

JRPP NO:	2010SYW040
DA NO:	DA 658/2010
PROPOSED DEVELOPMENT:	Alterations and addition to an existing shopping centre complex located at Narellan Town Centre.
SUBJECT SITE:	326 & 334 Camden Valley Way & 2A Somerset Avenue, Narellan
REPORT BY:	Jasmina Djuric Town Planner Camden Council
RECOMMENDATION:	APPROVAL

Purpose of Report

The purpose of this report is to seek a determination for Development Application DA 658/2010 for alterations and addition to an existing shopping centre complex located at Narellan Town Centre.

Summary of Recommendations

It is recommended that Development Application DA 658/2010 is approved subject to conditions.

Background

The Narellan Town Centre shopping complex (NTCSC) has been constructed over a series of stages with the subject Development Application (DA) completing the intended outcome. The following is a summary of the development application history for the complex.

- Stage 1; DA 140/1994. Approved by Council, 13 March, 1995. Proposals - Retail outlets with approximate floor area of 8,118sqm.
- Stage 2 and 3; DA 47/1996. Approved 9 December 1996 at a Development Committee Meeting. Stage 2 was approved conditionally with a retail floor area of 12,579sqm and Stage 3 was conditionally approved to become 'operational no earlier than year 2000 and only when the applicant can demonstrate to Council's satisfaction that the proposed additional floor space will not significantly impact on the economic viability of the Camden Local Government Trade Area'.

An amendment to this DA was lodged in 2000 to alter the layout and further stage the development to create a Stage 4. This amendment also sought to make operative Stage 3.

Council granted consent to this amendment in 2000 and construction of Stage 3 saw an increase to the floor area by 7,733sqm.

The proposed changes to Stage 4 were required to be lodged as a separate Development Application as it was deemed not substantially the same development pursuant to the provisions of Section 96 Modification of consent.

- Stage 4; DA 422/2002. This application was first heard at the Development Committee meeting of 11 October, 2004. The recommendation was to refuse the development for an 8 cinema complex and a combination of specialty shops which also included a part four storey retail/commercial complex.

In summary, reasons for refusal include;

- Inconsistency with the existing Desired Future Character for the locality;
- The SEPP 1 objection to the development standard wasn't justified as the standard was not considered unreasonable or unnecessary and did not hinder the objects of Section 5(a)(i) and (ii) of the EP&A Act 1979;
- The objection undermined the community desires and needs and was therefore not in the public interest;
- Inconsistency with the (then) General Design Principals of the Narellan Township Master Plan 2004;
- Insufficient car spaces as required by the RTA Traffic Generating Guidelines and relevant Council policies; and
- Inconsistency with the aims of the (then) Camden Local Environmental Plan No. 46.

At this meeting the application was not approved, rather it was resolved that, 'Council instruct staff of its intention to approve the Development Application and bring back a report to the next Council meeting with appropriate conditions of consent and car parking calculations'.

The development application was then presented to the Development Committee meeting of 8 November, 2004. The application was approved despite the same refusal recommendation.

Since the approval of this application, 6 modification applications were submitted, of which 3 were determined by the Council. The amended applications were presented at the following Council meetings: 11 July, 2005; 8 May, 2006; 10 April, 2007.

All reports are available on Councils website www.camden.nsw.gov.au

Construction of the Stage 4 component included the 1800 seat cinema and some retail outlets while the commercial element is yet to be completed.

The Site

The land to which the development is proposed includes Lot 20, DP 880763; Lot 21, DP 880763; Lot 101 DP 716594 and part Lot 4, DP 627565.

A location plan showing each parcel is attached at the end of this report.

The two later parcels, lot 101 and lot 4, at the time of writing this report, were subject to a part land sale between the Narellan Town Centre and Camden Council. It is understood that the settlement of this land is in its final stages.

This land was classified as Operational land under the Local Government Act, 1993 and the sale of land was reported to Council at a Confidential Closed Committee held on 25 August, 2009.

The site occupies approximately 70%-80% of a block bounded by Queen Street, Elyard Street, Somerset Avenue and Camden Valley Way. The complex shares frontage to Queen and Elyard Street while smaller independent commercial and retail buildings/shops sleeve the frontage of Somerset Avenue and Camden Valley Way.

In total, the site is approximately 7.6 hectares which is occupied by the building complex and 1531 car parking areas.

Vehicle access into the site is from Camden Valley Way and Somerset Avenue. A right of carriageway has been provided between the site and other independent businesses to allow vehicle access to all areas.

The site is located within the central part of the Narellan business and retail centre district and is approximately 150m from the Narellan Road corridor which is the spine road linking the centre with release areas of Oran Park, Harrington Park to the north and Mount Annan and Spring Farm to the south.

The proposal

The development proposal seeks approval for alterations and additions to the northern edge of the complex which will result in a 15% increase to the existing retail floor area.

The proposal is to construct 8,760sqm of retail floor which includes a discount department store (6,100sqm) and approximately 20-25 (2,660sqm) smaller retail shops. This equates to 11,150sqm of Gross Floor Area.

Upon completion, the total floor area of the centre will be 64,885sqm Gross Floor Area or 43,659sqm Net Rentable Area and will include 1864 parking spaces.

The addition will be connected to the previous stages resulting in the core retail activity area all at one level.

The proposal which includes the construction of one deck and one roof top parking area will provide an additional 311 parking spaces. The existing on grade car park area is to be excavated approximately 3m to provide a continuous basement level parking area which the applicant states 'replaces the sloping on grade parking which has been viewed as unsatisfactorily for the past several years as use has increased'.

The building height subject to this application varies with the highest point being 15.85m. This maximum height is as a result of the plant room deck screens which are positioned at the centre of the proposed building and located on the deck of the roof top parking. Excluding the screens, the highest point of the actual building would be 12m. The height of the building to the top of the balustrade at the edge of the car park on the northern edge is 10metres.

Notifications

The application was notified in accordance with Part C: Administration Provisions, Chapter 2 Notification Process of the Camden Development Control Plan 2006 (DCP). Unless otherwise regulated, the DCP allows for merit considerations on both the notification period and the catchment area for this type of development.

The application was exhibited in the following way:

- On public exhibition at the Camden / Narellan Libraries as well as both the Camden Administration Building and the Narellan Administration Building for a period of 14 days;
- a notification placed in the local newspaper; and
- neighbourhood notification with a total of 106 notification letters being distributed to surrounding properties.

As a result of this consultation, ten submissions were received (four of which were submitted by the one person). **Copies of the submissions are provided with the Business Paper Supporting Documents.** The relevant points are discussed under the heading Submissions.

During the assessment process four additional letters of objections were received from an objector who also lodged a submission during the exhibition period. **These letters have been included and are provided with the Business Paper Supporting Documents.** These letters have been marked as 'submission received after exhibition'

Planning Controls

- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy No. 1 Development Standards
- State Environmental Planning Policy (Infrastructure)
- Draft State Environmental Planning (Competition) SEPP
- Regional Environmental Planning Policy 20 - Hawkesbury–Nepean River
- Camden Local Environmental Plan 46 (superseded)
- Camden Local Environmental Plan 2010 (now gazetted)
- Camden Development Control Plan 2006

Note: Camden Local Environmental Plan 2010 was gazetted on 3 September 2010. Given that this DA was lodged before 2 September 2010, this LEP can be considered, however, pursuant to Clause 1.8A, this application must be determined as if this Plan had been exhibited but had not commenced. Therefore, it must be assessed under the LEP that was in place before the gazettal of Camden LEP 2010.

Assessment

The following assessment is made in accordance with the requirements of the Environmental Planning and Assessment Act, 1979, Section 79c - Evaluation.

The provisions of any Environmental Planning Instrument

State Environmental Planning Policy (Major Development) 2005

This development is considered as Regionally Significant Development in accordance with this Policy as the development has a capital investment value in excess of \$10million. As required by clause 13F of the Policy, the Consent Authority is the Joint Regional Planning Panel.

State Environmental Planning Policy No. 1 Development Standards

The applicant is seeking a variation to clause 20A(1) of LEP 46 - Height. This clause states that; *a building must not have a building height exceeding 9.5 metres.*

The non-compliance is that the building height is 15.85m at the top of the plant deck screening elements. This structure is however setback 30m from the buildings northern edge. The building height itself on the western edge is 12m.

The development will also see the existing tower structure repositioned within the Stage 5 development area and as a result will be 21.5m from the ground.

The applicant's SEPP 1 application includes the following objections;

- *The proposed development has a height of 12 metres to the (JP, my cal is 13.5) top of the plant deck screens above the top level carpark. The height of the building to the top of the balustrade at the edge of the carpark on the northern edge is 10 metres. The height of the repositioned tower structure is 21.5 metres*
- *The reason for the non compliance partly rest with the site topography and partly with the organisational and special requirements of the retail use.*
- *The location of the proposed building is screened from the street by surrounding development. It is not considered that the development unreasonably impacts on the views from surrounding streets, nor when seen from further away.*
- *The plans show a long section taken from Camden Valley Way. The encroachment over the height restriction at the edge of the building is minor, 0.5 metres, and due to the topography of the site as well as the internal height requirements of the prospective tenant.*
- *It can be seen on the section that the plant room structures, which are responsible for a much greater non compliance of 2.5 metres, are set well back from the edge and therefore will not be visible except from a distance when their impact will be negligible and set against the backdrop of the existing buildings.*
- *Compliance with the development standard is unreasonable when much of the surrounding building already breaches it. Not only the council library and cinema complex already mentioned but the entire supermarket immediately adjoining the proposed extension ranges from 11.5 metres to 15 metres high.*
- *This is the immediate context of the proposal so the visual impact of the proposal will be controlled and no greater than already exists. The consistent built form and appearance of the centre will be maintained. This can be seen in the north elevation on the drawings.*

Officer comment:

The applicant was required to further justify the proposed non-compliance to the development standard with a view to further testing if the standard is unreasonable and unnecessary in this case. In doing so, the applicant was required to address the Planning Principal (PP); height, bulk and scale.

