

SUMMARY

PROPERTY:	29, 35-39 Burlington Road & 32 The Crescent, Homebush
LOT & DP:	Lot 11 DP 1052760, Lots 11 & 33 Section 10 DP 400, Lots B, C, & D DP 391764
DA NO.:	2011/195
APPLICATION TYPE:	<p>Demolition of all structures on site including two (2) x two (2) storey brick commercial buildings and car park hard stand.</p> <p>Construction of a mixed use building (part four (4) and part seven (7) storeys in height) comprising 126 residential units, ground floor Council facility, one (1) retail tenancy, and three (3) basement car park levels with 204 car spaces. A Voluntary Planning Agreement has also been submitted.</p>
REPORT BY:	Consultant Planner - Kate Lyons
REFERRED TO JRPP:	Yes (Capital Investment Value >\$10 million)
RECOMMENDATION:	DEFERRED COMMENCEMENT
SUBMISSIONS:	Two (2) written submissions received.
ZONING:	Part Residential 2(b) & Part Business 3(a)
DATE APPLICATION LODGED:	19 December 2011
APPLICANT:	Homebush Projects Developments Pty Ltd
OWNERS:	Homebush Projects Developments Pty Ltd (Mr Thomas Elford)

INTRODUCTION

Approval is sought for the demolition of all structures on site including two (2) x two (2) storey brick commercial buildings and hard stand car park.

Approval is also sought for the construction of a mixed use, multi level building (part four (4) and part seven (7) storeys in height) comprising of 126 residential units, one (1) retail tenancy, proposed ground floor Council facility and three (3) basement car park levels with 204 car spaces.

A Voluntary Planning Agreement has also been submitted.

The proposal has a number of non-compliances with Council's planning controls, however variations to the building height, building envelope, sunlight access, unit size and front setback controls are sought for the site (and is discussed further in the planning compliance section of this report).

This report recommends deferred commencement due to outstanding drainage and water issues, involving both Sydney Water and Council. These matters are considered to be resolvable, however more detail is required to be provided to Sydney Water and Council before conditions can be added to the consent.

DESCRIPTION OF THE SITE AND LOCALITY

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

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

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

The site currently accommodates a two storey masonry building being the former offices of the Paraplegic and Quadriplegic Association of NSW (known as the Para Quad Centre), the Homebush-Strathfield RSL Memorial Garden and a two storey brick building formerly the Homebush Meat Market. There is an open asphalt car park on the Burlington Road side of the Para Quad Centre with a vehicular crossing from Burlington Road.

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

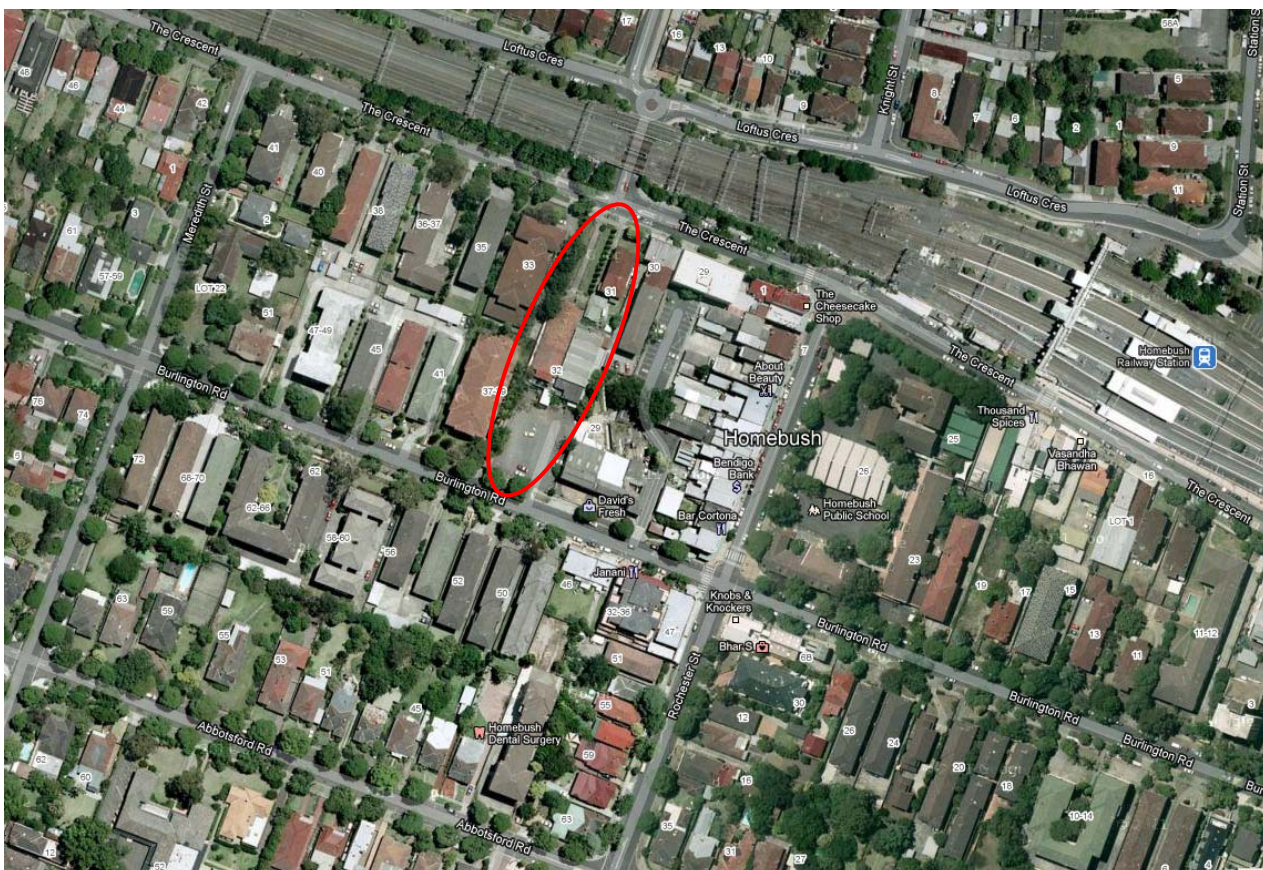
Due to the stepped nature of the eastern boundary of the site there are several properties which are adjoining, including a two (2) storey residential flat building, a three (3) storey mixed use building, a Council carpark and fruit and vegetable and deli/coffee shop (formerly a service station).

