be considered on its merit given it is centred between large educational facilities and a significant local road.

Scale and built form of the proposal - As referred to above, the review of commercial floor space considerations for the site and Council's decision to approve a supermarket on the site, mean the elevation in the classification of the Hamilton Road/Tasman Parade site to that of a B2 Local Centre.

This status implies a town centre scale and built form similar to other B2 Local Centres proposed in the City such as Canley Heights, Canley Vale and Villawood. These Centres have a permitted height range of between five to eight storeys in existing DCPs or Structure Plans. The proposed four storeys of residential on top of a two storey podium would be consistent with the scale for these types of centres.

Height – a key issue for consideration with the proposed development is the height of buildings adjoining the residential development to the north of the site (buildings A and B). The current scale of development in this area is single dwellings at one to two storeys in height.

In regards to the building height (buildings A and B) adjacent to the low density dwellings to the north, there will be little, if any overshadowing due to the northern orientation. However, the height of the development may have an impact on the amenity of the dwellings to the north. In this regard, consideration should be given to reducing the height of Buildings A and B, with the potential to increase the heights of Buildings D and F, which are away from the low density residential dwellings.

Open space – the provision of open space on development sites is important throughout the middle distance suburbs as there is a general recognition in previous open space reviews of a deficiency in open space for these areas. The proposal shows a centralised open space arrangement that supports both passive and active uses (through the provision of a child play area).

The passive open space area could be further enhanced by the relocation of floor space associated with Building H located within the centre of the development to buildings to the south (adjoining the Aldi site). This would create a larger, more usable open area for the occupants within the dwellings.

Further, a centralised courtyard would provide greater sightlines and distance between apartments. The distance between the southern wall of Building H and the northern wall of Building F limits amenity for residents, approximated by scale at less than 12 metres that is recommended by SEPP 65. Given the north facing wall on Building F, it is highly desirable to have living and bedroom windows located on this north facing façade.

Transferring Building H floorspace would also enhance Safer by Design Crime Prevention strategies by improving surveillance of common areas and limiting blind spots or areas. The transferring of floorspace within the development to create mixed heights would add interest to the sky line.

To both meet future environmental opportunities through the installation of solar panels and to limit the impact of additional height, the use of a skillion roof design orientated to the north would further reduce perceived height and resulting impact.

Access to services and public transport - The development site has good access to a number of essential services. The site is serviced by bus route 804 which is operated by West Bus. This bus route provides service to Liverpool, Bonnyrigg, Fairfield and Parramatta, as well as the Transit Way and railway line. There are also three schools within a kilometre of the centre, while the application proposes a medical centre as part of the development.

Conclusion

In general, the proposal is considered consistent with key strategic land use considerations undertaken by Council including;

- *the review of the findings of the Retail and Commercial Centres Study (2005) undertaken by Leyshon Consulting in 2007 and associated with Council's consideration of a supermarket development on the site (currently under construction),*
- *application of the key principles and findings of Council's Residential Development Strategy to the subject land*
- *The proposed development would help to meet dwelling targets for the City identified under the draft West Central Sub Regional Strategy and helps promote the establishment of a proposed local centre.*
- *If the height of the residential buildings in this centre were to be limited to one or two storeys, it will potentially 'sterilise' the centre from future higher density. There is no reason to assume that the site would not be identified by the second stage of the Fairfield RDS for higher density housing. The development also represents an example of urban renewal and revitalisation of a local centre.*

Amended Strategic Planning Advice – 23 September 2010

Since the previous advice was provided by Council's Strategic Planning Branch with respect to the proposal, further works have been undertaken as part of the Draft Local Environmental Plan which has now reached the stage where the Draft LEP will be referred to Council in October 2010 for adoption and to have the LEP placed on exhibition. However, the Strategic Planning Branch has confirmed that the previous advice regarding the proposal may still be relevant, as detailed below:

The previous strategic land use planning comments for the site that were provided (8 April 2010) were site specific and we still believe that the site is capable of achieving higher densities. The development application currently being considered will test in detail the level of density that may be appropriate.

However, an assessment of the entire Fairfield LGA B2 Local Centres as part of the draft Fairfield LEP 2010 identified the need for a more holistic strategy that would look at the densities and potential height in and around local centres (i.e. Stage 2 of the Fairfield RDS). As a result, the heights of centres in the western half of the city were scaled back until which time an appropriate strategy can be undertaken. We consider it is likely that once a strategy for the area is finalised higher density on this site is the likely recommendation.