The PP requires considerations be given to the existing and desired character of the area. This assessment concluded that when the surrounding building height controls and existing built form are taken into account then the development standard is considered unreasonable and unnecessary in such an instance.

Furthermore, it is considered that the non-compliance is reasonable for the following reasons;

- The building subject to this application has a maximum height of 12m, minus the plant room elements. However the majority of the addition is under the 9.5m standard (for example, the car park deck area has a height 4.66m);
- The building height itself is consistent with the existing heights of the previous stages and will provide continuity with respect to urban design and connectivity outcomes.
- In regards to the plant room elements, the overall building height would be 15.85m however these structures are located a minimum of 30m from any edge wall of the proposed building and only sits over a small footprint within the roof deck area.
- Compliance with this standard would necessitate internal modifications which would not allow a one level design for the core retail floor plan and therefore impact on both the function and accessibility of the centre.

The applicant's assertion that development approvals have consistently been granted for building heights which exceed the standard on the site is correct however this does not underpin reasons to support this application.

To require modifications to comply with the standard in this instance is unreasonable in that the outcome of the required modifications would not only impact on the usability and function of the centre but would to some extent veto *the promotion and co-ordination of the orderly and economic use and development of land* as noted within the objects in section 5(a)(ii) of the Environmental Planning and Assessment Act, 1979.

Consequently, given that the building height will not add to any additional impact that may be caused by the development or surrounding existing and desired future locality, it is considered that the development standard is unreasonable and unnecessary and the SEPP 1 objection is able to be supported.

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 of the above SEPP classifies this development as Traffic Generating Development which requires the application to be referred to the Roads and Traffic Authority and for Council to consider its' response. A referral was forwarded and the subsequent conditions of consent have been included within the draft development consent conditions following this report.

Regional Environmental Planning Policy 20 - Hawkesbury–Nepean River

The proposed development is consistent with the provisions of the above SREP.

Camden Local Environmental Plan 46 (LEP 46)

Part 2 General Restriction on Development of Land

Clause 10 – Zone objectives and development control table

Statement of Permissibility

The development land area is zoned 3(a) General Business.

The Environmental and Assessment Model Provisions 1980 are adopted under this Plan and in this context clause 7 (definition) of the Provisions provide the following relevant definition for the development:

shop means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or

place elsewhere specifically defined in this clause, a building or place used for a purpose elsewhere specifically defined in this clause.

Under the land use zone of 3(a) a shop is not listed as a prohibited land use and therefore is permissible only with development consent.

Zone objectives considerations

As required by the Plan, Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

The objectives of this zone are:

- (a) to provide sufficient opportunities for the development of retail and commercial activities designed to satisfy the needs of the community in an environmentally sensitive manner,
- (b) to encourage the development and expansion of business activities which will contribute to the economic growth of, and the creation of employment opportunities within, the Municipality of Camden, and
- (c) to encourage a wide range of retail, commercial and recreational facilities, and
- (d) to encourage a variety of forms of higher density housing in locations that are accessible to public transport, employment, retail, commercial and service facilities.

It is considered that the development is consistent with the above objectives in the following ways;

- An Economic Impact Statement (EIS) was produced as part of the development application. It concludes that there is a substantial level of “escape expenditure at over 45% of residents spending”. This would suggest that the existing retail capacity does not provide sufficient opportunities to satisfy the needs of the community, as promoted in objective (a).
- The EIS considers the population growth of the centres trade area and states that the expansion of the centre will ‘in the short term help support the residents with shopping needs before they are supplied with their own retail facilities. Retailers will come into area with population growth. This not only supports objective (a) but also creates opportunities to reinforce economic and employment growth both in the short and long term for its current/future residents, as noted in objective (b)
- The expansion of the centre further contributes to objective (b) in that employment is generated not only during the construction period (approx 19 months), but more importantly, on an ongoing basis once the centre is completed and operational.
- As noted above, building height restrictions on surrounding residential land allows up to 15.5m. This opportunity to increase the densities around the centre will subsequently be supported by greater transport and employment generation as a result of the centres expansion and surrounding residential densities.

As a result it is considered that the development is not inconsistent with the zone as it aims to promote greater retail opportunities that as stated, are presently lacking.

Part 3 Special Provisions

Clause 14 Services – the development can be adequately serviced with water, sewerage, drainage, public transport and electricity infrastructure.

Clause 19 - Development within the site of heritage items, heritage conservation areas and archaeological sites – the development area is within the vicinity of a heritage item, Burton Arms Inn, which is located at 332 Camden Valley Way Narellan. The item itself does not have a defined heritage curtilage and it is surrounded by an extensive footprint of modern commercial buildings immediately to its rear and eastern side, and a car park to its western side.

The proposed work is distant from this and will not impact upon the single storey commercial buildings that enclose the Burton Arms Inn. As such, the backdrop of the Burton Arms Inn will not be altered as viewed from Camden Valley Way.

In addition, mature vegetation is planted on its western side of Burton Arms Inn which provides a visual screen between the Inn and the NTCSC when viewed from Camden Valley Way, and this will not be impacted upon.

Furthermore, the NTCSC proposal is for a two level car park and building, with two higher plant rooms and a relocated tower. These structures are at a minimum distance of 55m from Burton Arms Inn, and are generally consistent in form with the existing Town Centre complex development.

Therefore, for the reasons outlined above the proposed development will not adversely impact on the existing surroundings of the Burton Arms Inn.

Clause 24A Height – the applicant has lodged a SEEP 1 Objection relating to the height standards contained within this clause. Discussion relating to this objection is under the heading State Environmental Planning Policy No. 1 Development Standards.

Clause 21A Land forming operations - The proposal requires minor landforming operations to facilitate the creation of a level basement parking area. In considering the likely impacts which includes drainage patterns, and level changes, an engineering assessment of the work has been undertaken and no negative issues were identified.

Clause 24 Protection of trees – The proposal seeks to remove various trees and provide supplementary landscaping as part of the development proposal. No objection is raised as these trees are underdeveloped and not protected.

Clause 26 Development of land within a mine subsidence district - This clause requires the concurrence of the Mine Subsidence Board. This was obtained and submitted by the applicant.

Draft Environmental Planning Instrument

Draft State Environmental Planning Policy (Competition) 2010

It is considered that the development proposal does not contravene the objectives of this Draft SEPP. The development will not adversely impact on the extent and adequacy of essential facilities and services available to the local community. It is expected the development will complement the existing facilities by providing a higher end retailing experience to those needing to come to the area to utilise the services.

Draft Exhibited Camden Local Environmental Plan 2010 (now gazetted)

Statement of Permissibility

The development land area is zone B2 Local Centre.

Under this zone a shop is not listed as a prohibited land use and therefore is permissible only with development consent.

Zone objectives considerations

As required by the Plan, Council must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives of this zone are:

- (a) 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.
- (b) To encourage employment opportunities in accessible locations.
- (c) To maximise public transport patronage and encourage walking and cycling.
- (d) To ensure that mixed use developments present an active frontage to the street by locating business, retail and community uses at ground level.
- (e) To minimise conflict between land uses within the zone and land uses within adjoining zones.
- (f) To enable other land uses that are complementary to and do not detract from the viability of retail, business, entertainment and community uses within the zone.

It is considered that the development is consistent with the above objectives in the following ways;

As noted previously, the Economic Impact Statement states a level of “escape expenditure” associated with retail activity which therefore suggests that the centre does not provide the necessary range of retailing required to service the community as required by objective (a).

The development will see both short and longer term benefits regarding employment opportunities as advocated within objective (b).

The B2 zone is the core zone within the area, while the surrounding zones acts are supporting or complementary to this zone. The development is permissible within the zone and as such does not conflict with the surrounding zones as noted within objective (e).

Consequently, it is considered that the proposed development is consistent with the objectives of the B2 zone.

Part 4 Principal Development Standards

Clause 4.3 Height of building – This clause limits the height of buildings on the development land to 9.5 meters. This is the same development standard contained within Local Environmental Plan No. 46 and as such is addressed by an objection made under State Environmental Planning Policy No 1 Development Standards.

Part 5 Miscellaneous provisions

Clause 5 Heritage Impact Statement – A Statement was submitted and it was determined that the development would not affect the heritage significance of the item and is discussed further above.

Any development control plan

Camden Development Control Plan 2006

Part C: Administration Process

Chapter 2 – Notification Processes

This chapter provides processes and procedures on notification requirements for the application. A detailed methodology on how this was achieved is provided under the heading Notification of this report.

Part D: General Provisions

Chapter 1 –Car parking

The methodology used to determine the parking requirements for the previous stages took into consideration the mixed use of the development and the fact that peak parking for different components will occur at different times. The method for assessing the parking demands was to determine existing demands, at various peak times, and then make adjustments to accommodate the floor areas within each proposal.

Based on the adopted methodology the site, with the current parking arrangement has an existing surplus of 148 spaces.

The parking requirement determined for the expansion is:

- 353 spaces if assessed against Council's DCP; and
- 359 spaces if assessed using parking rates determined from previous surveys.

It is recommended that the 359 spaces be adopted as a minimum requirement. Therefore, the parking provision for Stage 5 is adequate and is summarised as follows;

- The development requires 359 spaces;
- Existing centre currently has 148 surplus spaces; and
- The development will construct 311space.

Therefore 459 spaces will be available on site. This will decrease the surplus from 148 to 100 spaces.

Of the 100, 66 spaces are allocated, by way of easement, for the use of the public.

It is understood that the contract of land sale between Narellan Town Centre and Camden Council stipulates that the new land owners are required to provide an

additional 66 car parking spaces within the same area, or within vicinity of the original public car park and shall be available for the use by the public in perpetuity.

These parking spaces are to be provided over and above the amount that would normally be required by Council's Development Control Plan when any development occurs within the shopping complex.

On this basis, it is considered that the development parking provisions are adequate.

Chapter 3 – Energy Conservation

As required by the controls within this chapter, an Energy Assessment Report has been provided with the Development Application. This report outlines how the development generally achieved energy efficiency principals and makes the following statements;

- Reliance on artificial lighting and air condition levels is to be minimised as far as possible through the design. Some measures included in the building are sky lights for natural day lighting and material selection ensuring adequate insulation to reduce gain and loss.
- Orientation is set by the available area for development. Unconditioned services areas are located along the northern edge of the building to provide a buffer zone to the conditioned areas.
- Insulated sandwich panels are proposed as cladding which performance is far superior to the concrete panels used in earlier stages.

