

OUTCOMES COMMITTEE

Meeting Date 12 July 2011

Item Number. 99

SUBJECT:

Issue: Draft Amendment to Fairfield Town Centre Development Control Plan 2006

Premises: Lot 1 DP 730010 otherwise known as 49-61 Spencer Street, Fairfield

Applicant: Urbis Pty Ltd – Directors refer to Attachment A.

Owner: Fairfield Chase Management Pty Ltd

Zoning: 3(a) Sub-Regional Business Centre under Fairfield Local Environmental Plan 1994

Submissions: YES (Refer to Attachment E)

FILE NUMBER: 10/03144 & DA 306.1/2011

PREVIOUS ITEMS: 5 - Outcomes Committee - 8 February 2011

REPORT BY: Robert Cologna, Manager Strategic Land Use Planning

RECOMMENDATION

1. That the amendments to the Fairfield Town Centre DCP 2006 (Attachment B) be adopted and come into effect when a public notice of Council's decision is published in the local paper.
2. That Council write to the Department of Planning and Infrastructure to amend the draft Comprehensive Local Environmental Plan to reflect the relevant controls contained in the Site Specific Development Control Plan applying to the Fairfield Chase site.

NOTE: This report deals with a planning decision made in the exercise of a function of Council under the EP & A Act and a division needs to be called.

SUPPORTING DOCUMENTS:

AT-A Ownership & Applicant Details - Distributed Separately

AT-B Site Specific Development Controls Lot 1, DP 730010 (otherwise known as 49-61 Spencer Street, Fairfield) - Distributed Separately

AT-C Outcomes Committee Report 8 February 2011 - Distributed Separately

AT-D Summary of Submissions - Distributed Separately

AT-E Submissions - Distributed Separately

OUTCOMES COMMITTEE

Meeting Date 12 July 2011

Item Number. 99

SUMMARY

Council at its meeting on 8 February 2011 resolved to publicly exhibit the draft amendment to the Fairfield Town Centre Development Control Plan 2006 to incorporate draft Site Specific Controls which seek to guide development on 49-61 Spencer Street, Fairfield otherwise known as the "Fairfield Chase".

A Development Application for the site was exhibited concurrently, due to the scale of the proposal it will be determined by the Joint Regional Planning Panel (JRPP) set up by the State Government rather than Council.

The draft amendment was exhibited in excess of 28 days during which Council received three written submissions. One submission raised issues in regards to the proposed built form and car parking arrangement which are addressed in the report. The remaining issues were not strategic in nature but instead are operational best dealt with at the Development Application stage. It is now recommended that the proposed amendments to the Fairfield Town Centre Development Control Plan 2006 be adopted.

REPORT

The Outcomes Committee on 8 February 2011 considered a report outlining proposed amendments to the Fairfield Town Centre Development Control Plan 2006 to incorporate Site Specific Controls to guide development on the Fairfield Chase site. At this meeting Council resolved the following:

1. Council exhibit an amendment to the Fairfield Town Centre DCP 2006 to include the draft Site Specific Development Control Plan controls (SSDCP) included as Attachment D for the redevelopment of the Chase Site in accordance with the requirements of the Environmental Planning and Assessment Act, 1979.
2. Should the development application be submitted in sufficient time it be exhibited concurrently with the draft SSDCP.
3. The draft SSDCP be further considered by Council after the exhibition period.

PUBLIC EXHIBITION

In accordance with the Council resolution public exhibition of the draft Site Specific Development Control Plan (SSDCP) and the associated Development Application (DA) were conducted concurrently.

The applicant lodged a DA on 6 April 2011 proposing major alterations and additions to the Fairfield Chase site in accordance with the controls specified in the draft SSDCP.

The draft SSDCP (**Attachment B**) and DA were publicly exhibited in excess of 28 days from 25 May 2011 to 24 June 2011.

OUTCOMES COMMITTEE

Meeting Date 12 July 2011

Item Number. 99

Notification

In addition to the minimum area specified in the Fairfield City Wide DCP Appendix B – Notifications Policy, Council Officers deemed that notification should extend to a greater area due to the significance of the proposal.

During this period Council received 3 written submissions, 1 general phone enquiry and 1 counter enquiry.

The counter enquiry was from the owner of 27 Smart Street and Unit 4 41-47 Spencer Street, Fairfield. These sites are both potentially isolated as a result of the DA. Accordingly Council Officer's advised the owner that any concerns he may have should be provided to Council in the form of a written submission before the close of the exhibition period. The owner was advised that he should familiarise himself with the contents of the Council report included in the exhibition material as it covered issues that were important to the future development potential of his site. Council Officer's reiterated this advice with an additional letter to the owner and attached a copy of the Council Report. No written submission was received by Council Officers.

SUBMISSIONS

It is important to note that some of the issues raised in the submissions were not strategic in nature and are more specific to the DA, but as a result of the concurrent exhibition it is considered that Council Officer's will need to identify all the issues raised in the submissions.

All the submissions are discussed briefly below but a more detail assessment of the issues is provided in **Attachment D**.

Submission 1

Submission 1 raised concerns in regards to the following issues:

- Built form (Height, building design)
- Overshadowing of public domain
- Car parking shortfall
- Other operational issues that were best dealt with at the DA stage including:
 - Flooding
 - Proposed Land Uses
 - Implementation of Development
 - Staged Development
 - Waste Management

Council Officer Comments

OUTCOMES COMMITTEE

Meeting Date 12 July 2011

Item Number. 99

The strategic issues raised in this submission were dealt with in detail on the previous Council report **Attachment C** and further addressed in **Attachment D**.

In assessing the variation to the controls, Council Officers sought to provide controls that were a balance between the community's expectations against the applicant's development expectations. In addition Council Officer's had to take into account the constraints introduced into the proposal due to the applicant's decision to retain the existing structures. It is the opinion of Council Officer's that the benefits of the proposal to the revitalisation of the Fairfield Town Centre are significant.

Car parking issues are also dealt with in a separate report included in this business paper.

The operational issues are all more appropriately dealt within the DA assessment process.

Submission 2

Submission 2 raised concerns about access to the adjoining properties via the Council Lane during the construction phase.

Council Officer Comments

Access to the adjoining properties via the Council Lane will be required to be maintained during the construction phase.

This is an operational matter best dealt with via conditions of approval at the DA stage and will be matter for consideration by the Joint Regional Planning Panel.

Submission 3

Submission 3 was in support of the DA. It makes mention of the site's close proximity to public transport. It also questions why no Government Agency or Department have been relocated to Fairfield City to help with its revitalisation.

Council Officer Comments

The purpose of Council's planning policies are to provide provisions that aid in the orderly development of land, these provisions cannot dictate the type of commercial or government entities are to be located within the town centre. Although it can be argued that the presence of a large commercial or government entity within the Town Centre will aid in its revitalisation.

AMALGAMATION ISSUES

No written submissions were received from the owners of the sites to be excluded from the draft SSDCP. The only representation made was from the owner of 27 Smart Street and Unit 4 41-47 Spencer Street, Fairfield via a counter enquiry. It is important to note that part

OUTCOMES COMMITTEE

Meeting Date 12 July 2011

Item Number. 99

of the proposed amendments allow applicants seeking to redevelop these sites in the future to utilise the SSDCP process in accordance with Appendix 4 of the Fairfield Town Centre DCP 2006.

DRAFT COMPREHENSIVE FAIRFIELD LOCAL ENVIRONMENTAL PLAN 2011

As mentioned in the previous report, Council is currently preparing its Standard Instrument Local Environmental Plan.

The Department of Planning and Infrastructure have advised that higher order centres (such as the Fairfield Town Centre) must have Floor Space Ratio (FSR) and Height of Building (HOB) controls included in Council's Comprehensive LEP to comply with the State Government Standard Instrument Template.