Road and Traffic Safety Branch

Council's Traffic and Road Safety Branch has provided the following comments on the proposal:

1. *AS/NZS 2890.1:2004 – Table 1.1, requires the user class of off-street parking facility of 1A for the development. Based on this standard, when the user category and the number of parking spaces are taken into account, the required driveway category is 2 and 1 for podium parking area and secondary parking area (off Tasman Parade). Therefore the primary and secondary parking areas require minimum driveway widths of 6m and 3m. The proposed width of the driveways complies with the minimum width requirements for driveways.*
2. *The impact of the proposed development on adjoining intersections is considered insignificant.*
3. *I have no issue with the proposed aisle widths.*
4. *AS/NZS 2890.1: 2004 specifies the minimum width of the ramps for two way traffic flow to be 5.5m (kerb to kerb). The plan shows a ramp width of 6m.*
5. *No issue is raised in regard to the proposed ramp grade.*
6. *Pavement arrows for the control and direction of circulating traffic within car park and associated circulating roadways should be provided as shown in the plans – **Can be conditioned.***
7. *The number of parking spaces proposed are considered sufficient.*

In conclusion, Council's Traffic and Road Safety Branch requested that the following issues should be satisfactorily addressed:

1. *The size of the disabled parking spaces should comply with the standards. Minimum width of 3.2m is required.*
2. *The width of the parking spaces are insufficient at locations where columns are proposed within the parking area. To meet the required standards, the size of the parking spaces should be increased where columns are proposed within the parking area.*
3. *The proposed width of the circulation areas to parking areas for Buildings A, B, D and H is considered insufficient.*

However, Council's Traffic and Road Safety Engineer has advised that these could be addressed by conditions of consent. Suitable conditions have been incorporated into the draft conditions of consent addressing those issues.

EXTERNAL REFERRALS

In accordance with Section 104 of State Environmental Planning Policy (Infrastructure) 2007, comments were sought from the Roads and Traffic

Authority with respect to the proposal. At the Sydney Regional Development Advisory Meeting dated 24 March 2010, the RTA considered the traffic impact of the application and has requested that the following issues be taken into consideration in the determination of the application:

1. *Consideration should be given to provision of parking restrictions in the retail car park to prevent long stay parking by residents from the proposed residential development. Should Council propose to introduce a fee for parking within the car park, Council is reminded of Section 65 of the Local Government (General) Regulation 2005, requiring concurrence of the RTA for the operation of a public car park.*
2. *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 prior to the issue of a construction certificate.*
3. *All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.*
4. *The layout of the car parking 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. *The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.*
6. *All vehicles shall enter and exit the site in a forward direction.*
7. *Where possible, service vehicles and general parking should be separate.*
8. *Retail parking should be separate from residential parking and should be clearly sign posted.*
9. *The proposed turning areas are to be kept clear of any obstacles, including parked cars, at all times.*
10. *All works / regulatory signposting associated with the proposed development shall be at no cost to the RTA.*

The above have taken into consideration as part of the assessment of the application and will be incorporated as conditions of consent.

PUBLIC NOTIFICATION

In accordance with Fairfield City-Wide Development Control Plan 2006, the application was advertised in the local press and notified to adjoining and surrounding owners and occupiers on two (2) separate occasions for a period of fourteen (14) days each. The initial notification period was from 17 March 2010 to 31 March 2010 and six (6) submissions were received in response. The amended plans were advertised in the local press and notified to adjoining and surrounding owners and occupiers from 23 July 2010 to 6 August 2010 and three (3) further submissions were received. It is noted that a submission was also received from Fairfield City Council.

The following comments are provided with respect to the issues of concern as raised in the submissions:

- **Safety concerns about traffic impact upon Fairfield West Public School. Heavy traffic already affects students and families walking to/from school each day.**

The submitted Traffic Impact Statement prepared by the traffic consultant Thompson, Stanbury Associates provides an assessment of the traffic generation, access and safety considerations associated with the proposal. The report concludes that:

- *The proposed passenger vehicle access off Tasman Parade is projected to provide the site with safe and efficiency access conditions;*
- *The proposed parking provision suitably accords with the requirements established by Fairfield City Council when the significant parking oversupply of provided for the approved mixed retail development is taken into account;*
- *The passenger vehicle internal circulation and parking areas via the below mixed retail development are anticipated to provide suitably safe and efficient servicing of the site;*
- *The proposed development is projected to generate in the order of 71 peak hour trips to and from the subject site during weekday afternoon peak periods; and*
- *The surrounding road network is capable of accommodating the additional traffic projected to be generated by the subject site.*

The locality contains two (2) schools: Fairfield West Primary School and Westfield Sports High. Fairfield West Primary School is located immediately to the east of the site and it is noted that site has an access driveway onto Hamilton Road adjacent to the entry driveway to the primary

school. Westfield Sports High is located to the west of the site, whilst the Tasman Parade child care centre is located immediately to the west of the site.