As required by this chapter, a condition has been imposed to require the applicant to submit an Energy Efficient report pursuant to the requirements of Section J of the Building Code of Australia with the Construction Certificate documentation.

Part G: Site Specific Controls; Chapter 22 Narellan

Control 5.1.a Built form – There are no specific built form controls relevant to this development however the relationship of height along the interface between the surrounding businesses to the proposed development provides a consistent built form.

Control 5.1.b Floor Space Ratio – The site area is 76,306sqm. The gross floor area of Stage 5 is 56,735sqm resulting in a floor space ratio of 1:0.74 which complies with the 1:1 control.

Control 5.1.e Character – The development is consistent with this control. Colours and materials used within the development are of neutral colours that provide a responsive backdrop when viewed from Camden Valley Way.

Control 5.3 Landscaping and street trees – No remnant vegetation is affected by this proposal. Native trees will be used in the landscaping as required by this control.

Control 5.4 Soil Salinity – All matters of Salinity have been addressed and the appropriate conditions have been imposed.

Control 5.8 Crime Prevention through Environmental Design - A review of the Statement of Environmental Effects provides detail on how these principles have been achieved. They include, but not limited to;

- The upper car deck and perimeter driveway will have no access control. These areas will be visible to the surrounding area and monitored by the Centre's security. These areas around the building will be well lit at night to ensure proper security and safety of the public is maintained after hours. This is the existing situation which functions adequately.
- The lower level carpark will have perimeter gates that will be closed outside of opening hours to deter unwanted elements engaging in criminal activities in this area.
- The upper, retail and lower level car parking decks will be subject to organized and mechanical surveillance. These measures will ensure public safety and security while on the premises and prevent vandalism and property theft and damage outside of opening hours.
- Bollards will be positioned strategically to both ensure pedestrian safety as well as to prevent easy use of vehicles in the execution of criminal activity.

The application was also referred to the New South Wales Police – Camden. The referral is made as a result of a Memorandum of Understanding between Camden Police and Camden Council. This memorandum provides Camden Police with an opportunity to comment and provide possible conditions on major development proposals based on the broader CEPTED principles.

A condition has been imposed to ensure the applicant submits a schedule of measures proposed to be implemented in the construction of the development in order to minimise the risk of crime. Such measures are to be consistent with the conditions outlined in the recommended conditions of consent noted by the NSW Police Camden Local Area Command assessment.

Control 5.10 European Heritage – The site is within proximity to the locally significant item, Burton Arms Inn. Discussions on heritage considerations have been discussed above.

Control 5.11 Traffic and Accessibility – A discussion on Traffic and Accessibility is made within the heading Development Control Plans of this report.

Control 5.13 Stormwater Management – Principally, this section identifies controls for provisions of Water Quality measures to be applied within any proposal and requires compliance with Council's Engineering Design Standards.

The stormwater concept drainage plan indicates that two existing On-Site-Detention tanks will be replaced with two new OSD tanks with slightly larger capacity and that the total flow from the site will not change. The existing tanks will be utilised during the construction period so that the flow from the site is controlled. Overland flow paths are designed so that there is no adverse impact on surrounding properties.

As such, no issues are raised in regard to the management of stormwater for the proposed development and where applicable draft conditions are imposed to ensure Council's standards are achieved.

Control 5.14 Noise – Council required some long term noise monitoring to determine background noise levels. This information was required to establish noise criteria for the mechanical plant and equipment to ensure the cumulative noise levels from the operation of all mechanical plant and equipment are consistent with the Industrial Noise Policy. Appropriate development consent conditions have been imposed.

Control 5.15 Mine Subsidence – the approval of the Mine Subsidence Board has been obtained and the relevant conditions have been imposed.

Control 5.16 Contributions – The relevant s94 contributions have been imposed within the development consent conditions.

Control 6.0 The Individual Places of Narellan Township - This section of the DCP identifies 10 specific places within the township and is supported by various place statements unique to each area. In this regard, the subject site is located within the 'Narellan CBD'. Following is a discussion on the relevant controls:

Control 6.7.a Statement of Desired Future Character Statement (DFCS) – Relevantly the DFCS advocates the following relevant statements;

1. Future development shall facilitate improvements to accessibility, amenity, landscaping and the streetscape; and
2. New development in the Place shall be outwardly focused, contemporary in nature and provide high quality elevations that incorporate colours and materials that generate interest and add vibrancy.

The expansion will play a major role in facilitating improved access and amenity. As noted above, the reconstruction of the car parking area will see a more on grade outcome which will help integrate the adjoining lands to the north-south. The car parking area which is currently being utilised has a cross fall of approximately 1:14.7 (2.3m over a length of 33.8m) and has been subject to minor vehicle and traffic accidents due to the steepness of the land.

Furthermore, this stage will create an improved access point from the adjoining lands as the pedestrian footways will be realigned to a new travelator to connect the core retail area of the shopping complex.

With respect to point 2, it is difficult to achieve an outwardly focused design without impacts to the overall retail function and accessibility of the centre. Notwithstanding, materials and colours used within the external/visible components of the building provide for a suitable backdrop for the desired character of the Narellan CBD.

Control 6.7.b Built form and Floor Space Ratio – this control provides a 2 storey limitation. The site is subject to a development standard contained within the LEP which is discussed in this report under the heading of State Environmental Planning Policy No. 1.

With respect to the Floor Space Ratio, as noted above, the development complies with this control.

Any planning agreements

There are no relevant planning agreements for the site or development application.

The likely impacts of the development

Draft Sub Regional Strategy for the South West Region

The Draft Sub regional Strategy for the South West Region (Draft Strategy) under its Centers and Corridors strategy identifies Narellan as a Town Centre. It provides a

centre's built form spatial hierarchy but does not provide retail or commercial floor caps to underpin its policy.

Within the strategy a Town Centre is described to have the following elements;

Town Centres have one or two supermarkets, community facilities, medical centres, schools, etc. Contain between 4,500 and 9,500 dwellings. Usually a residential origin than employment destination.

Specifically, the strategy for Narellan Town Centre notes, among other things;

Narellan is planned to become a focus for the developing urban areas of Spring Farm, Eldersile, Harrington Park and Oran Park.

Taking the above into consideration, the applicant has stated that 'the proposal does not seek to modify the strategic classification of Narellan Town Centre under the Metro Strategy.' Rather it will be recognised as a 'major Local Centre'.

Council has attempted to seek comment on the proposal from the Department of Planning's Strategies & Land Release branch as concern is raised about the position of Narellan in the regional retail hierarchy as it relates to other planned centres, particularly Oran Park and Leppington. Given its limited policy on commercial and retail floor caps, Council sought to understand the intentions of the strategy for future centres.

A response was provided from the Department and includes the following comment;

"The role of Narellan Town Centre should reinforce the role of the existing and planned Major Centres and the role of Liverpool Regional City in providing higher order retailing, human services, employment and other opportunities for residents of the South West sub-region.

Based on the direction provided by the Metropolitan Strategy, the Government is investing in infrastructure to support the future growth of Leppington Major Centre, particularly through the construction of the South West Rail Link. Any proposal for expansion of retailing in Narellan Town Centre should consider potential impacts on the ability of Leppington to develop to a size that supports Government infrastructure investment; and upon the ongoing viability of Campbelltown-Macarthur as an existing Major Centre. The Metropolitan Strategy identifies Major Centres that are to provide significant employment and other opportunities in locations that are well served by transport and other infrastructure. Narellan should not take on the role of a Major Centre in terms of its retail or other functions where this would be to the detriment of Leppington or Campbelltown-Macarthur".

The Strategy defines a Major Centre as 'major shopping and businesses centre servicing immediate subregional residential population usually with a full scale shopping mall, council officers, taller office and residential buildings, central community facilities and a minimum of 8,000 jobs'.

Upon review of the Departments' response and the relationship between Narellan Town Centre and the Strategy, it is considered that the development proposal will not increase the function or role of a Town Centre which services its community. The centre will continue to provide the relevant retail elements described within the Town Centre definition, that being, two supermarkets and will provide mainly non-food shops.

Furthermore, the Strategy states that the Town Centre captures a radius of 800m and contains 4,500 and 9,500 dwellings. In applying this definition, the Town Centre radius would encroach onto already developed residential land of Harrington Park and Narellan Valley, therefore suggesting the spatial distribution of the defined Town Centre is less in desired area than what actually exists within the Narellan Town Centre. With respect to the dwelling rates, the higher figure is achieved when the surrounding release area dwelling occupancy rates (as at 30 June 2010) are calculated and therefore suggesting the spatial distribution for occupied dwellings for the Narellan area is not achieved within the Town Centre, but rather a wider land catchment trade area.

Nevertheless, on balance, the addition of the discount department store and specialty shops further complements the function of the centre. The built form outcome will provide an integrated development and will continue to serve the community with higher order retailing activities.

Economic Impact

An Economic Impact Assessment was submitted as part of the proposal. Primarily, the assessment has been undertaken in the context of the centre within the current planning environment while detailing the trade area likely to be served by retail facilities at the site including the current and projected populations. In addition, the assessment considers the likely trading impacts on other retailers throughout the surrounding region.

The assessment underpins its outcome on both the identified “escape expenditure” analysis for the trade area and also the projected future growth as identified within the current planning environment.