If the draft SSDCP is endorsed by Council, it will follow that the HOB maps will need to be amended to reflect the controls contained in the draft SSDCP. The proposal is consistent with the FSR controls adopted for the site.

At the time of writing, Council was awaiting endorsement from the Department of Planning to allow the draft LEP to be publicly exhibited. Council if it adopts the SSDCP should make a request to the Department of Planning to make the appropriate amendments to the draft Comprehensive LEP prior to public exhibition, alternatively the amendments can be made post public exhibition. It is likely that the DA will be determined before the new LEP comes into force.

JOINT REGIONAL PLANNING PANEL:

As mentioned earlier in the report the scale of the development is such that the Joint Regional Planning Panel will be the determining authority for the Development Application instead of Council.

Council in its consideration of the draft SSCCP will need to take into account that the applicant has lodged a DA for the site that has been prepared against the controls contained in the draft SSDCP.

The significant controls that are varied from those contained in the Fairfield Town Centre DCP 2006 are listed in the table below:

	Fairfield Town Centre DCP 2006	Draft Fairfield Chase Site Specific DCP
Maximum Height	42 metres	66 Metres
Maximum FSR	Not Provided, based on building envelopes	4:1 (consistent with what is proposed under the draft Comprehensive Fairfield LEP 2010)

OUTCOMES COMMITTEE

Meeting Date 12 July 2011

Item Number. 99

Built Form	At least one level of basement car parking required.	No basement level car parking will be required
	Maximum of 2 storey podium level.	Maximum of 4 storey podium level
	Perimeter built form	No perimeter form required

In the event that Council endorses the draft SSDCP it will leave little scope for a submission to be made to the JRPP in regards to the above aspects of the associated DA. Therefore if Council endorses the draft SSDCP it follows that a submission to the JRPP will not be required.

VOLUNTARY PLANNING AGREEMENT:

Council at its Outcomes Committee Meeting held on 15 June 2011 adopted amendments to the Fairfield Town Centre DCP 2006 and Section 94 Plan 1999.

Of relevance to this matter were the amendments made to Appendix 5 (specifying the car parking generation rates) of Fairfield Town Centre DCP 2006; and

Section 9.2 of the Fairfield City Council Developer Contributions Plan 1999 which states:

“Developers who choose not to comply or are unable to meet the car parking requirements (other than the residential component) identified in the Fairfield Town Centre Development Control Plan (DCP) 2006 have the option of entering into a Voluntary Planning Agreement as part of addressing any shortfall in car parking not provided on site.”

At the time of writing of this report the applicant has made an offer to Council to enter into a Voluntary Planning Agreement to pay a contribution for the shortfall in commercial car parking spaces.

Further details of the Voluntary Planning Agreement are provided in a separate report included in this business paper.

CONCLUSION

The public exhibition of the proposed amendments has been completed. It is the opinion of Council Officer's that the issues raised in regards to the built form have been appropriately addressed. Council Officers sought to provide controls that are a balance between the community's expectations and the applicant's development expectations. It is the opinion of Council Officers that such a development will provide significant benefits to the revitalisation of the Fairfield Town Centre.

OUTCOMES COMMITTEE

Meeting Date 12 July 2011

Item Number. 99

Other issues raised in the submissions are not strategic in nature but instead are operational and are best dealt with via conditions of approval at the Development Application stage.

Taking into account the large notification area and the small number of submissions received. It is now recommended that Council adopt the proposed amendments to the Fairfield Town Centre DCP 2006 as exhibited and that these changes come into effect when a public notice of Council's decision is published in the local paper in which case a submission to the JRPP in regards to the DA is not required.

If Council adopts the proposed amendments to the Fairfield Town Centre DCP 2006 before the Department of Planning and Infrastructure issues authorisation to publicly exhibit that draft LEP, that Council write to the department to amend the appropriate sections of the draft LEP to incorporate the relevant SSDCP controls prior to its exhibition.

Robert Cologna
**Manager Strategic Land Use
 Planning**

Authorisation
 Executive Manager Environmental Standards

Outcomes Committee - 12 July 2011

File Name: **OUT120711_26**

***** END OF ITEM 99 *****

ATTACHMENT A

Site Ownership, Applicant details

Premises	Lot 1 DP 730010 otherwise known as 49 - 61 Spencer Street, Fairfield
Owner	The Fairfield Chase Pty Ltd Director – Sam Krslovic
Applicant	Urbis Pty Ltd Directors: <ul style="list-style-type: none"> ▪ Kate McCann Non Executive Director (Chair) ▪ John Wynne Managing Director ▪ Tim Blythe Director ▪ Sarah Emons Director ▪ Simon Rumbold Director ▪ Roger Scrivener Director ▪ David Usasz Non Executive Director ▪ Paul Quinlan Company Secretary

ATTACHMENT 'B'

Site Specific DCP Controls

Lot 1 DP 730010 (otherwise known as
49-61 Spencer Street, Fairfield)

To be included in Appendix 4 of the Fairfield Town Centre DCP 2006

ATTACHMENT 'B'

1 Draft Site Specific DCP Controls

1.1 Overall Objectives

The general objectives including the Urban Design Principles and Vision in Section 3 for Fairfield Town Centre are adopted for the site.

1.2 Land to which the Site Specific DCP controls apply

This Site Specific DCP applies to Lot 1 DCP 730010 (otherwise known as 49 - 61 Spencer Street, Fairfield)

1.3 Environmental Planning Instruments that apply to the site

The Site Specific DCP Site identified above is zoned 3(a) Sub-Regional Business Centre under the Fairfield Local Environmental Plan 1994 (FLEP 1994). All development undertaken in accordance with this Site Specific DCP must meet the objectives of the zone and be permissible in the zone and comply with all relevant clauses of the plan.

At the time of preparation of these controls a draft Fairfield Comprehensive Local Environmental Plan (draft Plan) that will seek to replace FLEP 1994 amending the zoning and introducing FSR and building height controls for the subject site has been prepared and forwarded to the Minister for Planning so that the draft Plan can be certified and publicly exhibited. Until the plan is publicly exhibited it is not a formal head of consideration under Section 79C of the Environmental Planning and Assessment Act 1979 that must be considered when a development application for the subject site is assessed.

Once the draft Plan is exhibited the provisions of the draft Plan will become a head of consideration under Section 79C and once the plan is made and replaces the FLEP 1994 the provision of this plan will apply to the site.

When preparing or assessing a development application in relation to the subject site the status of the abovementioned plans will need to be determined to ensure the application is assessed against the appropriate Local Environmental Plan provisions.

State Environmental Planning Policy No 65 and the associated Residential Flat Design Code will apply to this development as well as other relevant SEPPs.

1.4 Ware Street Precinct Objectives

The objectives of the Ware Street Precinct as contained in Section 4.2 of the Fairfield Town Centre (FTCDGP 2006) are adopted for the site.

ATTACHMENT 'B'

1.5 Site-Specific Objectives

The objectives for the subject site are:-

- 1.5.1 Active frontages must be provided along Spencer Street and Smart Street;
- 1.5.2 Development should not involve the overshadowing of the public domain or adjoining properties between 9am and 3pm on 21 June any greater than expected if the site was developed under the controls set out in Section 4 of the FTCDP 2006. For the avoidance of doubt, a slender built form, locating a taller tower to the north of the site, and a shorter tower to the south of the site that complies with Section 1.6 (Building Envelopes) is taken to comply with this requirement.
- 1.5.3 The massing of any buildings along the street edge should be consistent with and complimentary to the scale of existing buildings proposed in the building envelope of Section 4 of the FTCDP 2006 for adjoining sites, being 4 storeys along the street edge. However, nothing in this objective requires the demolition of a pre-existing non-compliant built form.
- 1.5.4 The sites on the corner of Spencer and Smart Street are excluded from this Site Specific DCP. These sites will be required to comply with the provisions of the FTCDP 2006 unless a separate site specific DCP process as identified in Appendix 4 of the FTCDP2006 to determine the appropriate building form is undertaken. Rights of Way should be provided on the subject site to enable future access to these sites.
- 1.5.5 Pedestrian linkages as indicated in Section 5.2.2 of the FTCDP 2006 through the site must be maintained and all vehicular access should be from the Council Lane.