The character of Burlington Road in the vicinity of the subject site varies from the commercial and mixed use nature near the intersection with Rochester Road, east of the subject site, to a residential character to the west of the subject site. The scale of the commercial development also varies between one (1) storey (with parapet) to four (4) storey mixed use, however the single and two storey scale is dominant.

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

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

Immediately adjoining the subject site to the west are two (2) residential flat buildings both three (3) storeys in scale.



Map 1: Locality map (subject site highlighted above).

PROPOSAL

The applicant seeks consent to demolish the existing two (2) storey brick commercial building (known as the Para Quad Centre) and the two (2) storey brick building accommodating a wholesale butcher at 29 Burlington Road, and construct a multi level building (varying between four (4) and seven (7) storeys in height) comprising of 126 residential units (13 x studio, 38 x one (1) bedroom, 74 x two (2) bedroom and one (1) x three (3) bedroom units), one (1) retail unit, a ground floor Council facility and three (3) basement car park levels with 204 car spaces. A Voluntary Planning Agreement has also been submitted for the development.

BACKGROUND

The following applications provide background to the process that Council and the landowners have gone through to date. The detail is relevant to the determination of the subject application.

DA 0102/369

2 September 2003

Council resolved to refuse development consent to DA 0102/369 for demolition of existing structures and construction of a separate residential flat development of four buildings of four (4) and five (5) storeys consisting of (19) x one (1) bedroom, (38) x two (2) bedroom and three (3) x three (3) bedroom units and two (2) levels of basement carparking consisting of 94 vehicle spaces at the site comprised of the properties known as 32 The Crescent and 33-35 Burlington Road, Homebush.

6 January 2004

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

DA 0506/309

12 December 2006

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

10 January 2008

An appeal against the refusal was considered by the Land and Environment Court (*Chamwell Pty Limited v Strathfield Municipal Council* [2008] NSWLEC 4). Amended plans were submitted and accepted during the appeal including a reduction in the number of levels (to part five (5) and six (6) storeys), increased setbacks and reduced FSR. As a result of amendments to the proposal, and agreed conditions of consent, on 10 January 2008 the Court granted deferred commencement development consent to the amended DA. The DA was activated and a CC obtained.

DA 2009/260

The JRPP refused DA 2009/260 which was for the demolition of all structures on the site and construction of a multi level building (eight (8) storeys in height) comprising 140 residential units (including two (2) residential units with home offices), proposed ground floor Council facility and three (3) basement car park levels with 226 car spaces. The 11 reasons for refusal are provided below:

1. The proposal is considered unacceptable pursuant to the provisions of Clause 44 – (Floor space of buildings) of the Strathfield Planning Scheme Ordinance 1969 due to the excessive floor space and building bulk.
2. The SEPP 1 objection to the floor space ratio standard under the Strathfield Planning Scheme Ordinance 1969 is considered to be not well

founded and is not supported.