The assessment states that the current level of “escape spending” is 46.6% of the current retails spending and that *an expanded Narellan Town Centre is well positioned to serve both the existing and future population in the immediate surrounding areas.*

In addition, the assessment concludes that *residents within the South-West Growth Corridor will in time be supplied with their own retail facilities. However, in the short term these are most likely going to be neighbourhood or supermarket centres only, with a substantial amount of spending still being directed to existing major centres such as Narellan. The population within the South-West Growth Corridor is unlikely to support major non-food facilities until 2016 at the very earliest. Narellan Town Centre will remain the major non-food destination for growth area residents until which time residents are able to support their own major non-food facilities.*

With respect to impacts on existing retailers and notwithstanding the Draft State Environmental Planning Policy (Competition) 2010, the assessment states that, *the largest impacts are likely to fall on the Campbelltown CBA, where two Target discount department stores are located. However, despite the combined impacts assumed in sub-section 4.4 and the impacts associated with the expansion of the Narellan Town Centre, retail sales within the Campbelltown CBA are projected to increase by \$37 million over the period to 2012.*

Similarly, with respect to the impact on the future centres, the assessment concludes that *the redevelopment of Narellan Town Centre will not impact the potential for the Leppington Town Centre over the short to medium term as the centre will require a*

substantial surrounding population base before it is supportable. Over the longer term, the centre will be supplied with an extensive population base which will support the development of the centre, regardless of development at the Narellan Town Centre.

Impacts during construction

The preliminary construction program identifies the entire construction period to be 19 months. The program seeks to undertake the works over a series of stages which the applicant states that 'the reason for this is to allow the centre to continue trading and minimise the impact on existing surrounding business'.

Various impacts to the surrounding businesses have been considered and the relevant conditions have been imposed to manage impacts during the construction phases. Such conditions include;

- the applicant requiring to notify surrounding businesses when each stage (that requires existing parking and vehicle access closures) is about to commence and of the vehicle access arrangements as deemed necessary;
- a level of vehicle access is to be maintained through the right of way during all stages;
- directional signage for deliveries;
- ensuring all construction vehicles (including the vehicles from the construction workers) are directed to either park within the development site area or for alternative arrangements to be made to ensure such vehicles do not park within the general public parking areas; and
- all reasonable effort is made by the developer to provide safe and convenient pedestrian access from the surrounding businesses to the centre.

Mobility and Accessibility Impacts

During the assessment process the application was referred to Council's Access Community Advisory Group. This group comprises of Council staff, a Councillor and members of the community.

The Advisory Group highlighted seven key issues relevant to the development proposal. Of the seven, four items have been addressed (by either commitment by the applicant or development consent) and include;

- relocation of the taxi stand to an area with higher pedestrian activity,
- a safer access path of travel for visitors to the centre who have parked in the accessible parking spaces (i.e. a foot crossing is to be provided and a wider pram ramp),
- inclusion of a community bus drop off zone within close proximity of the main entrance, and
- an additional accessible toilet within the stage 5 component.

Furthermore, the applicant commissioned a review on the mobility and accessibility elements of both the existing and proposed building. The report considered areas of ingress and egress; paths of travel, amenities and facilities and miscellaneous elements such as lighting and signage.

The report also recognises access and mobility issues which are related to the previous stages of the development and include:

- *the lift is located in the stage 4 car park near Elyard Street and does not provide ease of access for people with disabilities when moving from the basement and retail levels; and*
- *the main vertical access is provided by existing travelators (stages 2 & 3). This is a potential DDA issue due to the fact that many people with disabilities are unable to use travelators and the lift facility to retail level is not in close proximity.*

Notwithstanding, to help improve access and mobility outcomes to the Stage 5 component, specific recommendations have been made and are reflected within the draft conditions attached to this report.

Urban Design

The whole of stage 5 has no street frontage and as such its height will be visible in glimpse views from the surrounding streets. It will largely form a backdrop to the street front buildings on this side.

The desired future character statement for the area advocates an outwardly focused building however given this stage is the last of the 4 stages already undertaken, the ability to achieve this is greatly diminished due to the existing built form.

The suitability of the site for the development

It is considered that the site is suitable for the development. The resulting development will be the realisation of a complete shopping complex that is supported by ample parking and retail facilities.

The application was assessed against the relevant planning controls and despite its non-conforming building height, the development does not unreasonably contravene planning outcomes for the area. In this regard, the site is suitable for the development.

Any submissions made

As stated above, ten submissions were received during the notification period and four were received, from the same person, post exhibition. Of the ten received during the exhibition, four were received by the same person. The following summarises the relevant issues raised relating to the development proposal and comments are provided on those issues.

Impact of bulk and scale to adjoining businesses

The northern edge of the proposed building is 4.53m from the ground level to the top of the car park wall parapet while the southern edge of the proposed development is 5.6m from the ground level to the top of the vehicle access lane/driveway wall parapet. Both section of the wall are setback approximately 12m and 5.6, respectively, from the adjoining building. Surrounding adjoining buildings are predominately 2 storey in height.

In between these two points the building height is 5.1m from the ground level to the top of the parapet which is setback approximately 12m from the adjoining building. Surrounding adjoining buildings are predominately 2 storey in height.

With the above in mind, the interface between the proposed and adjoining buildings is consistent with the bulk and scale of existing surrounding developments.

Lack of built form and pedestrian integration with adjoining lands

Built form integration to the adjoining lands would ultimately be achieved if the stage 5 component was designed 'outwardly' with shops to be located around the periphery of the development area. However, if this was undertaken then this would disconnect the existing and proposed retail areas of the complex and therefore would not achieve an orderly development that responds to the existing site and built attributes.

The provision of pedestrian access has not changed. A foot crossing is currently located between the subject site and adjoining lands. It is intended to relocate this crossing approximately 12m to the south to align the connection to the adjoining lands with the new travelator that connects into stage 5.

In this regard, it is considered that the development has responded to the existing site attributes which provides a safer integrated access pathway.

Objection to the breach of LEP height limits

The non-compliance to the overall building height subject to this application has been previously discussed. In summary, it was considered that the building height development standard is unreasonable and unnecessary for reasons justified with the section of this report titled State Environmental Planning Policy No. 1.

Impact on existing vehicle access to adjoining lands and preservation of these right-of-ways during and post construction

Upon completion, the development will maintain a right-of-way (ROW) in perpetuity for the surrounding businesses that rely on the access way. As identified on plan titled 'Right-of-Way arrangement', ROW No. 1 is a legal right of way under Deposited Plan 880763. ROW No. 2 will be created over the land identified on the attached plan which is intended to be a right of way.

Both ROW No. 1 and 2 will essentially remain the same access ways as previously utilized by the adjoining lands and therefore is considered that no legal right of way will be impacted on.

With respect to the access arrangements during construction, the preliminary construction management plan notes that for a period of approximately four months, part of the ROW accessed from Camden Valley Way (CVW) will be completely closed. Vehicles entering from CVW will be directed into the existing basement entry car park for the shopping complex. The applicant states however that vehicles wishing to access the surrounding businesses will do so from the Somerset Avenue access.

During the assessment process Council sought advice from the applicant with respect to the possibility of allowing a level of access through isolated areas within the sectioned off ROW. Advice received was that this was difficult to determine when the building contractor is yet to be determined.

To facilitate this and to ensure a level of vehicle access is maintained through the ROW during this stage, a condition of consent has been imposed to ensure this is incorporated with the final construction management plan.

Loss of parking, vehicle and pedestrian access to adjoining building during construction

With respect to loss of parking, the stage which will be mostly impacted on for car parking spaces is Stage 1. The preliminary construction management plan submitted by the applicant states that for a period of six months, 249 spaces of the 1531 spaces will be unavailable. However in accordance with the construction dates this is unlikely to be undertaken during the Christmas period.

It should be noted that these submissions were received by adjoining business owners who have enjoyed the use of both the public and private car park and which have no onsite car parking to service their development.

Notwithstanding, to minimise such impacts to the surrounding businesses during the construction phases, Council recommends that a condition be imposed to ensure that the developer is required to notify the surrounding businesses one month in advance of the beginning of the next stage. It is considered that this will allow time for the shop owners to make alternative arrangements to their service vehicles and/or notify customers in advance of the construction stage commencing.

Impact on commercial waste removal for adjoining businesses

Council has consulted with its Waste Services unit and it has been noted that no waste removal service will be detrimentally impact on during and post construction.

The adjoining shop owners will have adequate time to contact their waste contractors to make alternative waste arrangement if it is deemed necessary as a result of the consent conditions requiring the development to provide notice to the surrounding businesses.

Increased competition due to additional retail facilities and loss of value for surrounding properties

Section 79(C) of the Act does not provide for Council to consider the effect of development proposals on land values given that compliance with relevant legislation and planning controls would ensure that any proposed development is compatible with that of the local built environment.

Potential loss of public car park where s94 contributions have been paid by adjoining developments

Section 94 Contribution Plans allow for monetary contributions to be paid where there is a deficiency of parking spaces provided within the development. It is understood the perception is that these spaces must be provided for within the public car park which has recently been sold.

A search of Council records indicates that, to date, monetary contributions have been paid in lieu of car spaces for approximately 86 parking spaces.

Nevertheless, a critical clause in the sale contract stipulates that an additional 66 car spaces are to be provided over and above any DCP car parking requirements. These spaces have been formally recognised as a restriction on the lands title which allocates these spaces for public use, or in other words non-centre uses.

On a separate point, it is also important to note that the payment of car parking contributions does not necessarily guarantee car spaces out the front of individual shops but should ideally be within a reasonable vicinity. While the proposed additional 66 car spaces will be located within very close proximity to the existing adjoining buildings and at ground level, Council's Contribution Plan 2006 has allocated funding for public spaces which are in the vicinity of the area bounded by Somerset Avenue, Slade Street and Doncaster Avenue. This future public car park is identified within Camden Development Control Plan 2006.

With respect to the 'loss of public car park', at the time of writing this report, Lot 101 DP 716594 and part Lot 4, DP 627565 were subject to a land sale between the Narellan Town Centre and Camden Council.

Both properties were classified as Operational land in accordance with the Local Government Act, 1993. This classification provided a public car parking area that benefited all users.

Notwithstanding, it is understood that the contract of sale stipulates that the new land owners are required to provide an additional 66 car parking spaces within the same area, or within its vicinity and shall be available for the use by the public in perpetuity. In addition, it is understood that these spaces have been identified within the title of the land.

These parking spaces are to be provided over and above the amount that would normally be required by Council's Development Control Plan when any development occurs within the shopping complex.

The public interest

On balance, the construction of the Stage 5 expansion will result in a greatly improved built form outcome that will provide an accessible shopping centre.