ATTACHMENT 'B'

1.6 Building Envelopes

The development of the land is to conform with the following principles:

- (1) The existing office building may be retained to enable continuity of commercial occupation in the Fairfield Town Centre;
- (2) Maintain consistent zero setback at ground floor level to define street edge except where road widening is required along Council Lane where the building should define the new street edge taking into account the new vehicle and pedestrian access arrangements
- (3) Establish a 4 storey height for the street wall along Spencer Street and Council Lane as indicated in Table 1.6.1 – Building Envelope Controls
- (4) Establish tall slender towers located as close to the centre of the site as possible to:-
 - Minimise the shadow impacts and the impact on the amenity of the primary streets.
 - Maintain good separation between residential towers on site and adjoining sites by adopting the setbacks set out in Table 1.6.1 – Building Envelope Controls.
 - Allow height of development greater than permitted on adjoining sites that encourages redevelopment of the subject site in a manner that allows for retention of components of the existing building subject to modifications that improve the safety and amenity of the area.

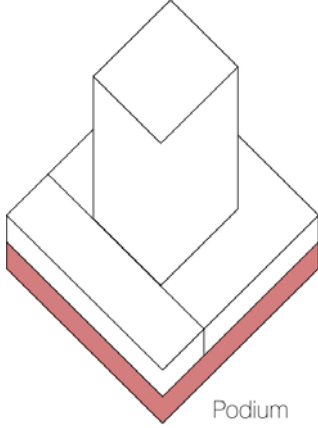
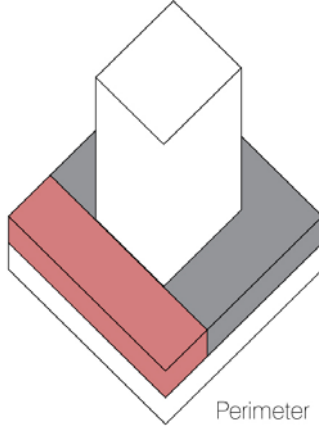
Table 1.6.1 – Building Envelope Controls

The following controls apply to the site-specific DCP site:

Land Uses

- Podium – retail/commercial with an active frontage to the street – residential not permitted.
- Perimeter – retail/commercial and parking permitted. Residential not permitted.
- Tower – Retail, commercial or residential uses permitted.
- Car parking – see section 5.2.5 of the FTCDP 2006, as modified in accordance with Section 1.8 below.

ATTACHMENT 'B'

<ul style="list-style-type: none"> ▪ Pedestrian Links – must be maintained through the site in accordance with diagram 5.2.2 of the FTCDP 2006, being: East - West connecting the Civic Centre Arcade to Smart Street, and North - South connecting The Crescent Arcade to Spencer Lane. 	
<p>PODIUM: Height – maximum 4.5m above natural ground level - 1 storey Setbacks to all boundaries – zero required except to the southern section of the Council Lane where a setback is required to facilitate road widening and a further 3 metre recess from the new proposed boundary for access purposes.</p> <p>Refer to Section 1.8.2 below</p> <p>Floor to Ceiling Height – to match existing retail</p> <p><i>Refer to Figure 1.6.2</i></p>	
<p>PERIMETER: Height – maximum 15m above natural ground level - 3 storeys above podium level (total 4 storeys)</p> <p><u>Setbacks</u></p> <p>Spencer Street - nil setback</p> <p>Western Boundary fronting Council Lane - nil for all storeys</p> <p>Southern Boundary fronting Council lane – nil setback measured from proposed new boundary arising from the road widening discussed in Section 1.8.2</p> <p>Floor to Ceiling Height – to match existing office</p> <p><i>Refer to Figure 1.6.2</i></p>	

ATTACHMENT 'B'

TOWER:**First Tower (Northern end of site)**

Height - maximum 66m above natural ground level and 16 storeys above perimeter component (so maximum of 20 storeys)

Setback Spencer Street – 9m

Setback Council Lane – 5m

Second Tower (Southern end of site)

Height - maximum 55m above natural ground level and 10 storeys above perimeter component (so maximum of 16 storeys)

Setback – Southern section of Council lane - 5m from new boundary created as a result of road widening in Section 1.8.2

Setback – western section of Council lane – 5m

Floorplate - a maximum 450sqm GFA floorplate applies to the towers for slender tower forms

Building Separation between two proposed towers – minimum 24m

Floor to ceiling height – minimum 2.7m

Refer to Figure 1.6.2

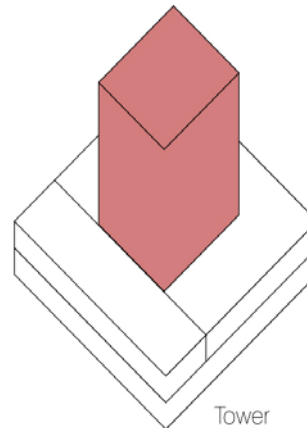
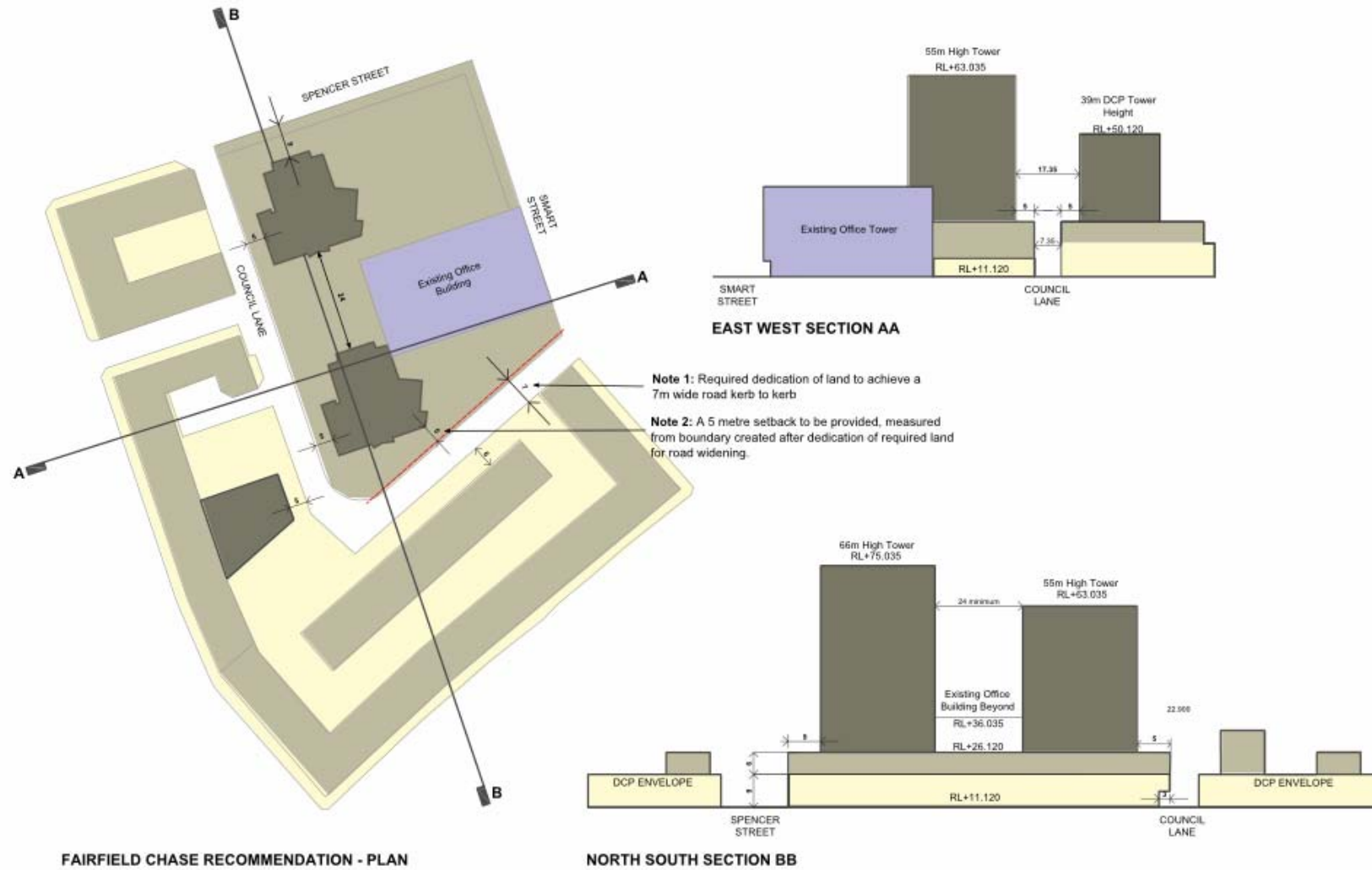