With respect to the site's access driveway onto Hamilton Road, between the fruit and vegetable shop and Fairfield West Primary School, it is noted that the approval for the shopping centre retail development for the site contains conditions that restricted this access to be used as an exit only for delivery vehicles leaving the site. Also, the conditions of consent restricted deliveries to between the hours of 7.00am and 8.00am and 4.00pm and 6.00pm. The proposed development does not change any of the conditions of consent for the approved shopping centre development. In fact, it is proposed that these conditions also be imposed as part for the development for garbage and delivery vehicles.

The traffic safety concerns raised has been noted. However, it is considered that the applicant's traffic consultant has sufficiently demonstrated that the traffic to be generated by the proposal is unlikely to result in an unsatisfactory traffic impact upon the local road network. The submitted traffic report was considered by Council's Traffic Engineer and the RTA and both are satisfied that the proposal is satisfactory and is unlikely to result in a significant impact upon the local intersections.

- **Proposed exit from the site at Hamilton Rd is alongside the school entrance/exit. This will cause significant traffic problems during the hours of 8am – 9.30am and 2.30pm – 4.00pm. Traffic management for these times required**

The proposed development is not relying on the car parking spaces approved on the ground floor as part of the approved shopping centre, which provides 201 car spaces. All the residential and visitor car spaces are proposed on the podium level on top of and adjacent to the approved shopping centre development, except that the medical centre and offices which will utilise the car parking spaces provided for the shopping centre.

The Hamilton Road access between the fruit shop and Fairfield West Public School has already been approved as part of the approved shopping centre development. However, it is noted that there are conditions in the development consent stipulating that the driveway be used as an exit only for delivery vehicles exiting the site and the deliveries are restricted to between the hours of 7.00am and 8.00am and 4.00pm and 6.00pm.

All the car parking spaces for the proposal are provided on the podium and vehicular access to these car spaces is off Tasman Parade. As such, it is not anticipated that the proposal will result in any significant adverse impact upon the approved Hamilton Road driveway. However, it is noted that the loading facility for garbage trucks for the proposal is proposed on the ground level and as such, the garbage trucks have the option of exiting the site either via Tasman Parade or Hamilton Road.

Notwithstanding such, it is not considered that this would have any significant impact upon the Hamilton Road driveway, having regard to the low frequency of garbage trucks servicing the proposal.

- **Proposal is a high density housing in an area of low density residential housing**

The scale and density of the development have been addressed elsewhere in this report.

- **Height of development will impede privacy of residences along Hamilton Rd, Tasman Parade, Van Dieman Crescent, Jansz Place, Pool Place, Hartog Avenue and Vancouver Place. Height of development will make observation of children in adjoining school ground unavoidable;**

The concerns that the development would result in the overlooking of surrounding residential residences and school grounds are noted, given the scale and density of the development. However, it is considered that the development has been appropriately designed in response to these sensitive land uses and the buildings, whilst are taller than surrounding residential dwellings, are located considerable distance from surrounding residential developments to ensure that any loss of privacy is not unreasonable.

The highest part of the development is located away from residential developments and the development provides an appropriate transition to surrounding residential developments so as to ensure that amenity impact upon these residential properties is acceptable. It is to be noted that this report suggests that the scale of the development along the northern and western edges of the development be further reduced in order to ensure that the overall height of the development along these boundaries is not higher than the tallest dwelling in the locality in Baudin Crescent, thus would lessen visual impact and scale of the proposal.

- **Shadow diagram only show shadows impact during June and not any other time of year. When exiting the development in the afternoon drivers will be facing the setting sun and decreases visibility and increasing risk to pedestrian in the area**

The application is accompanied by shadow diagrams showing the shadows cast by the proposal for the critical hours of 9.00am, 12noon and 3.00pm in mid-winter, when the sun is lowest in the sky and thus, the proposal would cast the longest shadows. Given the orientation of the site and that sensitive residential developments are to the north of the site or located considerable distances from the site, the shadow diagrams have demonstrated that the proposal will not result in any adverse overshadowing of any neighbouring properties.

Accordingly, it is not considered critical that shadow diagrams be submitted for the summer solstice and equinox.

With respect to sun glares to drivers exiting the site in the afternoon, it is noted but is an issue that cannot be resolved.

- **Lack of public transport and mass transport facilities would result in an increase in traffic flow around residential properties, making it more difficult for residents to exit their properties onto Hamilton Rd. This type of density development is more suited to locations within walking distance of a train station.**

In terms of access to services and public transport, it is considered that the development site has good access to a number of essential services and the site is serviced by bus route 804 which is operated by West Bus. This bus route provides service to Liverpool, Bonnyrigg, Fairfield and Parramatta, as well as the Transit Way and railway line. There are also three schools within a kilometre of the centre, while the application also proposes a medical centre as part of the development.

With respect to the suitability of the site for the proposal, it is considered that the applicant has sufficiently demonstrated that the proposal, although being at a scale and density that are higher than the surrounding area, the development has been satisfactory conceived and reasonably responds to the surrounding residential properties with appropriate transition, subject to the design amendments recommended in this report.