The development will allow a higher order retailing experience with a larger variety of shops and will ensure that Camden's growing community, in the short term, are provided with a shopping complex that meets their needs. As such, it is considered to be in the public interest.

Conclusions

Council is in receipt of a development application that seeks approval for alterations and additions to an existing shopping centre complex.

The proposal is to construct 8,760sqm of retail floor which includes a discount department store (6,100sqm) and approximately 20-25 (2,600sqm) smaller retail shops. This equates to 11,150sqm of Gross Floor Area or a 15% increase to the existing retail floor area.

Upon completion, the total floor area of the centre will comprise of 64,885sqm Gross Floor Area or 43,659sqm Net Rentable Area and will accommodate 1864 parking spaces.

An objection has been lodged with regards to the development standards for building heights pursuant to State Environmental Planning Policy No.1. In summary, it was considered that the building height development standard is unreasonable and unnecessary given the existing surrounding height controls exceed the heights within

the proposal and that the non-compliance relates to the height of the plant room only which is located 30m away from any building façade.

Nine objections were received during the notification period and four were received from the same person, post exhibition. The submissions primarily relate to;

- (a) Impact of bulk and scale to adjoining businesses;*
- (b) Lack of built form and pedestrian integration with adjoining lands;*
- (c) Objection to the breach of LEP height limits;*
- (d) Impact on existing vehicle access to adjoining lands and preservation of these right-of-ways during and post construction;*
- (e) Loss of parking, vehicle and pedestrian access to adjoining building during construction;*
- (f) Impact on commercial waste removal for adjoining businesses;*
- (g) Potential loss of public car park where s94 contributions have been paid to adjoining developments; and*
- (h) Increased competition due to additional retail facilities and loss of value for surrounding properties.*

The proposal has been assessed on its merits pursuant to Section 79C of the Environmental Planning and Assessment Act and is recommended for approval subject to the draft conditions below.

Recommendation

It is recommended that Development Application DA 658/2010 is approved with the below draft development consent conditions.

DA 658/2010 DRAFT CONDITIONS OF CONSENT

Approved Development:

This development consent approves the following development subject to and specifically referred to in the Development Consent Conditions set out below:

- Alterations and Additions to construct 8,760sqm of retail floor which includes a discount department store (6,100sqm) and approximately 20-25 (2,600spm) smaller retail shops and 311 vehicle parking spaces.

Details of Conditions:

1.0 - General Requirements

The following conditions of consent are general conditions applying to the development.

- (1) Approved Plans** – The development must be carried out strictly in accordance with the following approved plans:

- (a) Site Plan, Lower level floor plan; Project No. 984; Drawing No. 010; Issue D; Date: June 2009;

- (b) Site Plan, Retail level floor plan; Project No. 984; Drawing No. 011; Issue F; Date: June 2009;
- (c) Site Plan, Car park roof deck; Project No. 984; Drawing No. 012; Issue D; Date: June 2009;
- (d) North & East Elevation; Project No. 984; Drawing No. 013; Issue F; Date: June 2009;
- (e) Sections; Project No. 984; Drawing No. 014; Issue 014; Issue D; Date: June 2009
- (f) Part plan, Lower level plan; Project No. 984; Drawing No. 015; Issue C; Date: June 2009;
- (g) Retail level, part plan 1; Project No. 984; Drawing No. 016; Issue C; Date: June 2009;
- (h) Retail level, part plan 2; Project No. 984; Drawing No. 017; Issue C; Date: June 2009; and
- (i) Part plan, Car park roof deck; Project No. 984; Drawing No. 018; Issue C; Date: June 2009

The development must also comply with the conditions of approval imposed by Council hereunder.

Where there is an inconsistency between the approved plans/documentation and conditions of consent, the conditions of consent take precedence to the extent of the inconsistency.

Amendments or modification of the approved development require the written prior approval of Camden Council.

- (2) **Staging of development** – The Staging sequences for the development shall be in accordance with the constructions sequences and timeframes as noted within the Site Management Plan (ref: preliminary plans; dated October 2010).
- (3) **General Requirement** - All activities associated with the development must be carried out in an environmentally satisfactory manner as defined under section 95 of the Protection of the Environment Operation Act 1997.
- (4) **Building Code Of Australia** - All works must be carried out in accordance with the requirements of the *Building Code of Australia*.
- (5) **Disability Discrimination Act** - This approval does not necessarily guarantee compliance with the Disability Discrimination Act 1992, and the applicant/owner is therefore advised to investigate their liability under the Act.

Your attention is drawn to AS1428 parts 2, 3 and 4 inclusive. This may be used as a comprehensive guide for disability access.
- (6) **Approvals and Licences from Other Authorities** – It is the applicant's responsibility to acquire all other necessary approvals/permits and licences from all other approval authorities as required, prior to the commencement of any work and/or operation of the premises.
- (7) **Advertising Signs Application** - Outdoor advertising structures require prior development consent. A development application must be submitted

and approval granted by Camden Council prior to the erection of any advertising signs.

- (8) **Use of retail premises** - No occupation or use of the retail shops, the subject of this application has been approved by the granting of this consent. Separate Development Applications must be made and consent obtained for the initial use of each shop.

2.0 - Construction Certificate Requirements

The following conditions of consent shall be complied with prior to the issue of a Construction Certificate.

- (1) **Construction Certificate Before Work Commences** - This development consent does not allow site works, building or demolition works to commence, nor does it imply that the plans approved as part of the development consent comply with the specific requirements of *Building Code of Australia*. Works must only take place after a Construction Certificate has been issued for each stage of the development, and a Principal Certifying Authority (PCA) has been appointed.
- (2) **Amendments to Approved Plans** - The amendments indicated and described below must be incorporated in the overall development and must be reflected in any plans prepared for the purpose of obtaining a Construction Certificate:
- (a) All recommendations within the Accessibility Review (including all noted as 'consider'), produced by Morris-Goding Accessibility Consulting, dated 29 November, 2010 and
 - (b) To minimise traffic conflict with the right of way and centre uses, direct access from the lower level car park into the right-of-way shall be minimised. Where possible, circulating between the aisles shall be confined within the boundaries of the basement car park level.
- (3) **Environmental Management Plan** - An Environmental Site Management Plan must be submitted to the Principal Certifying Authority for approval and inclusion in any application for any Construction Certificate and a copy provided to Camden Council. The plan must be prepared by a suitably qualified person in accordance with AS/NZ ISO 14000 - 2005 and must address, but not be limited to, the following issues:
- (a) all matters associated with Council's Erosion and Sediment Control Policy as required by condition 2.7;
 - (b) all matters associated with Occupational Health and Safety;
 - (c) all matters associated to the Waste Minimisation for all construction phases;
 - (d) all matters associated with Traffic Management/Control as required by condition 2.4 and 2.6;
 - (e) all matters associated to the Construction Management Plans as required by condition 2.5 and 2.6;
 - (f) all other environmental matters associated with the site works such as noise control, dust suppression, waste management and the like;
 - (g) appropriate Traffic Control Plans shall be submitted for all stages of

construction including the use of Council's road and footpath for any construction purpose. The use of the public road/footpath for construction work is subject to a Public Road Activity Application (as required) to be approved by the Road Authority prior to the issue of a Construction Certificate.

- (4) Traffic Management Procedure** - Traffic management procedures and systems must be introduced during the construction phase of the development to ensure safety standards are maintained and to minimise any impact on adjoining pedestrian and traffic systems. Such procedures and systems must be in accordance with Australian Standard 1742. The Plan must address the following:

- (a) location and access of the storage area for materials;
- (b) location of the fill materials;
- (c) location of site offices;
- (d) location of the preferred turning area for the delivery vehicles;
- (e) location of the parking for construction staff, any casting and erection of building components;
- (f) matters relating to Traffic Control on a public road; and
- (g) use of equipment and other matters which has an impact on the road network or immediate environment.

It is the applicant's responsibility to provide an educative session for construction workers and supervisors to ensure that the objectives and procedures of the Traffic Management Procedures are maintained at all times.

- (5) Construction Management Plan** - A detailed Construction Management Plan, prepared by a Category A1 or C10 Accredited Certifier or Fire Safety Engineer, shall be prepared and submitted to the Certifying Authority prior to the issue of any Construction Certificate. The plan must make consideration to, but not be limited to, the following matters;

- (a) Where required, alternative arrangements for egress systems where existing exit systems are affected by the proposed construction works;
- (b) Provision of egress from construction areas;
- (c) The operation of all fire safety measures, where the performance or operation of such measures may be affected by construction works (eg fire brigade access, hydrant coverage and access, system shutdown during upgrading and interface works, etc);
- (d) Provision of adequate fire safety measures for construction areas; and
- (e) Where applicable, satisfaction of relevant performance requirements of the BCA should be demonstrated.

The recommendations and requirements of this plan shall be implemented during construction.

- (6) Traffic and Construction Management Plans** – Notwithstanding condition 2.4 and 2.5, the following procedures shall be incorporated within the relevant Management Plans for each stage of the development;

- (a) all storage of building materials, stockpiles, hording, equipment, machinery, site office etc, shall be confined to the development site area;

- (b) all deliveries relating to the construction works shall be unloaded within the development site area;
- (c) all vehicles associated to the construction works, including construction vehicles and vehicles of the construction staff must not park within the general parking areas for the shopping complex;
- (d) Detail of each stage of the development and the projected time frame for work within each stage;
- (e) During the construction works, vehicle access for the general use of the public shall be maintained through the entire length of the Right of Way. All appropriate Traffic Control Measures shall be implemented in accordance with AS 1742 and Condition 2.4.
- (f) One month prior to the commencement of each stage that requires any existing vehicle parking spaces or Right of Way to be access denied or limited then the independent shops and/or retail premises that are adjoining the development site area between Queen Street and Somerset Avenue shall be notified of the proposed commencement date of that stage;
- (g) One month prior to the commencement of each construction stage that requires any of the Right of Way to be access limited, Camden Council's Waste Service Unit shall be notified of the proposed commencement date of that stage.