Figure 1.6.2 – Building Envelope Diagrams

ATTACHMENT 'B'



ATTACHMENT 'D'

ATTACHMENT 'B'

1.7. Floor Space Ratio

The maximum Floor Space Ratio achievable on the site is 4:1.

1.8 Modifications to Section 5 of the Fairfield Town Centre DCP 2006

Any development should comply with all the requirements of Section 5 of the FTCDP 2006 except where it is amended by the following:-

1.8.1 Open Space

In addition to the meeting the requirements of Section 5.1 Private and Communal Open Space a small public plaza will be located between The Crescent Arcade on Council Lane and the southern retail entrance of the development.

1.8.2 Vehicular and Pedestrian Access

In addition to the controls for the core area in Section 5.2.4 of FTCDP 2006 Street Network and Vehicular Access and 5.2.2 Pedestrian Links/Arcades. The development must provide the following:

- (a) a setback sufficient for the widening of Council Lane to a 7m carriageway, to permit two way access, for the distance from the car park entrance to the nearest street (being Spencer Street or Smart Street, as appropriate); and
- (b) a 3m wide public pedestrian path for the distance from the entrance to any residential lobby and the nearest street (being Spencer Street or Smart Street, as appropriate).

1.8.3 Activation of Street in Podium Building

In Section 5.2.5 on site parking Objective 5.2.5(c) of the FTCDP 2006 is replaced with the following:

- “(c1) *where parking is permitted above natural ground level, the car parking areas must be screened from any adjacent primary street or public open space. A zone extending 10m from any primary street frontage boundary should be used for active retail or commercial functions, or designed with sufficient floor heights to permit the conversion to such uses in the future. The exception to this is in a basement where the parking area may extend to any boundary.*”

ATTACHMENT 'B'

1.8.4 Site Access, Parking and Servicing

The following site servicing controls apply in addition to those included in the FTCDP 2006 Section 5.2.6 Site Servicing:

"Core Area"

- (c) at least one loading dock, 20m long or of such other dimension and size required to meet the goods loading needs of the development must be provided on site, that is accessible by all tenants (commercial and residential), and includes sufficient space for unloading of goods within the site.*
- (d) separate commercial and residential waste areas must be provided, sufficient to accommodate all waste generated by the development. However, any medical use may manage its own waste (due to the special requirements of medical waste), provided that it has its own access to Council Lane. A detailed Waste Management Plan is required to be submitted with the Development Application such plan is to detail the waste management needs of the various uses proposed to be accommodated on the site, as well as the waste management strategies to be employed during the construction phase.*
- (e) A right of carriage way to benefit the two sites located between the subject site and Smart and Spencer Streets is to be established. The objective is to avoid additional driveway access having to be provided across Smart or Spencer Street to service any future redevelopment of the subject sites and instead allow vehicle access to these sites from Council Lane.*

Note : In Section 5.2.5 On – Site Parking , Control (e) makes reference to DCP No 19/1996 – Car Parking which has now been incorporated into Council's city wide DCP as Chapter 12. Therefore the requirements of this Chapter will apply in relation to the design and layout issues.

1.8.5 Residential Unit Mix, Area and Room Size

The mix of units will be as required by section 5.4 Residential Unit Mix, Area and Room Size

ATTACHMENT 'B'

1.9 Supporting Documentation

In addition to the requirements of the Appendix 3 of the FTCDGP 2006, the following documentation is also required when submitting a Development Application:

- Acoustic Assessment
- Traffic and Parking Report
- Wind Impact Report
- Waste Management Report for future development as well as during construction
- BASIX Certificate
- Design Verification Statement – SEPP 65 Compliance
- CPTED Assessment
- Quantity Surveyors Report assessing value in accordance with Capital Investment Value Definition.
- 2 Soft Copies of all plans and documentation provided on a CD.

1.9.2 Notes

- Note 1: The determining authority for this proposal will be the JRPP and as such the minimum number of plans and documentation required is 8 sets.

ATTACHMENT 'B'

1.10 Amalgamation Issues

The subject DCP only applies to the subject site identified in Section 1.2 of this Site Specific DCP. Two sites isolated between the subject site and the corner of Smart and Spencer Street are not included in this Site Specific DCP.

These sites cannot (individually or as a pair amalgamated together) meet both the minimum site area and site width requirements contained in the Fairfield Town Centre DCP (or Draft Fairfield Comprehensive LEP discussed in Section 1.3 above) to achieve a tower development or a height greater than 15m. This Site Specific DCP does not impart or attach any special development concessions or benefits, apart from the right of way referred to in Clause 1.7.4(e), to the future redevelopment of these isolated sites. Applicants seeking the redevelopment of these sites in the future may however seek to develop a Site Specific DCP in accordance with the process outlines in Appendix 4 of FTCDGP 2006.

Placeholder for Attachment C

Issue: Draft Amendment to Fairfield Town Centre
Development Control Plan 2006 Premises: Lot 1 DP
730010 otherwise known as 49-61 Spencer Street,
Fairfield Applicant: Urbis Pty Ltd – Directors refer to
Attachment A. Owner: Fairfield Chase Managem

Outcomes Committee Report 8 February 2011 -
Distributed Separately

60 Pages

Attachment D

Summary of Submissions

Submission 1	
Issue	Council Officer Comments
<p>Submission Reference - 2.1 <i>Flooding</i></p> <ul style="list-style-type: none"> - Concern is raised in regards to Clause 11 of the Fairfield Local Environmental Plan 1994 which deals with Development of Flood Liable Land 	<p>The applicant is not proposing to alter the existing building footprint but instead proposing to make the additions on top of the existing structure. Nevertheless the issue of flooding is best deal with as part of the assessment of the Development Application.</p>
<p>Submission Reference – 2.2 <i>Proposed Land Uses within the Development</i></p> <ul style="list-style-type: none"> - Proposed land uses within the development, concern is raised in regards to the proposed childcare centre. 	<p>The applicant has amended the plans and is no longer proposing a child care centre; therefore this issue is no longer relevant.</p>
<p>Submission Reference – 2.3 <i>Proposed building Height</i></p> <ul style="list-style-type: none"> - Concern is raised in regards to the maximum height proposed by the draft Site Specific Development Control Plan (SSDCP) and Council's variation of the Site Specific 	<p>Appendix 4 of the Fairfield Town Centre Development Control Plan 2006 (FTCDCP) identifies the “Fairfield Chase” site as a SSDCP site.</p> <p>It goes on to state the following:</p> <p><i>The controls set out in this DCP are one design response for these sites and they will be applied in cases where the owners do not wish to pursue the Site Specific DCP process. However, there are many other design responses that could still achieve Council's objectives for the centre but would not be permitted</i></p>