Although applicable Council DCP provisions do not contain any control relating to FSR and building height, Council's Strategic Planning Branch has raised no objection to the proposed scale and density of the development.

- **Installation of traffic islands in Tasman Parade would impede the flow of traffic accessing the shopping centre and local residents**

The proposal does not involve the installation of any traffic calming device along both Tasman Parade and Hamilton Road.

- **Inadequate recreational facilities provided on site to accommodate 151 families. Concentrating large number of people in areas that have no recreational activities or space is going to increase the incidence of vandalism in the area**

Whilst the proposed development does not provide active recreational facilities on site, the proposed development has provided the minimum required communal open space for the site equivalent to 25% of the site or 4,852m² in accordance with the requirements of the Residential Flat Design Code.

As alluded to earlier in the report, the development was amended such that one of the buildings proposed was deleted in order to provide a much larger centrally located communal open space that matches the scale of the development.

It is considered that the built form of the development has been appropriately designed with living areas directly facing onto the communal open spaces and as a result, passive surveillance would be provided and thus, increasing the level of safety and security on site. In addition, having residential apartments on the podium addressing the communal open spaces also assist in the provision of casual surveillance.

- **Concerns about the dwellings being bought by investors and lease out as low rental accommodation for transient dwellers that could lead to the deterioration of the area and diminish the quality of life residents currently enjoy.**

It is not considered that approval of the application will result in adverse impact upon the amenity of surrounding residential properties or diminishes the quality of life of residents.

As to whether the residential apartments will be owner-occupied or tenanted, it is not a planning matter that can be taken into consideration as part of the assessment of the application. The proposed development will provide a diversity of housing to the locality that is likely to meet the changing demographics of the area in general.

- **The previous approval for the site only involved 2 storey townhouses and the proposal to increase the height to 7 storeys is unacceptable.**

The site previously had an approval from Council for the construction of 65 townhouses on top and adjacent to a much smaller retail development. The proposed development is proposing the construction of 6 multi-storey buildings on top of and adjacent to an approved shopping centre retail development incorporating a supermarket. The appropriateness of the scale of the development has been addressed in detail earlier in the report.

- **Does not support the applicant's assertion that the residential dwelling units are necessary to support the shopping centre and local businesses in the area. Rather, argued that the existing residents in the area would be sufficient to support of the demand of the shopping centre**

Council's Strategic Planning Branch did not raise objection to the proposal with respect to the density of the development and has expressed the view that Council's decision to approve the shopping centre at the site incorporating supermarket has elevated the status of the site to those of Canley Heights and Canley Vale and Villawood Town Centre. Council's

planning controls for these centres allow similar scale and density to the proposal.

- **As residential dwellings will overlook Fairfield West Primary School and Tasman Parade Learning centre and the area is heavily trafficked by school children, concerns raised in relation to increased risk of child predators moving to the area.**

The concerns of the residents have been noted, having regard to the scale of the development. There is no available evidence which would suggest that overlooking a school or child care centre results in child predators moving to the area.

Indeed, the Child Protection (Offenders Registration) Act requires known child sex offenders (i.e., registrable person) to be registered and the registered person has a reporting obligation under the Act to the Police. Should the Police have concerns that the registrable person poses a risk to the lives or sexual safety of children, the Police could make an application to the court to prevent the person from living adjacent to schools.

- **Proposal will lead to a depreciation of property values in the vicinity of the site.**

The residents expressed concerns that the proposed development is likely to result in the depreciation of value of surrounding properties. There is no evidence available to suggest that the proposed development would have any detrimental impact upon the property values of surrounding properties. In fact, property value is not a head of consideration in the assessment of the application.

- **Increased noise and traffic as well as noise from generators will affect quality of life of residents**

The submitted acoustic report has demonstrated that the proposal is unlikely to result in an adverse noise impact to any surrounding residential properties and Council's Environmental Management Section concurs with the findings of the acoustic report.

In terms of traffic generation, this matter has been addressed earlier in the report.

- **Rubbish and extra noise from garbage trucks;**

In terms of noise impacts upon surrounding residential properties from garbage trucks, the submitted acoustic report has demonstrated that delivery vehicles and garbage trucks are unlikely to result in adverse noise impact upon any surrounding residential properties. Garbage trucks will be collecting waste from the designated loading bay at the lower level of

the development provided as part of the approved shopping centre development.

- **Proposal will result in the loss of ventilation and breeze during summer that normally cools down adjacent dwellings.**

Concerns were raised that the proposed development is likely to result in the loss of ventilation and breeze to surrounding properties that currently helps in cooling adjoining residential property in summer. Considering the generous spatial separation provided between the proposed multi-storey buildings and from surrounding properties and the built form of the development, any loss of ventilation and breeze is considered to be minimal.