(7) Soil Erosion And Sediment Control Plans - Soil erosion and sediment control plans must be designed and installed in accordance with the Camden Council's "Soil Erosion and Sediment Control Policy".

Control measures must be maintained during the entire development procedure and can only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised.

Plans containing a minimum of four (4) sets of the undermentioned information must be prepared and submitted to the Principal Certifying Authority for approval prior to a Construction Certificate being issued:

- (a) existing and final contours;
- (b) the location of all earthworks including roads, areas of cut and fill and re-grading;
- (c) location of impervious areas other than roads;
- (d) location and design criteria of erosion and sediment control structures;
- (e) location and description of existing vegetation;
- (f) site access (to be minimised);
- (g) proposed vegetated buffer strips;
- (h) catchment area boundaries;
- (i) location of critical areas (vegetated buffer strips, drainage lines, water bodies, unstable slopes, flood plains and seasonally wet areas);
- (j) location of topsoil or other stockpiles;
- (k) signposting;
- (l) diversion of uncontaminated upper catchment around areas to be disturbed;
- (m) proposed techniques for re-grassing or otherwise permanently stabilising all disturbed ground;
- (n) procedures for maintenance of erosion and sediment controls;
- (o) details for staging of works; and
- (p) details and procedures for dust control.

- (8) **Structural Details** – To ensure that the design is structurally sound, details prepared by a registered Structural Engineer are to be lodged with the Certifying Authority prior to the release of the Construction Certificate for the following structural elements:

- (a) Reinforced concrete slab on ground (Details shall make specific reference to Australian Standard 2870 and the soil classification for the site).
- (b) Suspended concrete slab floors.
- (c) Structural steelwork.
- (d) Timber framing.
- (e) Retaining walls.
- (f) Footings.
- (g) Steel beam and columns.
- (h) Timber beams.

The design certification should refer to the appropriate code or other criteria relied upon by the Structural Engineer.

- (9) **Section J Assessment Report** – Prior to the issue of a Construction Certificate, an Energy Efficiency Report shall be prepared by a suitably qualified assessor. The report must address the requirements outlined with Section J of the Building Code of Australia.

- (10) **Detailed Landscaping Plans** - Prior to the issue of the Construction Certificate (CC), detailed Landscaping Plans prepared by a qualified Landscape Architect or qualified Landscape Designer and must be submitted with the Construction Certificate application.

- (11) **Civil Engineering Plans** - Indicating drainage, driveways, carparking areas, pavement design and details of linemarking and traffic management details and roundabout must be prepared in accordance with Camden Council's Development Control Plan 2006 and Engineering Specifications, associated Guidelines and submitted for approval to the Principal Certifying Authority prior to any Construction Certificate being issued.

- (12) **Mine Subsidence Board requirements** – Prior to the issue of any Construction Certificate, the applicant is to submit to the Principal Certifying Authority a schedule of measures proposed to be implemented to comply with the requirements of the Mine Subsidence Board requirements as per letter dated 29 September, 2010 as attached to this consent.

- (13) **Excavation And Backfilling** - All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property

- (14) **Crime Prevention through Environmental Design** – The applicant is to submit to Council and the Principal Certifying Authority a schedule of measures proposed to be implemented in the construction of the

development in order to minimise the risk of crime. Details are to be provided prior to the release of any Construction Certificate. Such measures are to be consistent with the conditions outlined in the recommended conditions of consent noted by the NSW Police Camden Local Area Command assessment, dated 2 August, 2010, attached to this development consent.

- (15) **Parking Spaces** – A minimum of 311 car parking spaces must be provided for Stage 5. These spaces and associated access driveways and manoeuvring areas must conform with Camden Council's Car Parking Development Control Plan (DCP) 2006, and must be designed in accordance with a pavement design prepared by a Geotechnical Engineer and the Camden Council's standard. Documentary evidence of compliance from an Accredited Certifier/Suitably qualified person must be submitted to the Principal Certifying Authority prior to the Construction Certificate being issued.
- (16) **Disabled Car Parking Spaces** – No less than 14 parking spaces shall be marked and dedicated as accessible car spaces within the Stage 5 retail deck parking area. In addition, to facilitate safe movement between these vehicle spaces and the shopping complex, a pedestrian crossing shall be provided from the bay marked 'X' on the approved plans and a kerb ramp provided which is capable of being utilised by a wheelchair.
- (17) **Parking and /Access Design Standards** – The following design standards for vehicle area and access shall be reflected in the Construction Certificate documentation;
 - (a) The internal driveway and car parking area must be designed in accordance with AS2890.1 off-street carparking and AS 2890.5.
 - (b) All parking allocation for people with disabilities must be designed and constructed to comply with AS 2980.6
 - (c) The clearance under the ramp including beams, ducts and other fittings to the upper level parking over the roundabout must comply with the requirements outlined in Table 4.1 of the Australian Standards 2890.2.
- (18) **Waste Management During Construction** - A Waste Management Plan must be produced for the construction phase of the development. At the very minimum the Plan must address the following matters for each phase of the development;
 - (a) all the waste streams that the development will generate;
 - (b) the volumes for each of the waste streams and how they will be stored temporarily on-site (awaiting removal); and
 - (c) the details of the recycling contractor(s) and landfill destination (if any).
- (19) **External Materials and Finishes** - The building must be constructed using materials and colours that are compatible with the amenity of the surrounding area having regard to the submitted colour board (ref 984; Issue A; produced by Hely Horne Perry Architects; Dated June 2010). Details of proposed colours and materials must be submitted with the Construction Certificate.
- (20) **Plan of Internal Traffic Devices** - A comprehensive plan of directional signs, parking signs, line marking etc shall be provided with the Construction

Certificate application for approval. The plan must also illustrate provisions for the parking of a bus, coach and taxi.

(21) Selection of Mechanical Plant - The selection of external mechanical plant (roof top plant) should be undertaken in consultation with a qualified acoustic consultant to ensure compliance with the Amenity Criteria" listed in "Table 4" in the "Narellan Town Centre Stage 5: Background Noise Assessment: Prepared by Acoustic Logic, Dated 09/11/10". This plant selection and review must be undertaken prior to the issue of a Construction Certificate.

(22) Fire Safety Measures – Prior to the issue of the Construction Certificate, the following information is to be submitted to the Certifying Authority:

- (a) A list of any fire safety measures that are proposed to be implemented in the building or on the land on which the building is situated, and
- (b) If the application relates to a proposal to carry out any alteration or rebuilding of, or addition to, an existing building, a separate list of those measures currently implemented in the building or on the land on which the building is situated.

(23) Fire Safety Upgrade – Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, the existing building is to be upgraded as Camden Council considers that the measures contained in the building are inadequate:

- to protect persons using the building, and to facilitate their egress from the building, in the event of fire; and
- to restrict the spread of fire from the building to other buildings nearby.

Compliance with the following Parts of the Building Code of Australia is to be achieved in the fire safety upgrade of the existing building:

- a) As the building's existing egress systems are impacted upon by the proposed works, where required existing portions of the building shall be upgraded to comply with DP4, DP5 and DP6 of the Building Code of Australia. This includes, but is not limited to:
 - (i) Egress from the nth-western end of the existing basement carpark, particularly with regard to the proposed deletion of the egress stair (near mechanical work shop).
 - (ii) Non-compliant locked car park gates, which currently serve as a required and identified egress point from the nth-western end of the existing basement carpark.
 - (iii) Proposed deletion of the required egress stair adjacent to the existing northern basement carpark entry.
 - (iv) Egress from the existing coles supermarket, which opens directly to the fire isolated exit, contrary to Clause D1.7(a) of the Building Code of Australia.
- b) The existing hydrant system, where required, shall be upgraded to comply with EP1.3 of the Building Code of Australia.
- c) The existing Smoke Hazard Management system shall be upgraded to comply with EP2.2 of the Building Code of Australia.

If an Alternative Solution is proposed to achieve compliance with these Parts of the Building Code of Australia, it is to be prepared by a properly qualified and accredited Fire Engineer.

Details on the method of compliance are to be submitted to the certifying authority prior to the issue of a Construction Certificate.

All work required as part of the Fire Safety Upgrade of the existing building is to be completed prior to the issue of an Occupation Certificate.

(24) Alternative Solution – Where the application for a Construction Certificate involves an alternative solution to meet the performance requirements of the Building Code of Australia, the application must be accompanied by:

- (a) details of the performance requirements that the alternative solution is intended to meet, and
- (b) details of the assessment methods used to establish compliance with those performance requirements.

(25) Stormwater Disposal - Stormwater run-off from the whole development must be properly collected and discharged to the Council drainage system. Surface discharge across the footpath to the road gutter is not permitted. Provision must be made to cater for existing stormwater overland flow from adjoining properties.

(26) Stormwater Detention - The capacity of the existing stormwater drainage system must be checked to ensure its capability of accepting the additional run-off from this development. If necessary an on-site detention system must be provided to restrict stormwater discharges from the site to pre-development flows. The system is to provide for all storms up to and including the 1% AEP event. Engineering details and supporting calculations must be prepared by a qualified Hydrology Engineer and submitted to the PCA for approval with the Construction Certificate.

On completion of the on-site detention system, Works-as-Executed plans are to be prepared by a registered surveyor or the design engineer and submitted to the Principal Certifying Authority. If Camden Council is not the Principal Certifying Authority, a copy is to be submitted to the Council prior to the issue of the Occupation Certificate. The plans are to be certified by the designer and are to clearly make reference to:

- the works having been constructed in accordance with the approved plans,
- actual storage volume and orifice provided,
- the anticipated performance of the system with regard to the design intent.

The developer must prepare a Section 88B Instrument for approval by the Principal Certifying Authority which incorporates the following easements and restrictions to user:

Restriction as to user indicating that the on-site detention basin must be maintained at all times to a level sufficient to ensure efficient operation of the basin, and that Camden Council must have the right to enter upon the

burdened lot with all necessary materials and equipment at all reasonable times and on reasonable notice (but at any time and without notice in the case of an emergency) to:

- (i) view the state of repair of the basin;
- (ii) to execute any work required to remedy a breach of the terms of this covenant if the proprietor has not within fourteen (14) days of the date of receipt by the proprietor of written notice from the Council, requiring remedy of a breach of the terms of this covenant, taken steps to remedy the breach and without prejudice to the Council's other remedies the Council may recover as a liquidated debt the cost of such remedial work from the proprietor forthwith upon demand.
- (iii) Restriction as to user indicating that the on-site detention basin must not be altered, or removed in part, or structures erected thereon without the prior consent of Council.