Attachment D

<p>Development Control framework for the Fairfield Chase site.</p> <ul style="list-style-type: none"> - It raises concerns that the 66 metre height limit results in a 57% increase in height in relation to the current controls. - An argument is made in respect to the economic viability of the proposal in that this should not be a factor in allowing for the variation in the building height. - The increased height would see a reduction in the amount of the solar access over the public domain. - An argument is made that if such a height control was contained within a Local Environmental Plan then the accepted standard in alignment with State Environmental Planning Policy No.1 – Development Standards is generally in the order of 10%, whilst the 	<p><i>under these controls.</i></p> <p><i>The Site Specific DCP process has been included in this DCP: -</i></p> <ul style="list-style-type: none"> - <i>to allow Council the flexibility to consider other, possibly more suitable options within a structure that allows Council to set the policy objectives; and</i> - <i>to permit the owners greater design flexibility for larger sites where a site-specific response is likely to generate an outcome better suited to the needs of both the owner and the community.</i> <p>It is acknowledged that the height and built form controls proposed in the draft SSDCP are a significant variation from those proposed by the FTCDCP. These issues have been covered in detail in the previous Council report to Outcomes Committee on 8 February 2011.</p> <p>The applicant required significant variations in the controls for the proposal to be economically viable. Council Officers sought to provide controls that were a balance between the community's expectations against the applicant's development expectations. In this respect a substantial variation to the height controls was sought (and endorsed by Council for public exhibition) which would allow a development to achieve the maximum FSR of 4:1 allowable for the site.</p> <p>One of the major considerations in support of the variation was the stimulus such a development would provide for the revitalisation of the Fairfield Town Centre.</p> <p>The issue of height and overshadowing was addressed as in the original assessment. The applicant provided a comparative shadow analysis between a built form that was in accordance with Council's current controls and against</p>
---	--

Attachment D

<p>proposal is proposing a variation in excess of 50%.</p>	<p>what was proposed. It demonstrated that shadows generated by a built form under Councils current controls already encroached on the public domain and the impact in shadows as a result of the increased height was similar. In addition work was carried out by an urban designer in regards to the positioning of the towers on the site so as to minimize the impact on the public domain.</p> <p>In terms of solar access, Council Officers sought to balance out the benefits of such a proposal against any impacts it may have on the public domain and concluded that the proposal had a positive outcome to the community as it would significantly contribute to the revitalization of the Fairfield Town Centre. The shadow impact on the public domain remained similar when compared to the impact generated from a built form that was in line with Council's current controls which was not acknowledged in the submission.</p> <p>State Environmental Planning Policy No.1 – Development Standards</p> <p>Council is currently awaiting authorization from the Department of Planning and Infrastructure to allow it to publicly exhibit its draft LEP. In this case the application of State Environmental Planning Policy No.1 – Development Standards would be irrelevant if Council adopts the controls contained within the draft SSDCP as the draft LEP will be amended accordingly.</p> <p>It should be noted that the height controls found in the draft LEP reflect the controls contained in Council's various Development Control Plans and Policies.</p>
--	--

Attachment D

<p>Submission Reference – 2.4 <i>Building Design</i></p> <ul style="list-style-type: none"> - An argument is made that the SSDCP establishes a requirement for one level of basement car parking to be provided. - Its states that Council's express desires are contained in the recent preparation of the SSDCP and these cannot be discounted at the first opportunity. - Parking provided on the upper levels do not provide for natural surveillance over the public domain and is therefore inconsistent with best practice crime prevention through environmental design principles. - The inclusion of a basement level of parking would assist to alleviate the potential difficulties pertaining to the shortfall in car parking on site. 	<p>It should also be pointed out that the majority of the built forms that can be found within the town centre do not reflect the building envelopes controls contained in the FTCDCP as these structures were constructed prior to its adoption. It is the opinion of Council Officers that the variation of the podium controls will not have a significant impact on the “existing” character of the town centre (on the street level).</p> <p>Also the applicant is not seeking to demolish the building and rebuild from scratch. The applicant is seeking to retain the existing structure but to improve the design and operation of the existing building. This issue limits the opportunity to provide a basement car park and must be taken into consideration when assessing this issue.</p> <p>There are economic and environmental benefits from re-using and redeveloping the existing structure.</p> <p>It is acknowledged that the provision of parking on podium levels do not provide for natural surveillance over the public domain. In this regard Council has included controls in the draft SSDCP requiring minimum floor to ceiling heights on the car parking levels which will allow for the future conversion of these frontages for commercial uses.</p> <p>The issue of Crime Prevention Through Environmental Design will be addressed in more detail at the Development Application stage. Nevertheless the applicant has argued that an awning would obscure the ground floor retail area and that any benefits of passive surveillance would not be fully achieved whether or not the podium level frontages were activated or not.</p> <p>Issue of car parking is discussed in the car parking section below.</p> <p>As mentioned earlier the issue of Flooding will be dealt with at the Development</p>
--	---

Attachment D

<ul style="list-style-type: none"> - The submission states that the applicant's position of not providing basement car parking due to flood constraints needs to be supported by a flood study which the applicant has not provided. 	<p>Application stage.</p>
<p>Submission Reference – 2.5 Car Parking</p> <ul style="list-style-type: none"> - The submission raises concerns in regards to the shortfall in car parking spaces. It outlines that the site has a shortfall in car parking spaces and this shortfall will be further increased by the proposed development. - The submission states that in the event that there is a shortfall in on-site provision associated with the residential use of the site, an overflow is likely to occur to the retail car parking area within the development, which will result in a further burden to the retail capacity of the site. 	<p>The issue of car parking associated with this site is complex due to a number of issues. Details of which are provided in separate report that is included in this business paper which cover the following issues:</p> <ul style="list-style-type: none"> - History of car parking associated with the site - Recent amendments to Council's Fairfield Town Centre Development Control Plan and Fairfield City Development Contributions Plan 1999 - Voluntary Planning Agreement for the provision of car parking associated with the Fairfield Chase proposal. <p>The car parking issue will also be covered in detail during the Development Application process.</p> <p>Council requires that the all car parking associated with the residential development is provided on site. The applicant has allocated the required amount of car parking for the residential component of the development and is proposing to address any shortfall in commercial spaces via a Voluntary Planning Agreement.</p> <p>Note: Council will not accept a contribution for any shortfall in residential spaces.</p> <p>As mentioned above the applicant is no longer proposing a child care centre.</p>

Attachment D

<p>It raises concerns in regards to the required number of spaces associated with the operation of a medical centre.</p>	<p>The applicant has included the car parking requirements for a medical centre in the proposal. As such the argument that any future Development Application for a Medical Centre may be refused on the basis of car parking has no merit.</p> <p>The existing site currently operates at a significant shortfall of 118 spaces due to historical factors, details of the history of car parking associated with the site is covered in a separate report to Council included in this business paper.</p>
<p>Submission Reference – 2.5 <i>Implementation of development</i></p> <ul style="list-style-type: none"> - The submission states that their client currently holds an existing lease on the site and that the current lease arrangements do not maintain a demolition clause. 	<p>This is not a consideration under section 79C of the Environmental Planning and Assessment Act 1979, it is a commercial issue between the landlord and the tenant. Accordingly any issues in regards to leases will need to be resolved outside the planning framework.</p>
<p>Submission reference – 2.6 <i>Staging of Development</i></p>	<p>This is an operational issue best dealt with during assessment of the Development Application</p>
<p>Submission reference – 2.7 <i>Waste Management</i></p>	<p>As part of the development application process, the applicant was required to submit a waste management plan that dealt with the management of waste during the construction phase as well as the ongoing operation of the site post construction. These will be discussed in more detail as part of the assessment of the Development Application.</p>