3. The proposal is inconsistent with the provisions of Clause 32(a) – (consideration of Certain Applications/Aesthetic Appearance), Clause 32(b) – (consideration of Certain Applications/ development for places of assembly) of the Strathfield Planning Scheme Ordinance 1969 and would result in an inappropriate addition to the streetscape relating to the 8 storey building and inadequate facilities relating to the place of assembly.
4. The proposal is inconsistent with the provisions of clause 41B (Development within residential zones), clause 41C (Development adjoining residential zones) and clause 61GA (Developing adjoining residential zones) of the Strathfield Planning Scheme Ordinance 1969 and would result in adverse privacy impacts, bulk and scale impacts and solar access impacts upon the amenity of adjoining residential properties.
5. The proposal is inconsistent with the provisions of Clause 59A (Heritage items) and Clause 59B (Development in the vicinity of heritage items) of the Strathfield Planning Scheme Ordinance 1969 as the development application does not demonstrate that the heritage significance of the heritage item located on the site will not be compromised.
6. The proposal is inconsistent with the provisions of the Draft Strathfield Local Environmental Plan 2008 such that the proposal does not satisfy zone objectives and is of unsatisfactory density and height and will have adverse impacts upon the amenity of adjoining residential properties.
7. The proposal does not comply with the provisions or the objectives of Strathfield Consolidated DCP 2005 Part C for Multiple-unit Housing including provisions relating to the number of storeys, building envelope, setbacks, unit size, privacy and security, solar access and excavation.
8. The proposal is considered unacceptable such that the proposed works would result in adverse impacts upon the amenity of existing residents and residential properties including overshadowing, visual privacy, acoustic privacy and bulk and scale.
9. The application lacks information and detail with regard to site contamination; waste management; operation and management of the community centre; and operation and management of the Memorial Garden. Therefore it is not in the public interest to approve the application without first having been able to thoroughly assess these matters.
10. The proposal is inconsistent with the provisions of State Environmental Planning Policy No. 55 (Remediation of Land) and the development application does not demonstrate that the site is suitable or can be made suitable for the proposed uses.
11. The proposal is inconsistent with the design quality principles of the provisions of State Environmental Planning Policy No. 65 (Design Quality of Residential Flat Development).

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

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

(a) (i) Environmental Planning Instruments:

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) requires the consent authority to consider whether the site is suitable in its current state, contaminated state or following the completion of remediation works for the purposes for which development consent is being sought.

A Phase II Environmental Site Assessment and Remediation Action Plan (RAP) were submitted to Council and assessed by Council's environmental health officer. The documents submitted were found to be satisfactory and conditions were recommended for inclusion in any consent. These conditions were added to the report below.

Based on the findings of the Aargus assessment, the site is suitable in its current state for the purpose for which development consent is being sought and the proposal satisfies SEPP 55.

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

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings (SEPP 65) aims to improve the design quality of residential flat development in New South Wales. The SEPP requires the consent authority in determining development applications for residential flat buildings to take into consideration the advice of a Design Review Panel, the design quality of the proposal when evaluated against the ten (10) design quality principles in the SEPP and the 'rules of thumb' guidelines of the *Residential Flat Design Code*. Furthermore, SEPP 65 requires a registered Architect to confirm in writing that they have directed or carried out the design of the proposal in accordance with the design quality principles of the SEPP (referred to as a design verification statement).

A design verification statement has been received from a registered Architect however as Strathfield Council is not subject to a Design Review Panel constituted under the SEPP, the proposal is assessed against the ten (10) design quality principles and the *Residential Flat Design Code* as follows:

Principle 1: Context

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

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

Comment

This site is a transition site between the business zone and the residential zone of the Homebush central area. The portion of the site on the residentially zoned land has a lower scale and mass with a maximum height of four (4) storeys (one (1) storey higher than the adjoining residential flat building), commensurate with the existing streetscape and reflective of the transitional nature of this site. The proposed development complies with the FSR for the site and provides a built form response to melding the business uses with the residential use of the western extension of Burlington Road.

The proposed development is consistent with the medium/high density vision for the area.

The proposal is therefore considered to satisfy the above design quality principle.

Principle 2: Scale

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

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

Comment

The building is higher than the buildings adjacent, however due to its location on the edge of the business zone, it is considered a suitable site for such a building. The residentially zoned portion of the site has a DCP height restriction of three (3) storeys and the proposal is for four (4) storeys on this land which suits the scale of the adjoining sites. The proposed building maintains the setbacks of the business zone and respects the Memorial Gardens on the northern frontage.

While the building does not comply with the height restrictions, the building design is considered to respond to the surrounding development with appropriate building massing.

The building is considered to contribute to the quality and identity of the area with the responsive building massing and appearance of bulk and scale.

Principle 3: Built form

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

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

Comment

The massing of the building has been designed to respond to its context, adjoining residential units and the rear of a business zone. The stepped massing and varied use of materials provide a building that is responsive to its location and provides interest in the façade in the built form environment. The lower portion is articulated using face brick and precast panels to create a solid base and the upper levels are articulated in lighter metal panels. The streetscape to Burlington Road is activated at ground level with the retail/ café space to activate the streetscape.