- (27) Water Quality Measures** - The proposed surface water collection and disposal systems must incorporate adequate silt trap and grit and oil arrestors, which must be constructed to the standards of the Camden Council.

Only uncontaminated stormwater must be discharged to the stormwater drainage system. Details of the silt traps and grit arrestors must be shown on the submitted engineering plans prior to any Construction Certificate being issued.

- (28) Additional Accessible Toilet** – An additional toilet facility for people with disabilities shall be provided within Stage 5 and located within the area accessible to all patrons. Details of the facility shall be included with the Construction Certificate documentation (and designed in accordance with the Building Code of Australia) for the approval by the Certifying Authority.

- (29) Public Risk Insurance Policy** - Council will require the owner or contractor to take out Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve. The Policy is to note Council as an interested party and a copy of such policy must be submitted to the Council prior to the release of the Construction Certificate.

- (30) Performance Bond** - Prior to the issue of any Construction Certificate a performance bond of \$50,000 must be lodged with Camden Council. Should any of Council's property sustain damage or the development place the environment or public at risk, Council will perform any works necessary on behalf of the applicant to rectify these works. This bond will be refunded once all works have been completed to the satisfaction of Council. The applicant must be responsible for any damage caused to existing public utilities, footpaths or public roads during construction works.

In accordance with Council's Fees and Charges a non refundable administration fee of \$110 for cash/cheque bonds and \$220 for bank guarantees must be paid to Council upon lodgement of such bond.

It should be noted that Council will not refund/release the maintenance bond unless a suitable replacement bond is submitted.

(31) **Section 94 conditions** - Prior to the issue of any Construction Certificate, the following Section 94 contributions shall be paid at Camden Council. Documentary evidence must be provided to the Principal Certifying Authority that the below payments have been made;

- (a) Pursuant to **Camden Contributions Plan** amended in July 2004, a contribution must be paid to Council of \$8.96 per additional lot or dwelling, total \$78,490.00, for **Community Facilities**.

The contribution must be indexed by the methods set out in Paragraph 2.4 of the plan **paid prior to issue of the Construction Certificate**.

The monetary contribution may at the sole discretion of Council be offset by the value of land transferred to Council or by works in kind. Such works cannot commence until an agreement is made with Council pursuant to the Contributions Plan. If such an agreement is to be undertaken, it must be signed **prior to the release of a Construction Certificate**.

- (b) Pursuant to **Camden Contributions Plan** amended in July 2004, a contribution must be paid to Council of \$4,120.00 per hectare, total \$3,609.00, for **s.94 Administration and Management**.

The contribution must be indexed by the methods set out in Paragraph 2.4 of the plan and **paid prior to issue of the Construction Certificate**.

- (c) Pursuant to **Contributions Plan No 17** amended in November 2003, a contribution must be paid to Council of \$96.96 per m² of additional gross leasable floor area, total \$849,369.60, for **Streetscape and Public Domain, Traffic Facilities and Roadworks and Rights of Carriageway**.

The contribution must be indexed by the Consumer Price Index and paid **prior to issue of the Construction Certificate**.

The monetary contribution for may be offset by the value of land transferred to Council or by works in kind. Such works cannot commence until an agreement is made with Council pursuant to the Contributions Plan. If such an agreement is to be undertaken, it must be signed **prior to the release of a Construction Certificate**.

3.0 - Prior To Works Commencing

The following conditions of consent shall be complied with prior to any works commencing on the development site.

- (1) **Notice Of Commencement Of Work** – Notice in the manner required by Section 81A of the *Environmental Planning and Assessment Act, 1979* and Clause 103 of the *Environmental Planning and Assessment Regulation 2000* shall be lodged with Camden Council at least two (2) days prior to commencing works. The notice shall include details relating to any Construction Certificate issued by a certifying authority, the appointed Principal Certifying Authority (PCA), and the nominated 'principal contractor' for the building works.

- (2) **Payment of Long Service Levy** - The Long Service Levy payment must be paid prior to works commencing. Documentary evidence must be provided to the Principal Certifying Authority demonstrating that payment has been made.
- (3) **Sydney Water Approval** – Prior to works commencing, the approved development plans must also be approved by Sydney Water.
- (4) **Signs to be Erected on Building and Demolition Sites** – Under Clause 98A of the *Environmental Planning and Assessment Regulation 2000*, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the Principal Certifying Authority (PCA) for the work, and
 - (b) showing the name of the 'principal contractor' (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

Note: The PCA and principal contractor must ensure that signs required by this condition are erected and maintained.

- (5) **Toilet Facilities** - Toilet facilities must be provided at the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

- (6) **Soil Erosion and Sediment Control** - Soil erosion and sediment controls must be implemented prior to works commencing on the site and shall be in accordance with Condition 2.7.

An Infringement Notice issued under the Environmental Planning and Assessment Act, 1979, which imposes a monetary penalty of \$600, may be initiated by the Principal Certifying Authority (PCA) and issued by Camden Council where the implementation or maintenance of measures is considered to be inadequate. In the event that a risk of environmental pollution occurs an Infringement Notice issued under the Protection of the Environment Operations Act 1997, which imposes a monetary penalty of \$750 for an individual or \$1,500 for a corporation maybe issued by Camden Council.

- (7) **WorkCover Approval** - It is the responsibility of the owner to contact WorkCover Authority with respect to any demolition work or use of any crane, hoist, plant or scaffolding prior to any work commencing on the site.

- (8) **Hoardings and Security Fencing** - The site must be enclosed with a suitable temporary hoarding or security fence of a type approved by Camden Council.

No site or demolition works must commence before the hoarding or fence is erected. Public thoroughfares must also not be obstructed in any manner whatsoever during demolition works.

- (9) **Provide A Truck Shaker** - An approved truck shaker must be provided at the construction entry point, in accordance with Council's standards prior to the commencement of work to prevent dust, dirt and mud falling on roadways. Ingress and egress from the site must be limited to this single access point only.

- (10) **Dilapidation Report/Survey** - Prior to the commencement of any works a photographic dilapidation survey of:

- (a) the existing public roads, kerbs, footpaths, drainage structures and any other existing public infrastructure within the immediate area of the development site, and
- (b) the existing storage dam and existing batters.

A copy of the survey must be submitted to Camden Council prior to any works commencing. The survey must include descriptions of each photo and the date when each individual photo was taken. Any damage must be repaired at the applicant's expense.

4.0 - During Construction

The following conditions of consent shall be complied with during the construction phase of the development.

- (1) **Construction Noise Levels** – *Noise levels emitted during construction works shall be restricted to comply with the construction noise control guidelines set out in Chapter 171 of the NSW EPA's Environmental Noise Control Manual. This manual recommends;*

Construction period of 4 weeks and under:

The L10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).

Construction period greater than 4 weeks:

The L10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

(2) Hours of Work – The hours for all construction and demolition work are restricted to between:

- (a) 7am and 6pm Monday to Friday (inclusive);
- (b) 7am to 4pm Saturday (if construction noise is inaudible to adjoining residential properties), otherwise 8am to 4pm;
- (c) work on Sunday and Public Holidays is prohibited.

(3) Site Management – To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period, the following practices are to be implemented:

- (a) The delivery of material shall only be carried out between the hours of 7am - 6pm Monday to Friday, and between 8am - 4pm on Saturdays.
- (b) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb or road surface and shall have measures in place to prevent the movement of such material off the site.
- (c) Builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the development site area. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner.
- (d) Waste must not be burnt or buried on site, nor should wind blown rubbish be allowed to leave the site. All waste must be disposed of at an approved Waste Disposal Depot.
- (e) A waste control container shall be located on the development site.

(4) Support For Neighbouring Buildings - If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- (a) must preserve and protect the building from damage, and
- (b) if necessary, must underpin and support the building in an approved manner, and
- (c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. In this condition, 'allotment of land' includes a public road and any other public place.

(5) Air Quality (Dust and Odours) - Dust emissions shall be confined within the site boundary. The following dust control procedures may be employed to achieve this objective:

- (a) Dust screens may be erected around the perimeter of the site.
- (b) All loads entering or leaving the site must be securely covered.
- (c) Water sprays may be used across the site to suppress dust.

- (d) All stockpiles of contaminated soil shall be covered if remaining more than 24 hours.
- (e) When excavating, the surface should be kept moist to minimise dust.

Volatile or semi-volatile compounds that could generate odours include monocyclic aromatic hydrocarbons (styrene, benzene, toluene, xylene, ethyl benzene, butyl benzene), polycyclic aromatic hydrocarbons (PAH's), hydrogen sulphide, hydrogen cyanide, pesticides, PCB's and herbicides.

No odours shall be detected at any boundary of the site during remediation works (if any). The following procedures may be employed to achieve this objective:

- (a) Appropriate covering techniques such as the use of plastic sheeting or PVA sprays should be used to cover excavation faces, stockpiles and any unsealed surfaces.
- (b) A hydrocarbon-mitigating agent is sprayed on the impacted area/materials.
- (c) Records of volatile emissions and odours should be logged and retained on-site.
- (d) Equipment and machinery shall be adequately maintained to minimise exhaust emissions.
- (e) No materials shall be burnt on the site.

- (6) Transport** - All haulage routes for trucks transporting soil, materials, equipment or machinery to and from the site must be selected to provide the shortest travel distance (or most appropriate) from the site to a state road. Applicants may consult Camden Council prior to selecting the most suitable transport route. All works shall ensure that:

- (a) All soil, materials, equipment or machinery are delivered to or removed from the site shall be transported within the hours of operation specified in the development consent. All loads entering or leaving the site are securely covered.
- (b) All vehicles exiting the site are securely covered.
- (c) All vehicles exiting the site do so in a forward direction.
- (d) All vehicles exiting the site shall not track soil, mud or sediment onto the road.