Attachment D

Submission 2	
<i>Issue</i>	Council Officer Comments
Concerns raised about access to the adjoining properties via the Council Lane during the construction phase.	<p>Access to the adjoining properties via the Council Lane will be required to be maintained during the construction phase.</p> <p>This is an operational matter best dealt with via conditions of approval at the DA stage and will be matter for consideration by the Joint Regional Planning Panel.</p>
Submission 3	
<i>Issue</i>	Council Officer Comments
This submission was in support of the DA. It makes mention of the site's close proximity to public transport. It also questions why no Government Agency or Department have been relocated to Fairfield City to help with its revitalisation.	<p>The purpose of Council's planning policies are to provide provisions that aid in the orderly development of land, these provisions cannot dictate the type of commercial or government entities are to be located within the town centre. Although it can be argued that the presence of a large commercial or government entity within the Town Centre will aid in its revitalisation.</p>

Mail Mail - Reference: 10/03144 and DA 306.1/2011**ATTACHMENT - E**

From: Caroline Turrise <Caroline.Turrise@breakthru.org.au>
To: "mail@fairfieldcity.nsw.gov.au" <mail@fairfieldcity.nsw.gov.au>
Date: 07/06/2011 4:25 PM
Subject: Reference: 10/03144 and DA 306.1/2011

Hi,

The development you propose (Fairfield Chase) is located at the back of our business located on Ware St, Fairfield and this is how we access our carpark via a back entrance (Council Lane). Could you please advise if during construction our access to this lane and subsequently our carpark will be affected.

Your response would be greatly appreciated.

Regards

Caroline Turrise
 MD Personal Assistant & CS Administrator

Tel: (02) 8884 3060
 Direct Line: (02) 8884 3060
 Fax: (02) 9831 7675
 Suite 14, Level 1
 125 Main St
 Blacktown NSW 2148
breakthru.org.au



This e-mail has been scanned for viruses by MCI's Internet Managed Scanning Services - powered by MessageLabs. For further information visit <http://www.mci.com>

FAIRFIELD CITY COUNCIL	
- 9 JUN 2011	
TO: <i>J. Assuncan</i>	DOC ID:
FILE: <i>11/01313</i>	SCAN DATE:
CRM:	INITIALS:
LINK REF:	PAGES:
PROP No:	ASSESS No:

The City Manager
Fairfield City Council
PO Box 21
FAIRFIELD NSW 1860

FAIRFIELD CITY COUNCIL	
- 1 JUN 2011	
TO: V. Trescow	DOC ID:
FILE: 11/013/3	SCAN DATE:
CRM:	INITIALS:
LINK REF:	PAGES:



Comments Regarding an Application made to Council for Approval

Dear Sir,

(Please print details)

PROPOSAL: 10/03144 DA 306.1/2011

PREMISES: 49-61 SPENCER ST FAIRFIELD

APPLICATION NO: _____

I (Name) Joseph DiMarco

of (Address and Postcode) c61/1 McDONNELL ST CROWLEA 2230

Premises Affected (if different from above) OWN SHOP IN SPENCER ST NOT ADVERSELY AFFECTED

Telephone (Mobile & Home/Work) 0411462041

Signature: [Signature] Date: 28/5/2011

Political donations / gifts :

Has a person with a financial interest in this application made or will be making a reportable political donation or gift to any local Councillor or employee of this Council within the previous 2 years of making this application or its determination?

☒ NO

☐ YES -

the 'Political Donations and Gifts Disclosure Statement' must be completed pursuant to section 147(4) and (5) of the Environmental Planning and Assessment Act 1979, which is available from Council's Customer Service Team or downloadable from Council's website.

If you intend to make a reportable political donation or gift in the period from the lodgement of the application up until determination of the application, a 'Political Donations and Gifts Disclosure Statement' is required to be provided to Council within seven (7) days after the donation or gift is made.

For definitions of the terms 'gift', 'reportable political donation', 'local councillor', 'financial interest' and 'person are associated with each other' refer to the glossary of terms on the 'Political Donations and Gifts Disclosure Statement' available from Council's Customer Service Team or downloadable from Council's website.

Please turn over and provide any comments or objections you may have in relation to this development.

NB: Any comments and/or objections received will not be kept confidential and become open access information under the Government Information (Public Access) Act 2009.

COMMENTS: I make the following comments in respect to the abovementioned proposal. I understand that Council may discuss these matters with the applicant while negotiating design amendments.

NOT ONLY DO I AGREE WITH THIS APPLICATION BUT I FEEL IT HAS
BEEN A LONG TIME COMING. BRINGING PEOPLE CLOSER TO A STATION
SO THAT PUBLIC TRANSPORT CAN BE USED IS AN OBVIOUS WAY TO
IMPROVE TRANSPORT WITH LESS TIME WASTE AND POLLUTION ETC.

HAVING SAID THAT ABOVE I CAN NOT UNDERSTAND WHY NO STATE OR
DEPARTMENT
GOVERNMENT HAS BEEN LOCATED IN THE CITY OF FAIRFIELD AND
GIVEN THE CITY NEW LIFE.

OBJECTIONS: I have viewed the plans and object to the development on the following grounds:

Mail Mail - Submission to DA 10/03144 and DA 306.1/2011**ATTACHMENT - E**

From: ben cribb <benc@hamptonspropertyservices.com.au>
To: "mail@fairfieldcity.nsw.gov.au" <mail@fairfieldcity.nsw.gov.au>
Date: 24/06/2011 4:12 PM
Subject: Submission to DA 10/03144 and DA 306.1/2011
Attachments: Let001kl-gManager_Final.pdf

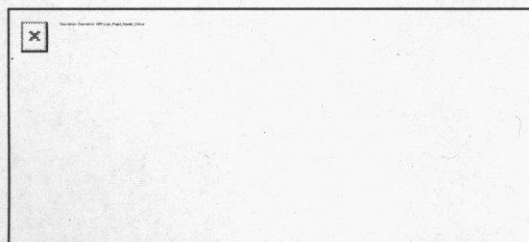
To Whom it May Concern,

Please find attached a copy of our submission to the aforementioned matter. The original has been placed in the mail.

Regards,

Benjamin Cribb

m 0414 065 788 ph +61 3 9939 6044 e benc@hamptonspropertyservices.com.au



Melbourne Office: 3/78 Commercial Road, Prahran VIC
Postal Address: PO Box 209 Prahran VIC 3181

Head Office: Suite 404, 203-233 New South Head Road,
 Edgecliff NSW 2027

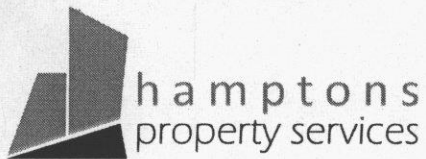
www.hamptonspropertyservices.com.au

Disclaimer: The content of this message and any attachments may be privileged, in confidence or sensitive. Any unauthorised use is expressly prohibited. If you have received this email in error please notify the sender

and disregard and delete the email. Email may be corrupted or interfered with. Hamptons cannot guarantee that the message you receive is the same as that we sent. © hamptons

This e-mail has been scanned for viruses by MCI's Internet Managed Scanning Services - powered by MessageLabs. For further information visit <http://www.mci.com>

FAIRFIELD CITY COUNCIL	
28 JUN 2011	
TO: <i>N. Ali</i>	DOC ID:
FILE: <i>11/01313</i>	SCAN DATE:
CRM:	INITIALS:
LINK REF:	PAGES:
PROP No:	ASSESS No:



ATTACHMENT - E

Reference: 2011.055

24 June 2011

Mr. Alan Young
General Manager
Fairfield City Council
PO Box 21
FAIRFIELD NSW 1860

Dear Sir,

**DEVELOPMENT APPLICATION 10/03144 and DA 306.1/2011
FAIRFIELD CHASE REDEVELOPMENT**

Hamptons Property Services (Hamptons) has been retained by Idameneo (No. 123) Pty Limited (the Client).