The proposal is considered to contribute to the character of the streetscape by providing a new and interesting form which includes modern design techniques and a range of materials. The units are designed to provide cross unit ventilation, sunlight access and have incorporated safety principles to provide internal amenity.

The proposal therefore satisfies the above design quality principle.

Principle 4: Density

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

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

Comment

The proposed development complies with the 3.1 FSR for the business zoned land (the residential portion does not have an FSR). The development is considered to achieve this design principle as the density is suitable for the site and it is located in a high need and highly accessible location (adjacent to shops, transport, medical facilities and community facilities). The density of the development is also consistent with the draft Strathfield LEP which identifies an FSR of 3.1:1 for the entire site. Accordingly, the proposed development satisfies the above design quality principle.

Principle 5: Resource, energy and water efficiency

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

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

Comment

The units have been designed to take advantage of passive solar design and 'through units' maximising sunlight access and natural ventilation. These design inclusions will reduce the reliance on appliances to heat, cool and ventilate the units. Other features of the site include deep soil zones which absorb carbon dioxide and heat, thereby reducing the heat within the units during the summer months.

The application has included retention and improvement of the heritage garden in the northern portion of the site, in addition to a garden terrace for vegetation on level four (4). Water collection and recycling are included in the design. The proposed development complies with the mandatory BASIX commitments which seek to improve the sustainability of development. Furthermore, a waste management plan has identified materials for re-use, re-cycling and disposal in accordance with Council's requirements under Part H of the SCDCP 2005. The proposal is therefore satisfactory having regard to the above design quality principle.

Principle 6: Landscape

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

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

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

Comment

The design maximises the use of both public and private outdoor space. The ground floor layout provides large gardens and private outdoor space, comprising soft landscaped private gardens. The setbacks of the upper levels provide a sunbathed

common garden on level four (4) for the use of the building residents providing a functional space for passive recreation. The BBQ's and other fixed furniture on the garden level provide a social opportunity for use by the building residents while maximising passive surveillance from the residential units on that level.

The proposal is considered to restore and improve the usability of the public memorial gardens as well as provide accessible and useable communal space for the building residents. Furthermore, the provision of landscaping will contribute to the presentation and appearance of the proposed development as viewed from public vistas. The proposal therefore satisfies the above design quality principle.

Principle 7: Amenity

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

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

Comment

The proposal is considered to result in high standards of amenity for the future occupants of the building by including the following design features:

- provision of a minimum of three (3) hours of solar access at mid-winter to (92) out of (126) units or 73% of the units;
- appropriate room dimensions with natural ventilation opportunities;
- cross-flow natural ventilation to 68% of units;
- maximum building depth of 18m;
- minimum ceiling heights in living areas of 2700mm; and
- minimum balcony depth of 2m.

All apartments will have lift access from the basement parking areas and lobbies that will ensure all units are fully accessible.

Therefore, the proposal is likely to achieve an acceptable level of amenity for future occupants in accordance with the above design quality principle.

Principle 8: Safety and security

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

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

Comment

A variety of security measures have been incorporated into the design of the apartment building. Although this is on an urban site and the extent of outdoor space is limited, the main outdoor space is overlooked by some residential units and the building frontage is activated by the café and internal communal facility, providing passive surveillance. The basement carpark is secure for residents and visitors arriving by car. There is also good passive surveillance for the approaches to the main entry lobby areas. The lobby area doors and lift entry are activated via a security system contributing to a safe and secure environment.

The proposed development is therefore considered to satisfy the above design quality principle.

Principle 9: Social dimensions

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

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

Comment

The proposed mix of units is sufficient in meeting the demands of the local community including the provision of adaptable housing options. Accordingly, the proposed development satisfies the above-mentioned design quality principle.

Principle 10: Aesthetics

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

Comment

From a streetscape perspective, the proposed development comprises building elements, textures, materials and colours that would integrate and contribute positively to the Burlington Road and The Crescent streetscapes. Similarly, the internal design and structure of the development will establish a desirable built form and environment. The proposed development is considered to contribute to the existing and future character of the area. The proposed development therefore satisfies the above design quality principle.

The proposed development has been evaluated against the design quality principles and the RFDC as required by SEPP 65. The proposal has generally satisfied the relevant provisions of SEPP 65 and overall is acceptable.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP) requires residential development to nominate and incorporate sustainability commitments to reduce water and energy consumption.

In accordance with the BASIX SEPP mandatory sustainability commitments required in the accompanying BASIX Certificates have been included in the architectural plans. The proposed development will therefore satisfy the BASIX SEPP.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) establishes the considerations for development adjacent to particular types of infrastructure and consultation requirements with relevant public authorities during the assessment of Development Applications. In accordance with the provisions of Clause 104 and Schedule 3 of the SEPP the development application was referred to the RTA.