- **Large number of people will result in increased anti-social and criminal activities.**

There is no evidence to suggest that the proposal will result in an increased in anti-social and criminal activities. What can be said is that the built form and internal organisation of the residential apartments would enhance passive surveillance within the development particularly onto the communal open space areas. As such, would assist in the level of safety and security.

- **How will traffic measures on site be enforced?**

The submitted traffic report has demonstrated that the proposed development is satisfactory in terms of access, manoeuvring and parking and impact on local road network. However, and given the scale of the development, it is suggested that a traffic plan of management shall be submitted to Council prior to the issue of a Construction Certificate in relation to the operation of the car parks and the development. The plan shall address means by which the car parks will operate so as to ensure that patrons of the subject site park their vehicles on the site and not on adjoining properties when attending the site. The plan shall also identify traffic safety measures/signs to be implemented so as to address potential vehicle conflict at the entry and exit driveways.

- **Cumulative traffic impacts – concerns about cumulative traffic impacts and that the development should consider other developments in the area. As such requested that consideration be given to queuing from the development to ensure that there is not adverse impact to Aldi operations, particularly the ingress and egress from the Aldi's site.**

Both Council's Traffic Engineering Branch and the RTA raised no objection to the proposal and are satisfied that the proposal is unlikely to result in unsatisfactory traffic impacts on neighbouring properties, having regard to the traffic report submitted in support of the application.

Council's Traffic Engineer Branch was requested to review the traffic impact of the proposal with regard to the recently approved 2-storey mixed-use development comprising 5 ground floor retail shops with 4 residential apartments on top at 398 Hamilton Road, Fairfield West and has advised that during peak period it is estimated that the approved development would generate roughly 14 trips/hour. As such, the traffic generated by that development would be similar to what was generated by the previous use of the site – service station.

Accordingly, Council's Traffic Engineer has advised that the impact of the traffic generated by the approved 2-storey mixed-use development is not significant to have any impact on the proposal at the subject site.

- **Rubbish and projectile thrown onto adjoining child care centre**

Concerns were raised that the proposal is likely to increase the potential for rubbish and projectiles to be thrown onto the playground of the western adjoining child care centre as well as potential overlooking of the children outdoor play area. The closest building to the Tasman Parade child care centre is Building A, which is setback roughly 6m from the western boundary. It is noted that this building contains 5 residential apartments that addresses the western boundary with balconies.

In response to the concerns raised, it is recommended that fixed louvres shall be provided to the western edge of the balconies of Units A201, A206, A301, A306 & A403 to address potential overlooking of the outdoor play area of the western adjoining child care centre and also to minimise the potential for rubbish or projectiles to be thrown onto the child care centre site. Alternatively, these residential units shall be re-designed such that their balconies are re-positioned away from the western boundary.

SECTION 94 CONTRIBUTIONS

The proposed development provides for a total of 147 residential apartments (4 x 1-bedroom, 92 x 2-bedroom & 51 x 3-bedroom). Under Fairfield City Council's Section 94 Developer Contributions Plan 1999, the proposed development provides 1 small dwelling (less than 70m²), 74 medium dwellings (70m² - 100m²) and 72 large dwellings (greater than 100m²). The payable Section 94 Developer Contributions fee for the proposed development is \$516,585.

Section 79C Considerations

The proposed development has been assessed and considered having regard to the matters for consideration under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979 and no issues have arisen that

would warrant the application being refused on planning grounds. The following is a brief assessment of the proposal with regard to Section 79C.

(1) Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

(i) Any environmental planning instrument

The subject site is located within two zones: Local Business Centre 3(c) and Residential 2(a) under Fairfield Local Environmental Plan 1994. The majority of the site is zoned Local Business Centre 3(c) and a small portion of the site fronting Tasman Parade is zoned Residential 2(a).

Defined as 'residential flat buildings', 'medical centre' and 'business premises' under the LEP the proposal is permissible with consent within zone 3(c). These land uses are prohibited developments within zone 2(a) under the LEP. However, the applicant is relying on Clause 20C of Fairfield LEP with respect to these prohibited uses within the Residential 2(a) zone, which relevantly reads as follows:

(1) Where it is intended to carry out development on a site that is divided by a zone boundary and the proposed development is prohibited within one of the zones, the Council may grant consent to the development if the development does not extend more than 20 metres into the zone where the development is prohibited.

Having regard to Clause 20C of the LEP, the applicant advises that the prohibited land uses have been sited such that they do not extend more than 20metres into the 2(a) zone.

The legal advice submitted in support of the application has sufficiently demonstrated that the proposal met the criteria for Council to issue consent for the proposed residential flat building, medical centre and business premises within the 2(a) zone. Therefore, these uses are able to be approved under Clause 20C of Fairfield.

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed

instrument has been deferred indefinitely or has not been approved), and

There are no draft environmental planning instruments that relate to the site.