The Client currently occupies the existing medical centre within the aforementioned site.

The Client has commissioned Hamptons to review the aforementioned development application at 49-61 Smart Street, Fairfield.

As part of our commission we have reviewed the development application documentation lodged by the Applicant. Having regard for this and our Client's interests, we make the following submissions with respect to the application.

1.0 The Facts

1.1 The Site

The site, located on a total land area of 5,662 m², currently contains a six storey commercial building, incorporating retail uses at the ground floor, fronting Smart Street.

Off street parking is also located above retail/commercial floor space at the ground floor level.

Within the development is an existing medical centre, occupying 1,343m².

1.2 The Development Application

Our understanding of the development application, as presented by the Applicant, is for the following:

- Retention of the existing commercial building;
- Retention of the ground floor slab with minor penetrations for services;
- Demolition of the remaining structures;
- Construction of a new medical centre;
- Construction of speciality shops;
- Construction of a child care centre; and
- Construction of two residential towers.

The outcome will result in the following floor space:

- 4,660m² of commercial floor space;
- 2,000m² of retail floor space;
- 1,225m² for a medical centre;
- 90m² for a child care centre; and
- 119 residential apartments.

Car parking will be provided for 260 vehicles, above ground.

The aforementioned information is taken from the Statement of Environmental Effects, prepared by James Lovell & Associates.

2.0 The Submissions

The following submissions are made, as set out below, with respect to the application.

2.1 Flooding

Clause 11 of the Fairfield Local Environmental Plan 1994 (the LEP) deals with **Development of Flood Liable Land** and states as follows:

- (1) *The Council must not consent to the erection of a building or the carrying out of a work on flood-liable land unless the provisions of the Council's Flood Management Policy that relate to the proposed development have been taken into consideration. Copies of the Flood Management Policy are available for inspection at the Council's Office.*
- (2) *The Council may refuse consent to an application to carry out any development which in its opinion will:*
 - (a) *adversely affect flood behaviour, including the flood peak at any point upstream or downstream of the proposed development and the flow of floodwater on adjoining lands,*
 - (b) *increase the flood hazard or flood damage to property,*
 - (c) *cause erosion, siltation or destruction of riverbank vegetation in the locality,*
 - (d) *affect the water table on any adjoining land,*
 - (e) *affect riverbank stability,*
 - (f) *affect the safety of the proposed development in time of flood,*
 - (g) *restrict the capacity of the floodway,*
 - (h) *require the Council, the State Emergency Service or any other Government agency to increase its provision of emergency equipment, personnel, welfare facilities or other resources associated with an evacuation resulting from flooding, or*
 - (i) *increase the risk to life and personal safety of emergency services and rescue personnel.*

The applicant has supplied insufficient information to deal with the potential flood levels associated with the site. In absence of such information, the current application cannot be determined.

2.2 Proposed Land Uses Within The Development

The Applicant's submission includes a child care centre within the development.

Pursuant to the (uncertified) **Draft Fairfield Local Environmental Plan** (the Draft LEP), a child care centre is permitted within the **B4 Mixed Use** zone.

However, **Clause 6.9** of the **Draft LEP** states that a child care centre shall not be erected within 100 meters of flood affected land.

Page 20 of the **Statement of Environmental Effects (SEE)** prepared by **James Lovell & Associates**, states that the site is partially affected by flooding. It then goes on to say that the position of the child care centre and associated open space is located at the first floor level.

The Applicant advises that a flood study is not considered necessary.

The inclusion of the child care centre is therefore deemed suitable by the Applicant.

It is our submission that:

- Despite these provisions being contained in a draft environmental planning instrument, for the benefit of forward planning, the location of child care centre on this site is prohibited, regardless of its location within the development.
- It is acknowledged that the Draft LEP is in an uncertified form; however, for the benefit of forward and future planning, and having regard to child safety, the approval of such a use on the site is considered to be irresponsible by the Council.
- At the very least, a flood study should be provided by the applicant to demonstrate that the use of the site for the said purpose is suitable. In addition, appropriate management and mitigation measures should be required of the applicant, by way of evacuation procedures in the event of emergency.

2.3 Proposed Building Height

The planning provisions that are contained within the **Fairfield Town Centre Development Control Plan (FTCDCP)** provide express provisions for the implementation of a Site Specific Development Control Plan (SSDCP) in certain circumstances.

The site the subject of this application is one such site that requires the establishment and implementation of specific controls.

Having regard to the development of the SSDCP, which has occurred concurrently with the preparation of this development application, there is concern with respect to the building height, as proposed.

Site specific planning provisions are usually implemented for a reason and the extent of deviation that is proposed within this development application gives rise to significant concerns.

The height, as proposed, being 66 metres for the northern tower and 51.5 metres for the southern tower, results in a significant departure from the height that has been determined as appropriate as part of the site-specific planning process.

The height of the northern tower is proposed at some 57% higher than that anticipated by the site-specific planning controls.

It is anticipated that the Council has gone to some lengths to establish an appropriate height for the site, and an outcome that provides for an additional proportion of height on the site that is greater than 50% of that previously considered appropriate is preposterous in planning terms.

In the **Outcomes Committee Report** prepared for the meeting dated **8 February 2011**, the following was provided by the Council on the matter of building height:

The key factor that defines the sites inability to achieve the desired FSR of 4:1, whilst confirming to the height limit of 42 metres, is the applicants decision to retain the existing 6 storey office tower. Council' officer's advised the applicant that there would be far greater flexibility and hence scope for meeting the above controls if the existing structures were demolished (such as underground car parking and choice and position of towers). The applicant was also advised that the purpose of a SSDCP is to offer the development the opportunity to design an innovative solution to the site because it is less encumbered by constraints.

The report goes on to state that *'the applicant advised that demolition of the existing office building is not an option as this would result in the entire proposal becoming economically unviable'*.

The aforementioned grounds of economic viability are not sufficient to deviate from the planning controls that have been envisaged as appropriate for the site by the Council. By retaining the existing structures, the applicant does not have an express right to additional building height, simply to achieve the floor space ratio that is permitted.

Aside from the above, the Applicant's position is that the proposed outcome, while having a greater impact in terms of solar access, will enable a faster moving shadow over the impacted area. A faster moving shadow does not detract from the impact that the building height will cause.

To approve a building height that maintains such a significant departure from the standard that has been so recently established by the Council, through composition of SSDCP, to then overhaul this at the first chance, is considered inappropriate and is not sound in planning terms.

While it is acknowledged that a control contained within a development control plan may be applied with some flexibility, a deviation to a control to this extent is inconsistent with accepted planning practice for deviation from planning controls.

In the event that such a standard were contained within a local environmental plan, then the accepted standard, in alignment with **State Environmental Planning Policy No. 1 – Development Standards**, is generally in the order of 10%. A departure in excess of 50% is inconsistent with accepted planning practice.

In addition, approval of an application to the extent proposed would be inconsistent with **Section 79C(1)(b) and (e) of the Act**. Such approval, which would see a reduction in the amount of solar access enjoyed within the public domain, is not in the public interest, despite the fact that the shadow may move more quickly.

It is therefore considered that the building height, as proposed is inconsistent with the SSDCP; accepted practice for deviation from planning controls and is not in the public interest.

2.4 Building Design

The SSDCP establishes a requirement for one level of basement car parking to be provided.