On 28 December 2011 the application was referred to the Sydney Regional Development Advisory Committee (SRDAC). The SRDAC recommended the imposition of various conditions where any Development Consent might be issued for the DA. These conditions have been included in the recommendation set out at the end of this report.

State Environmental Planning Policy (Major Development) 2005

The proposed development has a capital investment value in excess of \$10 million and is therefore defined as 'Regional Development' pursuant to Clause 13B of the Major Development SEPP.

Accordingly, the Sydney East Joint Regional Planning Panel (JRPP) has the function of determining the application in accordance with Clause 13F of the abovementioned planning policy.

Strathfield Planning Scheme Ordinance, 1969

The subject site is comprised of several properties and contains two (2) zonings being 2(b) residential and 3(a) Business General. Under the provisions of Strathfield Planning Scheme Ordinance, multiple-unit housing is permissible in the 2(b) and 3(a) zones with the consent of Council. The proposed development is defined as multiple unit housing, shops (not exceeding 929m²) – which are located on land zoned 3(a), and place of assembly – located on land zoned 3(a).

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

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

The proposed Council facility is shown to be located on 3(a) zoned land and this is development that is permissible with the consent of Council. The proposal is permissible with consent pursuant to Clause 22.

The proposed development is satisfactory in terms of its aesthetic appearance as viewed from the Main Western railway line and satisfies Clause 32 (a). Access to and from the site is adequate and sufficient off-street parking facilities have been provided to accommodate the demand generated in accordance with Clause 32 (b) (i) and (ii) respectively.

The site has a width at 15.24m to The Crescent and 30.48m to Burlington Rd with a total area of 3,875.3m² which satisfies the minimum standards for the erection and subdivision of multi unit housing in accordance with Clause 41 which requires a width of 15m at the front building line and area of 560m².

Despite the building height variation to Council’s Multiple Unit Housing DCP, the proposed development is considered to be compatible with other development that is proposed or is likely to be carried out in the vicinity of the site. Furthermore, the proposal is unlikely to adversely affect the amenity of existing residential development by way of overshadowing, overlooking, noise or otherwise. The proposed development therefore satisfies Clauses 41B (a) and (c).

Clause 41C and 61GA require Council to consider potential amenity impacts from development on adjoining residential land. The proposal has an acceptable bulk and scale, compatible elevations and is unlikely to result in an unacceptable impact by way of solar access, overlooking or otherwise. The proposed development is therefore acceptable having regard to Clauses 41C and 61GA.

Overall, the proposed development is satisfactory having regard to the relevant provisions of the Strathfield Planning Scheme Ordinance, 1969 (SPSO, 1969).

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

The total site area is 3,875.3m², with Lot D DP 391764 (No. 35 Burlington Road) identified as having an area of 739.8m² and being zoned 2(b). The remainder of the site is zoned 3(a) and has an area of 3,135.5m² (i.e. 3,875.3m² – 739.8m²). The proposal is for a development with a FSR of 3.0:1

The proposal complies with the development standard.

Clause 59 triggers heritage considerations. The subject site is located partially within and adjoins the “Village of Homebush” Retail Conservation Area which includes all of

the shops along Rochester Street and 25-27 and 34-36 Burlington Road. This Conservation Area is identified in the Draft Strathfield Local Environmental Plan No.105 Heritage.

Further, the proposed development involves construction of a new building on the site of a heritage item, being the Memorial Gardens at 32 The Crescent.

The proposal also seeks to undertake works to the Garden as identified on the submitted landscape plans (in addition, drainage infrastructure works will be required to be undertaken affecting the garden areas).

A detailed history of the site and a statement of heritage significance has been submitted as part of the Archaeological Assessment submitted with the application.

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

Council engaged a heritage architect to independently review the proposed development and the submitted heritage impact assessment report. The consultant identified that the proposed development was acceptable in design and impact, with the inclusion of conditions. These conditions have been included in the recommendation set out at the end of this report. The proposal is considered to comply with the heritage provisions in the SPSO.

Clause 61GA requires consideration of development adjoining residential zones. The proposal exceeds the height controls for the site, however the compliance with FSR and urban design controls result in a built form that is considered to be compatible with the character of existing residential development within the residential zone. The proposed development complies with sunlight access and amenity controls to create a built form outcome which is considered to both compliment and improve the built form environment of this part of Homebush. The proposal is considered to satisfy this Clause.

The proposal complies with the provisions of the Strathfield Planning Scheme Ordinance (SPSO).

Section 94 Contributions

A draft Voluntary Planning Agreement (VPA) has been submitted with the application. The VPA defines the ongoing ownership and management of the Council facility by Council. Council's legal advisers have reviewed the VPA and have found it to be satisfactory. Council is highly supportive of the VPA and accordingly, it is recommended that the draft VPA be exhibited.