(iii) any development control plan

The proposed development has demonstrated compliance with the requirements of the Fairfield City Wide DCP 2006.

(iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

No planning agreement has been entered into under Section 93F or any draft planning agreement that a developer has offered to enter into under Section 93F with respect to the proposal.

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

There are no matters prescribed by the Regulations that apply to this development.

(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

It is considered that the proposal is unlikely to result in any significant adverse impact upon the amenity of the locality.

(c) the suitability of the site for the development

The site is considered suitable for the proposed development. There are no known constraints which would render the site unsuitable for the proposed development.

(d) any submissions made

Ten (10) submissions, including one from Fairfield City Council, were received during the notification process. The issues of concerns have been addressed in the report.

(e) the public interest

It is considered that the proposed development is in the public interest.

TOWN PLANNING ASSESSMENT

The fundamental planning issues associated with the application relate to scale and building height, roof finishes, loading/unloading, driveway widths and impact upon surrounding residential properties.

1. Scale of the proposal

The context for the development is the Local Business Centre 3(c) of Fairfield West, situated at the north-eastern intersection of Hamilton Road and Tasman Parade. The centre is a relatively large rectangular shaped allotment, bounded by Hamilton Road to the south, Tasman Parade to the west, Fairfield West Primary School to the east and residential properties to the north fronting Hartog Avenue and Baudin Crescent, but is otherwise within a low scale one and two-storey residential context.

The centre presently comprises a fruit shop, an Aldi Supermarket and a vacant parcel of land, fronting Hamilton Road, and the site. The site is to the immediate north of these commercial premises and is currently under construction for an approved shopping centre development.

The site is zoned part Local Business Centre 3(c) and part Residential 2(a) under Fairfield Local Environmental Plan 1994 and the proposal permissible with consent. The proposal is regulated by Fairfield LEP 1994 and Fairfield City Wide DCP 2006, which however, do not contain development standards with respect to floor space ratio and building height.

In the absence of any floor space ratio and building height controls and the absence of the second stage of the Fairfield Residential Development Strategy, which will review the western half of the LGA, the approach that has taken with respect to the proposal is that the development must be designed having due regard to surrounding developments.

The proposed development involving 6 multi-storey buildings of 3-6 storeys in height on top of and adjacent to the approved shopping centre development is at a scale that significantly departs from the site's low scale residential context.

However, the submitted Urban Design Analysis and SEPP 65 report has provided the following justification with respect to the scale of the development:

The proposal locates the greatest scale away from the existing residential and in areas where its impact is reduced. It will serve to mark the centre and provides greater resident population close to the key facilities already in place. The form is broken up above ground floor to development parcels that comply with the RFDC separation

requirements and are in keeping with the greater scale and footprint of the edge development to Hamilton Road.

Therefore when considered against the built form pattern and scale of the surrounding area and the objectives of the LEP and potential future for this area the proposal achieves an appropriate scale to the street and does not create adverse visual impacts when viewed from the public areas surrounding the site.

Whilst the above justification is considered to have merit, concerns were raised that the scale of the development was likely to result in an adverse impact upon the amenity of surrounding residential properties to the north, west and within the development in terms of visual and acoustic privacy, overshadowing and excessive height. As such, the applicant was requested to reduce the height of Building A and Building B, along the northern edge of the site, such that the overall height of the development at its interface with northern adjoining residences is at the same height or equivalent to the top of ridge of the tallest dwelling adjoining the site's northern boundary at 1 Baudin Crescent at an RL43.18. This was to ensure that the degree of transition to the northern adjoining residences is minimised.

In addition, the applicant was also requested to reduce the height of Building G so as to ensure that the building is more sympathetic to the surrounding residential developments to the west, within Tasman Parade, Pool Street and Jansz Street.

In response, the development has been amended where three (3) residential apartments along the northern edge of Building A on the top level have now been deleted. As a result, Building A is now part 3 and part 4 storeys in height, with the 4-storey component away from the northern boundary and face internally into the development. No changes were made to the height of Building B, as its overall height is below the height of the tallest building at 1 Baudin Crescent.

The 4-storey component of Building A is setback roughly 19m from the northern boundary, exceeding the minimum recommended building separation between 4 storey residential flat buildings of 12m. Whilst it is accepted the 4-storey component of Building A is unlikely to result in amenity impact to the northern adjoining residential properties in terms of visual/acoustic privacy and overshadowing, given the spatial separation provided and the location of the site to the south. However, and in order to lessen the degree of transition to the northern adjoining residential properties, it is recommended as conditions of consent that the remaining three (3) residential apartments on the top level of Building A also be deleted. In doing so, the scale of the development along the northern edge of the site, for which the site shares its boundary with residential properties, would be equivalent to the tallest dwelling in the area.