Again, the retention of the existing slab structure and associated levels above does not enable an express right to exceed, or not comply with, the planning controls simply having regard to matters of economic viability.

Expressly set out in the SSDCP for the site is the need for one level of parking to be located in a basement structure.

Economic viability is claimed by the applicant as justification for not complying with this control, through the retention of the existing structures.

Again, and as set out previously, the recent preparation of the SSDCP should not be discounted. The Council's express desires for the site are contained within this document and, to do away with, at first chance, key desired objectives for the site, is considered inappropriate and a poor response in planning terms.

Parking provided at the upper floor levels as part of the building envelope does not allow for natural surveillance over the public domain and is therefore inconsistent with best practice crime prevention through environmental design principles.

Ideally, open structures to the street frontage, adjoining retail and/or commercial spaces is considered to represent a far superior outcome, having regard to passive surveillance opportunities, over that proposed.

In addition, the inclusion of a basement level of parking would assist to alleviate the potential difficulties pertaining to the shortfall of car parking on the site, which are discussed in **Section 2.5**, below.

The applicant indicates that, due to flooding issues associated with the site, basement car parking is not feasible. However, there is no flooding study accompanying the application to support this position. Therefore, a determination by the Council, in absence of establishing the flooding extent attributable to the site is remiss. The only sound justification from this requirement is by documentary evidence to support the position.

Until such time as this matter is evidenced to the Council, the provision of underground car parking to assist with the short fall of spaces on the site cannot be discounted.

2.5 Car Parking

The following position is established by **Varga Traffic Planning Pty Ltd** as part of the development application, with respect to the existing situation:

- The site is currently provided with 171 car parking spaces;
- The existing uses within the development require 272 car parking spaces;
- Therefore, there is an existing shortfall of 101 car parking spaces.

Having regard for this, the **Traffic Impact Assessment (TIA)** provides that:

- The demand generated by the proposal retail, medical and office space generates a need for 248.2 spaces.
- The demand generated by the child care centre is five spaces.
- The demand generated by the residential component of the site is 166.75 spaces.
- The total demand generated by the development is **419.95 spaces**.

The proposed development will provide **for 257 off street car parking spaces**. This represents a shortfall of **163 spaces** associated with the demand of the development.

The Applicant has taken the position that, as the existing site operates with a shortfall of 103 spaces, it is suitable to further increase this shortfall by an additional 63 spaces. The quantum proposed is only 60% of the required number of spaces as a result of the development.

The Applicant relies on the site's location in close proximity to public transport, and opportunities for multi-purpose trips; as a result, this 40% shortfall is justified as sufficient.

The deficiencies in this approach are as follows:

- The applicant has not undertaken an actual survey to establish what the existing demand associated with the use of the site is. Therefore, the impact of the potential shortfall has not been appropriately established, nor the actual demand associated with the current use of the site.
- The existing deficiency should be applied to the development site as a whole and not further reduced over the planning requirements.
- Given the existing shortfall of spaces, at the very least, the proposed residential component of the development should be required to provide the sufficient number of car parking spaces associated with the site.

Based on the proposed deficiency in car parking, in the event that there is a shortfall in on-site provision associated with the residential use of the site, an overflow is likely to occur to the retail

car parking area within the development. This will result in a further burden to the retail capacity of the site and impact on the accessibility of the site for customers.

This is not considered acceptable from our Client's perspective, having regard to the required number of spaces associated with the operation of a medical centre.

In addition, there is concern that subsequent upon approval of this application, it would be necessary for a further approval for 'use' to be made to the Council to occupy the medical centre space. In the event that this is done subsequent upon other retail approvals, such an application may be refused by the Council on the basis that there is insufficient on-site car parking available to service the development.

Therefore, at the very least, in the event that this primary application is approved, it must be done so with the 'use' of the premises as a medical centre; the only subsequent application is that for fit-out works, so that our client's interests are secured within the site.

Council should also have regard for development consent **DA 134/98** which deals with the on-going use of the medical centre. This has certain requirements which must be adhered to and, in the event that the existing medical centre is retained, there is a potential breach of that consent. A copy of this is attached for Council's reference.

The inclusion of the child care centre within the development also has the potential to reduce the availability of car parking within the site during peak periods. We would anticipate that, at a minimum during peak periods, designated spaces in close proximity to the child care centre, will be dedicated for exclusive use. This reduces the potential availability of spaces servicing the retail and commercial components of the site, although is not an unrealistic expectation of the child care centre, to ensure the safety and security of children accessing this.

Having regard to this, and the shortfall that is proposed by the applicant, the designation of such spaces is considered to impede the outcomes associated with the use of the site.

It is therefore considered that, given the intensification of use that is proposed, the outcome sought for on-site car parking provision is diametrically opposed to a sound planning outcome. The application, in its current form, is not supportable on this aspect alone.

2.5 Implementation of the Development

As indicated previously our Client is the tenant of the existing medical centre within the site.

While not a town planning issue, our Client maintains an existing lease within the site until August 2018.

The existing lease arrangements do not maintain a demolition clause.

Therefore, while a commercial matter between the landlord and tenant, in absence of appropriate commercial terms being negotiated, the development in its current form cannot proceed.

We would therefore recommend to the Council, as part of their planning considerations, that despite this being a commercial issue, the Council contemplates how the application may be implemented in the event that appropriate relocation and refurbishment terms are not reached.

2.6 Staging of Development

Given that there are existing tenants on the site, including that of our Client, it is imperative from a trading perspective that the Council has an understanding of the staging of the development across the site, as part of its assessment.

Assuming that all uses will not cease their operations during construction of the development, it is imperative that, at all times, sufficient car parking numbers are provided to service the site. Given that the site already operates with an existing parking shortfall, to further reduce this over the construction period would be detrimental to existing trade and have extensive flow on impacts for car parking on the surrounding street network. This is contrary to **Section 79C(1)(b)** of the **Environmental Planning & Assessment Act 1979** (the Act).

As is the case with the approval of other retail and commercial developments within the Fairfield Local Government Area, sufficient car parking must be provided on the site at all times, including during the construction period. Without such, the proposed development has the potential to result in adverse environmental and economic impacts.

In the event that this cannot be supplied, then adequate arrangements must be made to ensure that suitable provision is made at all times during construction, despite whether such a reduction is only temporary.

Therefore, as part of its consideration of the development application, the Council is obliged to consider how the development would be staged and, in doing so, ensure that adequate accessibility arrangements to the existing tenancies is made available over this period. In absence of this, the development application cannot be approved, pursuant to **Section 79C(1)(b) of the Act**.

2.7 Waste Management

The applicant has supplied a Waste Management Plan with the application. However, this Plan states that waste associated with the medical centre facility will be dealt with specifically by the tenant.

This is remiss, as the medical centre tenancy within the development has specific waste requirements associated with the use and adequate space requirements should be incorporated, as part of future planning within the redevelopment of the site.

While it is acknowledge that the architectural plans do show an area for such purpose, no consultation has been undertaken with the existing medical centre tenant to determine whether the layout, as shown, is fit for purpose.

Therefore, it is considered that the applicant has an obligation to consult with the tenant as part of the development application process, to avoid issues, at a later stage, in ensuring that adequate waste facilities are provided on the site.

3.0 Conclusions

On the basis of the above submissions, it is our view that the application is not supportable having regard to the matters raised above. In particular, the site specific nature of the planning provisions that have been established for the site do not correspond with the application as proposed. Having regard to matters of flooding; building height; car parking and design, the application should not be supported in its current form.

Moving forward, we would respectfully request that we are advised of any amended application associated with this proposal and/or any Independent Hearing and Assessment Panel or Joint Regional Planning Panel meetings.

Should you have any further queries, please do not hesitate to contact the undersigned.

Yours sincerely,



Kristy Lee
Director