Alternatively, if there are issues raised during the VPA exhibition that cannot be resolved and the VPA is not pursued, Section 94 Contributions are applicable to the proposed

development in accordance with the Strathfield «DA» Development Contributions Plan 2010-2030 as follows:

Provision of Community Facilities	\$ 113,192.90
Provision of Major Open Space	\$ 550,721.50
Provision of Local Open Space	\$ 183,521.70
Provision Roads and traffic Management	\$ 26,243.00
Administration	\$ 23,480.30
TOTAL	\$ 897,159.40

A condition of consent shall be imposed requiring the preferred course of action being exhibition of the draft VPA, or the above contribution be paid to Strathfield Council prior to the issue of the Construction Certificate in the event that the VPA does not reach fruition.

(ii) Draft Environmental Planning Instruments:

Draft Strathfield Local Environmental Plan, 2011

The subject site is situated within the Mixed Use B4 zone, which permits residential flat buildings, retail and community facilities subject to Council consent pursuant to Section 2.3 of the draft Strathfield Local Environmental Plan, 2011. The proposed development meets the objectives of the zone.

Part 4 of the draft LEP identifies the development standards as provided below:

Control	Requirement	Proposal	Compliance
Minimum Lot Size – residential flat building	1000m ²	3,875.3m ²	Yes
Maximum Building Height	16m	Max 7 storeys (23m)	No
Floor Space Ratio	3.1:1	3:1	Yes

The proposal does not comply with the height control for the site as identified in the draft LEP. The non-compliance with the height control is further discussed in the DCP assessment of this report. The height non-compliance is considered to be acceptable due to the location of the site as a transitional site between the business zone and the residential zone, the high level of amenity afforded to the future tenants and the existing neighbouring residents and the high quality range of materials, finishes and architectural features of the building.

The proposed development is considered to be appropriate on the subject site. The relevant Clauses of the Draft LEP 2011 have been considered in the assessment of the proposal and the proposed development found to be satisfactory.

The proposed development has been considered in relation to preservation of trees under Clause 5.9, heritage conservation under Clause 5.10, acid sulphate soils under Clause 6.1, earthworks under Clause 6.2, essential services under Clause 6.3 and flood planning under Clause 6.4.

The applicable Clauses of the draft Strathfield Local Environmental Plan, 2011 have been considered in the assessment and the proposed development is found to be satisfactory.

Draft Local Environmental Plan No. 105

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

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

As discussed above in relation to the heritage provisions of the SPSO, a Heritage Impact Assessment has been provided and independently reviewed. The development is considered to be satisfactory

The proposal is compatible with the heritage significance of the conservation area.

(iii) Development Control Plans:

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

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

The Objectives are outlined under section 1.2 and assessment of the proposal against these objectives and against the design provisions of the DCP has found that the proposal is satisfactory. Compliance of the proposed development against the requirements of Part C of the DCP is outlined in the table below.

Section	Development Standard	Required	Proposal	Compliance
2.2	Site Requirements	Minimum site area of 1000m ² and a minimum street frontage of 30m.	The subject site has an area of 3875.3m ² and a frontage ranging from 15.24m – 30.48m.	No – refer discussion below
2.2	Building Height	2-3 storeys - 2(b) zone 4 storeys – 3(a) zone	The proposal includes a seven (7) storey multi unit housing building in the 3(a) zone and four (4) storeys in the 2(b) zone. The building does not comply with the 2(b) zone height and it does not comply with the 3(a) zone limit.	No – refer discussion below
2.2	Building Street Setback	Residential zone - 9m	The ground floor set back to Burlington Street at the western end is 6m.	No – refer discussion below

Section	Development Standard	Required	Proposal	Compliance
			<p>Levels 1, 2 and 3 maintain this setback for the main wall of the building, however projecting balconies for two units on each level reduce the setback to 5m in the residentially zoned portion of the site).</p> <p>The proposed ground floor setback is inconsistent with the adjoining residential property to the west which has a setback of approximately 12m.</p> <p>The proposed ground floor setback is marginally greater than the commercial property to the east.</p> <p>The building steps inward for levels 4, 5 & 6 increasing the setback from the street.</p>	
2.2	Building Envelope	Residential zone - 3.5m vertically at boundary & project inwards at 45°.	The proposal does not comply with the building envelope control for the residential zone.	No – refer discussion below
2.2	Rear Setback	Determined by the building envelope	<p>The proposal provides a rear setback of 31.27m to the frontage at 32 The Crescent.</p> <p>The proposal has a setback of 1.2m for the ground floor setback from the rear adjoining northern boundaries (known as 31 and 30 The Crescent), however this increases to 6m for each of the levels above ground floor.</p>	N/A as the rear setbacks are located in the business zone.
2.2	Side Setback	Side and rear setbacks for buildings containing 2 or more storeys shall be determined by the building envelope and amenity considerations for adjoining dwellings.	The proposal provides side setbacks of 3m on the eastern boundary and between 3.05m - 6.13m on the western boundary. The western side setback increases to 15.24m for the land zoned residential 2(b) for levels 4 and above.	N/A to be considered in the building envelope calculations.
2.3	Dwelling Unit and Building Design	15% of the development is required to be designed	The proposal provides 25 dwellings which are designed to be adaptable, exceeding the	Yes