With respect to Building G fronting Tasman Parade, the building was

originally proposed as 4 to 6-storeys in height with the greatest height located on the south-western corner of the building. The applicant advised that the height of the building was deliberately designed to accentuate the centre with a higher element. In response to concerns raised during the assessment of the application, Building G has been amended where it is now proposed that the topmost unit facing Tasman Parade along the western edge of the building be relocated to the eastern edge of the building along with the addition of two (2) additional units. In doing so, the presentation of Building G to Tasman Parade is 4 to 5 storey building with an additional floor at the rear (along the eastern edge). It is accepted that Building G is located a considerable distance from the nearest residential properties on the opposite side of Tasman Parade and the applicant's submission of the need to punctuate the site with a taller element has been noted. However, and given that the site surrounded by one and two-storey single detached dwellings and in order to reduce the degree of transition to these low scale residential dwellings, it is suggested that the top most level of Building G be deleted from the proposal.

As a result, the overall height of the proposal at its interface with the surrounding residential properties along the northern and western edges of the site would be equivalent to the tallest adjoining residential dwelling to the northern boundary, which is considered to be a reasonable outcome. Otherwise, the scale of the development is considered acceptable on the basis that the greatest height is located away from the residential properties where their impacts are reduced.

Furthermore, Council's Strategic Planning Branch has advised that a review of commercial floor space considerations for the site and Council's decision to approve a supermarket on the site has elevated the classification of the Hamilton Road/Tasman Parade site to that of a B2 Local Centre under the Comprehensive LEP. As a result, it implies a town centre scale and built form similar to other B2 Local Centres proposed in the City such as Canley Heights, Canley Vale and Villawood. These Centres have a permitted building of 5 to 8 storeys as outlined in the existing DCPs or Structure Plans. Council's Strategic Planning Branch accepted that the proposed 4 storeys of residential on top of a two storey podium would be consistent with the scale for these types of centres.

2. Communal Open Space

The proposed development provides three (3) usable communal open space areas: two on the concrete podium and one along the Tasman Parade frontage of the site. The total communal open space provided was inadequate and did not comply with the minimum required as per The Residential Flat Design Code, which requires 25%-30% of the site to be provided as common open space area. It was expressed to the applicant that a suitable and appropriate amount of open space matching the scale of the proposed development should be provided.

Accordingly, the applicant was requested to consider increasing the amount of communal open space provided on site to achieve the minimum required and it was suggested that Building H be removed from the development. It was considered that the removal of Building H would not only facilitates the provision of a much larger, centrally located and more meaningful communal open space for the residents and maintaining some type of view corridors through the site from the northern adjoining properties but would also address visual/acoustic and overshadowing problems within the development. In addition, the position of Building H was considered unsatisfactory in that it was likely to result in adverse impact upon Buildings A, B and F in terms of visual/acoustic privacy and overshadowing, given they are located relatively close to one another.

As addressed earlier in the report, Building H has now been deleted from the proposal, resulting in the provision of a much larger central communal open space that now complies with the minimum required of 25% of the site area. Furthermore, the spatial separation between buildings has also been significantly increased. Accordingly, the concerns pertaining to visual/acoustic privacy and overshadowing within the development has now been satisfactorily resolved. Other fundamental benefit from the deletion of Building H is that the development would provide view corridors through the site to the skyline of neighbouring suburbs. It is noteworthy that the loss of residential apartments from Building H, in amended plans submitted, has been re-distributed elsewhere on site but there is a reduction of 4 residential apartments to 147.

3. Roof Finishes

The original scheme submitted incorporated hipped and gabled roofs as a design response to the characteristic of the existing surrounding residential dwellings. The proposed roof design was considered to be unsatisfactory in that the rooflines created additional height to the development than necessary. Accordingly, it was suggested to the applicant that the proposed dual pitched hipped/gabled roofs be replaced with single pitched skillion roof.

As amended, the previously proposed hipped/gabled roofs have now been replaced with flat concrete roof. It is recommended that the concrete roof be replaced with a single pitched skillion metal roof pitched at an appropriate angle to better define the top of the buildings and add architectural interest as well as minimising longer term maintenance. It is considered that the use of single pitched skillion roof would allow the ability for the top most floor residential apartments to incorporate clerestory windows and raked ceiling that allow solar access to penetrate deep into the apartments and hence further improve the internal amenity, as conditions of consent.

4. Loading and unloading bays

Loading and unloading for the development was proposed to be restricted to the designated loading/unloading bays at the lower level of the site adjacent to the loading facilities for the approved shopping centre. This was proposed for both garbage and furniture removal trucks. The applicant advised that the intention of such arrangement was to minimise potential conflict between residential and commercial vehicles and the podium was designed as a shared zone for pedestrian and cars only.