- (7) Demolition Australian Standard** - Demolition or removal of any existing material on site shall be carried out in accordance with the requirements of Australian Standard 2601 - 1991 where applicable.

- (8) Prevention of Nuisance to Inhabitants** - All possible and practical steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind blown dust, debris, noise and the like.

- (9) Salinity Management** - All infrastructure development should follow the general principles for reducing salinity as detailed in "Section 5" in the report titled *"Salinity Assessment Stage 5: Building and Car Parking Areas Narellan Town Centre Camden Valley Way Narellan, Prepared for Vaste Developments Pty Ltd, Prepared by GDK Keighran Geotechnics, Dated 20/08/10."*

(10) Unexpected findings Contingency – Upon the identification of additional contamination or hazardous materials at any stage of the earthworks process all earthworks in the vicinity of the findings shall cease and the affected area must be made secure from access by personnel. A qualified environmental consultant must assess the extent of the contamination / hazard in accordance with the NSW DEC Guidelines. The assessment results together with a suitable management plan must be provided to Camden Council for written approval prior to the removal or treatment of such findings contamination / hazardous materials.

(11) Fill Material – Prior to the importation and/or placement of any fill material on the subject site a validation report and sampling location plan for such material must be submitted to the Principal Certifying Authority for approval and concurrence.

The validation report and sampling location plan must be prepared: -

i) by a practicing engineer with National Professional Engineering Registration and with a Specific Area of Practice in Subdivisional Geotechnics, and

ii) in accordance with: -

a) the Department of Land and Water Conservation publication “Site investigation for Urban Salinity”, and

b) The Department of Environment and Conservation – Contaminated Sites Guidelines “Guidelines for the NSW Site Auditor Scheme (Second Edition) – Soil Investigation Levels for Urban Development Sites in NSW”.

iii) and confirm that the fill material:

- a) provides no unacceptable risk to human health and the environment;
- b) is free of contaminants;
- c) has had salinity characteristics identified in the report;
- d) is suitable for its intended purpose and land use, and
- e) has been lawfully obtained.

The sampling for salinity of fill volumes less than 6000m³ must provide for 3 sampling locations; fill volumes exceeding 6000m³, require one sampling location for each additional 2000m³. A minimum of 1 sample from each sampling location must be provided for assessment.

The sampling for Contamination should be undertaken in accordance with the following table:-

Classification of Fill Material	No. of samples per volume	Volume of fill (m ³)
Virgin Excavated Natural Material	1 (see note 1)	1000

Note 1: Where the volume of each fill classification is less than that required above, a minimum of 2 separate samples from different locations must be taken.

- (12) **Location of Stockpiles** - Stockpiles of soil should not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies. All stockpiles shall be suitably covered to prevent dust from being a nuisance.
- (13) **Storage & Water Quality Controls** – Prior to the establishment of stockpile and compound sites, temporary stormwater and water quality control devices and sediment controls must be implemented.
- (14) **Removal Of Waste Materials** - Where there is a need to remove any identified waste materials from the site that contain fill / rubbish / asbestos, this material will need to be assessed in accordance with the NSW DECC Waste Classification Guidelines (April 2008) (refer www.environment.nsw.gov.au/waste/envguidlms/index.htm) Once assessed, the materials will be required to be disposed to a licensed waste facility suitable for the classification of the waste with copies of tipping dockets supplied to Council.
- (15) **Surveyor's Certificate** - A registered Surveyor's Certificate must be produced immediately upon completion of the first structural work that will allow identification of the location of the building on the site in relation to the boundaries and any Right of Way.

5.0 - Prior To Issue Of Occupation Certificate

The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.

- (1) **Occupation Certificate** – An Occupation Certificate must be issued by the Principal Certifying Authority (PCA) prior to occupation or use of the development. In issuing an Occupation Certificate, the PCA must be satisfied that the requirements of Section 109H of the *Environmental Planning and Assessment Act 1979* have been satisfied.

The PCA must submit a copy of the Occupation Certificate to Camden Council (along with the prescribed lodgement fee) within two (2) days from the date of determination and include all relevant documents and certificates that are relied upon in issuing the certificate.

- (2) **Fire Safety Certificates** – A Fire Safety Certificate is to be submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*. The Fire Safety Certificate is to certify that each fire safety measure specified in the current fire safety schedule for the building to which it relates:
- (a) has been assessed by a properly qualified person; and
 - (b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

As soon as practicable after the Final Fire Safety Certificate has been issued, the owner of the building to which it relates:

- (a) must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades, and
- (b) must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

- (3) **Acoustic Attenuation Report Compliance** – A report from a qualified acoustic engineer that contains a certifying statement confirming that the provisions and noise criteria for the consent conditions have been implemented and are compliant must be submitted to the Principal Certifying Authority. The acoustic compliance assessment (that leads to the issue of the certifying statement) must be undertaken between three (3) months and six (6) months from the commencement of operation of “Stage 5” of the Narellan Town Centre. The acoustic compliance assessment must be submitted within one (1) month of completion of the assessment.

The acoustic consultant must conduct sufficient inspections to verify that all construction and operational aspects that includes; noise from mechanical plant and any attenuation and, vehicle traffic noise, all occurring within the Narellan Town Centre (Stage 5) has complied with the “DECCW Amenity Criteria” as listed in “Table 4” in the “*Narellan Town Centre Stage 5: Background Noise Assessment: Prepared by Acoustic Logic, Dated 09/11/10*”.

Should the acoustic consultant confirm that:

- (a) any specific construction or operational aspect does not comply with the amenity criteria; or
- (b) that any proposed constructed noise attenuation component/measures do not achieve the criteria set by the approved report;

The acoustic consultant must advise the applicant and the Principal Certifying Authority of such non-compliance. The applicant must arrange for the submission of an application pursuant to s.96 of the *Environmental Planning and Assessment Act 1979* for the modification of the issued development consent to the Camden Council for determination.

- (4) **Structural Certification (Completed Building)** – Prior to the issue of an Occupation Certificate, a certificate prepared by a practising structural engineer, certifying the structural adequacy of the building, shall be submitted to the Principal Certifying Authority (PCA).
- (5) **Damaged Assets** – All engineering works and public utility relocation shall incur no cost to Camden Council. Any damage to Camden Council’s assets shall be rectified prior to the commencement of use or occupation of a building.
- (6) **Works As Executed Plan** - Prior to the Occupation Certificate being issued, a works-as-executed drawing signed by a registered surveyor must be

submitted to the Principal Certifying Authority showing that the stormwater drainage and finished ground levels have been constructed as approved.

(7) Creation of Easement – Prior to the Occupation Certificate being issued for the building the developer must:

- (a) Amend the Right-of-Carriageway as approved by Notice of Determination No. 485/2010 to 6.5metres wide and variable.
- (b) Easements to be created over Lot 21 in DP 880763 to benefit Lot 20 in DP 880763 would be, but not limited to, the following:-
 - (i) Easement to permit encroaching structure to remain;
 - (ii) Right of way;
 - (iii) Right of footway;
 - (iv) Easement for parking;
 - (v) Easement of services; and
 - (vi) Easement to drain water.

6.0 - Operational Conditions

The following conditions of consent are operational conditions applying to the development.

(1) Hours of Operation - The hours of operation of the retail premises are restricted to:

- (a) Monday - Wednesday: 9:00 – 5:30pm
- (b) Thursday: 9:00am – 9:00pm
- (c) Friday: 9:00am – 5:30pm
- (d) Saturday: 9:00am – 5:30pm
- (e) Sunday: 10:00am – 5:30pm

All commercial vehicle movements (including deliveries) associated with the operation of the premises are restricted to the hours of 07:00am – 4:00pm Monday to Friday.

Any alteration to these hours will require the prior approval of Camden Council.

(2) Plant Noise and Operational Restriction - *The level of total continuous noise emanating from the operation of all the plant or processes in all buildings (LAeq) (measured for at least 15 minutes) that includes vehicle traffic noise for the “Narellan Town Centre (Stage 5)” must not exceed the “DECCW Amenity Criteria” listed in “Table 4” in the “Narellan Town Centre Stage 5: Background Noise Assessment: Prepared by Acoustic Logic, Dated 09/11/10” when measured at any point on any residential boundary.*

(3) Compliance with conditions - *All conditions of consent must be complied with prior to the building being occupied. The Principal Certifying Authority must issue a statement verifying all pre-conditions have been satisfied to enable the issue of an occupation certificate.*

- (4) **Offensive Noise** - The use and occupation of the premises including all plant and equipment installed thereon, must not give rise to any offensive noise within the meaning of the Protection of the Environment Operations Act, 1997.
- (5) **Emission Requirements** - All gases, odours, fumes, steam, moisture and particulate matter generated by the use of the premises must be collected into approved stacks for discharge to the atmosphere. The quality of the discharges from the stack system must comply with the requirements of the Protection of the Environment Act, 1997 as amended and Regulations made thereunder.
- (6) **Compliance with POEO Act 1997** –All business and operational activities are carried out in accordance with the provision of the Protection of the Operations Act (POEO) 1997 at all times.
- (7) **General Waste Service Contract** - The business proprietor shall enter into a commercial contract for the collection of trade waste and recycling. A copy of this agreement shall be held on the premises at all times.
- (8) **Lighting** - All external and internal lighting for roads, parking and essential areas shall be provided in accordance with the Australian Standard 1158. At no time shall the lighting of the compound exceed the limits of the Australian Standard 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting.
- (9) **Graffiti Management Plan** - A graffiti management plan needs to be incorporated into the maintenance plan for the development. All graffiti shall be removed within 48 hours of the offence.
- (10) **Bunting** - Bunting must not be used to attract customers.
- (11) **Internal Road Design and Width** - With the exception of garbage and recycling collection vehicles, the developer must not permit the reversing of vehicles onto or away from the road reserve. All vehicles must be driven forward onto and away from the development and adequate space must be provided and maintained on the land to permit all vehicles to turn in accordance with Australian Standard 2890.1 Parking Facilities - Off Street Car Parking.