Section	Development Standard	Required	Proposal	Compliance
		as adaptable housing for older people or people with disabilities.	requirement.	
2.3	Dwelling Unit and Building Design for residential flat buildings	At least one main convenient entry is to have barrier free access to ground floor units (for people with disabilities). Access to common areas should be direct and without unnecessary barriers.	A central ramp access to a lift is provided from the Burlington Road frontage. Access to ground floor and level 4 communal open space is direct for the units.	Yes Yes
2.3	Dwelling Unit and Building Design	Walls greater than 10m in length to be broken or staggered.	Well articulated walls.	Yes
2.3	Dwelling Unit and Building Design	Parking for people with disabilities. Access from the car parking must provide a ramp, lift or chairlift to the entry of the building.	10 parking spaces are provided for people with disabilities. Access from the basement garage is via lift.	Yes
2.3	Dwelling Unit and Building Design	Building materials and finishes are to be sympathetic with the adjoining buildings and the streetscape.	The proposal involves a mix of finishes including face brick, pre-cast concrete panels, copper wall cladding and zinc cladding. The materials, while contemporary, are considered to be suitable and sympathetic to the adjoining buildings.	Yes
2.3	Unit Sizes and Lot Layout	The following minimum units sizes apply: 1 bedroom apartment- 70m ² 2 bedroom apartment- 85 m ² 3 bedroom apartment- 100 m ²	1 bedroom units – 53m ² to 71m ² 2 bedroom units – 79.7m ² to 92m ² 3 bedroom units – 100 m ²	No – refer discussion below
2.3	Energy Efficiency	Application is required to provide a NatHERS certificate. Each dwelling must achieve 3.5 star NatHERS rating.	The BASIX certificates submitted show achievement of the requirements. A condition will be imposed to update the BASIX certificate in relation to the most recently submitted plans.	Yes – and a condition will be imposed to update the BASIX cert with the most recent plans.
2.4.2.2	Solar Access	The main living areas and at least 50% of the principle private open space achieves a	73% of units (92) achieve 3 hours of sunlight access to the principle private open space.	Yes

Section	Development Standard	Required	Proposal	Compliance
		minimum of 3 hours sunlight during the winter solstice.		
2.4.2.2	Solar Access	Solar access to habitable rooms and private open space of adjoining properties be provided for a minimum of 3 hours during winter solstice.	<p>The proposal will not impact the residential flat buildings that front The Crescent (those developments to the east and west of the subject building).</p> <p>It is noted that the proposal will cast a shadow over residential buildings to the west during the morning period. Shadow diagrams submitted show that shadows will fall between the period of 9am-10am during the winter solstice. The drawings show that shadowing will fall on the adjoining dwelling until approximately 9:30am, where the units will have sunlight access until approximately 11:30am. As the sun moves throughout the morning, the western adjoining building is predominantly overshadowed by its own structures after 11:30am.</p> <p>The shadow diagrams submitted show that the existing situation shows the eastern facing units of the building at 37-39 Burlington Road are limited to two (2) hours sunlight access in mid-winter. The subject development will</p>	No – refer discussion below
2.4.3	Natural Space Heating and Cooling	Reduce the need to artificially heat and cool dwellings.	The majority of dwellings will receive cross ventilation.	Yes
2.4.4	Natural Lighting	Reduce reliance on artificial lighting.	Each unit incorporates balconies and glazing. The design generally will enable reasonable amounts of natural light (not necessarily direct sunlight) and therefore reduce reliance on artificial lighting.	Yes
2.4.5	Building Materials	Insulation and materials of high thermal mass	See BASIX Assessment	Yes
2.4.6	Water	Greenhouse gas	The proposal complies with the	Yes