The assessment considered the proposed loading arrangements to be unsatisfactory and unlikely to be effectively implemented. Accordingly, and in support of its case, the applicant has submitted a Site Operational Services Plan of Management that aims to achieve the following intends:

1. *Restrict access to the 'shareway' road network to resident and visitor vehicles only (except for emergency vehicles).*
2. *Reduce the speed of vehicles entering and exiting the 'shareway' road network to 10km/hr.*
3. *Prepare Plans of Management detailing the operation of garbage and furniture removal service vehicle servicing the residential development.*
4. *Strata management will provide an on-site building manager to the rules and regulations included in the Operational Services Plan.*

The applicant indicated that the Site Operational Services Plan of Management will form part of an overall scheme of strata plan management that will be developed for the entire site which includes the retail development on the ground floor.

Notwithstanding the above, it is considered that the location of the loading facility on the ground floor is too far and at an uncomfortable distance from the residential apartments on the podium, even though a lift is proposed linking the ground floor with the podium. As such, concerns were raised that furniture removal trucks are likely to park as close as possible to the residential units for which furniture is being delivered which poses safety concerns.

However, and as a result of lengthy negotiations, the applicant has now agreed to provide two (2) designated loading bays on the podium for furniture delivery vehicles. The internal road network has been amended accordingly to allow medium size trucks to enter/exit the site in a forward direction. In this regard, garbage waste removal is to be carried out from the lower level of the site adjacent to the loading facility for the approved retail development but furniture removal trucks would be allowed to be

driven onto the podium to the designated loading/unloading bays for unloading/unloading furniture. Accordingly, the issue pertaining to loading has now been satisfactorily addressed.

5. Driveway Width

The proposed access to Building A and Building G are considered too narrow to cater for a two-way driveway. Building A contains 13 enclosed car parking spaces and whilst the car spaces and aisle width conform to Council and Australian Standards requirements, the driveway entrance is not wide enough to allow two (2) cars to pass each. The applicant is proposing to install warning signals at the entry to the car park of Building A to warn drivers of on-coming vehicles into or out of the car park. Such arrangement is considered to be sub-optimal and accordingly, it is suggested that Unit A101 on the ground floor of Building A and possibly one or two units above be slightly reconfigured to allow for the provision of a 6m wide driveway at the entry to the car park in order to allow 2 cars to pass each, as conditions of consent.

Building G provides 24 enclosed car parking spaces and is to be served by a 3m wide driveway, which is not wide enough to allow 2 cars to pass each other. Accordingly, it is recommended that the driveway to Building G be increased to a minimum of 6m wide in order to allow 2 vehicles to pass each other, as conditions of consent.

CONCLUSION

Based on the assessment of the application against the relevant planning instrument applicable to the development, it is considered that the proposed development, as amended, appropriately responds to its development context subject to amendment to further reduce the height of the development along the northern and western boundaries in order to lessen the transition to surrounding residential properties. Otherwise, the development is considered to be a reasonable outcome for the site and locality, given the lack of FSR and building height controls for the site and the development is unlikely to result in a detrimental visual and acoustic privacy and overshadowing impact upon neighbouring properties.

Consequently, it is considered that the development would make a positive contribution to the area. Accordingly and notwithstanding the submissions received, the application is considered worth of support.

RECOMMENDATION

1. That the application proposing the construction of a mixed-use development within 6 multi-storey buildings comprising a medical centre, offices and 147 residential apartments be approved subject to conditions as outlined in Attachment D of this report, including the following amendments to the development, which also specifies a reduction in the number of units:
 - i. The three (3) residential apartments on the top floor of Building A, along the southern edge of the building shall be deleted in order to ensure that the height of the proposal along the northern boundary of the site is not higher than the tallest dwelling at the northern boundary at 1 Baudin Crescent at RL 43.18m, and in order to provide a more appropriate scale to the northern adjoining residential properties.
 - ii. The four (4) residential apartments on the top floor of Building G along the eastern edge of the building shall be deleted in order to lessen and provide a more appropriate transition to the neighbouring residential properties to the west.
 - iii. The proposed flat concrete roof to the buildings shall be replaced with single pitched metal skillion roof pitched at an appropriate angle that would allow clerestory windows to be provided to the topmost north facing residential apartments to facilitate solar access as well as better define the top of the buildings.
 - iv. The access driveway to Building A shall be widened to a minimum of 6m so as to allow 2 cars to pass each without the need to install a warning signal. Accordingly, Unit A101 on the ground floor of Building A shall be amended to provide the required driveway width.
 - v. The driveway of Building G shall be widened to a minimum of 6m so as to facilitate a two-way driveway.
 - vi. Fixed louvres shall be provided to the western edge of the balconies of Units A201, A206, A301, A306 & A403 to address potential overlooking of the outdoor play area of the western adjoining child care centre and also to minimise the potential for rubbish or projectiles to be thrown onto the child care centre site. Alternatively, these residential units shall be re-designed such that their balconies are re-positioned away from the western boundary.