Section	Development Standard	Required	Proposal	Compliance
	Management	friendly hot water system, mandatory water storage of 24,000 lt and water saving devices are required.	BASIX requirements.	
2.5	Streetscape Orientation	Compatible with the existing character and address the street frontage.	The proposed design is considered to be compatible with the existing medium density development to the west acting as a transition between the business zone to the east. The architectural style is considered satisfactory with regard to the streetscape.	Yes
2.5	Streetscape Orientation	Dwellings facing the street will have frontage and apparent access.	The ground floor units facing Burlington Rd have courtyards facing the street and apparent access.	Yes
2.5	Streetscape Orientation	Garages do not dominate the street frontage.	The proposal incorporates basement parking and the basement driveway and crossing does not in itself dominate the street.	Yes
2.5	Side and rear fences	1.8m maximum height.		Yes Capable of complying.
2.6	Heritage and conservation	Proposed developments involving heritage items or adjoining heritage items must comply with the heritage provisions contained in the SPSO.	The proposal involves a heritage item being 32 The Crescent – Memorial Garden. A heritage assessment has been submitted which was reviewed by Council's consultant. The proposed works were considered to be acceptable.	Yes
2.7	Open space and landscaping	Residential Zone - 50% of site For residential development in the 3(a) zone open space and recreation facilities may be provided in the form of balconies, roof-top decks and the like, and may include indoor facilities. No specific standards apply.	Communal open space for the residents lies in the ground floor terraces and courtyards and the level 4 roof garden. The level 4 garden is located on the residential zone. The proposal complies with this requirement.	Yes
2.7	Open space and	100m ² of the site area is to be provided as	The proposal provides communal open spaces at	Yes

Section	Development Standard	Required	Proposal	Compliance
	landscaping	<p>communal open space, with minimum dimensions of 7m.</p> <p>Where dwellings do not have access to ground level open space, at least one main balcony having access from each dwelling unit's living area/s is to serve as private open space. The minimum total balcony area is:</p> <ul style="list-style-type: none"> • 12m² for up to 2 bedroom dwellings; and • 12m² for 3 or more bedroom dwellings. <p>All balconies must have a minimum width and depth of 2m.</p>	<p>ground level and level 4.</p> <p>The level 4 common open space has an area exceeding 300m², the ground floor open space incorporating the childrens play area exceeds 100m². Both areas have a minimum dimension of 9m. In addition, these areas exclude the Memorial Garden which is public open space, with an area exceeding 150m².</p> <p>Each unit is provided with a balcony of a size which complies with the required area and minimum dimension.</p>	
2.7	Landscape	A Landscape Concept Plan is required to be submitted with the application indicating the location and treatment of landscaped areas and private open space areas and the location, size and species of existing trees and plantings.	A landscaped plan has been submitted and Council's Landscape Development Officer has commented on the adequacy of the proposed landscaping and provided conditions to be included in any consent.	Yes
2.8	Privacy and Security	Windows are not to be located less than 9m apart from other dwellings.	<p>Windows along the western elevation are located 12m from the residential buildings to the west.</p> <p>Windows at the northern end of the building are located >than 12m from the RFB at 31 The Crescent.</p>	Yes
2.8	Privacy and Security	Suitable screening shall be provided within developments when direct overlooking is likely from proposed dwellings to the private	While there are balconies on the eastern and western facades of the building, privacy screens in the form of louvers have been included in the design which will reduce the	Yes

Section	Development Standard	Required	Proposal	Compliance
		open space areas of adjacent existing dwellings, or to balcony or private open space areas of dwellings within the same development.	opportunity for overlooking or privacy impact on the adjacent development.	
2.8	Privacy and Security	Windows to be offset from adjoining dwellings by 0.5m: Have a sill height of 1.7m or have obscure glazing to a height of 1.7m.	Windows have been offset from the adjoining dwellings.	Yes
2.8	Privacy and Security	Active communal recreation areas, parking areas, accessways and service equipment areas are separated from bedrooms and minimize the entry of high levels of external noise to dwellings;	The design locates the bedrooms away from noise sources.	Yes
2.8	Privacy and Security	Bedrooms of dwellings do not adjoin living rooms or garages of adjacent dwellings	Refer above.	Yes
2.8	Privacy and Security	Dwellings close to high-noise sources are designed to locate habitable rooms and private open space away from noise sources and are protected by appropriate noise-shielding devices	The bedrooms are well located away from high noise sources.	Yes
2.8	Privacy and Security	Casual surveillance of street and public areas.	The proposal incorporates balconies and windows on the south and north fronting units. This provides the opportunity for casual surveillance of the street for the residential component of the development.	Yes
2.9	Car Parking	Minimum parking requirement	The number of residential spaces required is 164 plus 25 visitor (189). Of these spaces	Yes for the residential and

Section	Development Standard	Required	Proposal	Compliance
		<p>1 bedroom dwelling - 1 space</p> <p>2 bedroom dwelling - 1.5 spaces</p> <p>3 or more bedroom dwelling - 2 spaces</p> <p>On-site visitor parking 1 space for every 5 dwellings or part thereof.</p> <p>Commercial Parking rate for a retail use (found under Part I of the DCP) is 6.2 spaces per 100m² of gross leaseable floor area.</p>	<p>there are 8 disabled spaces.</p> <p>Council's DCP requires one (1) space per 3.5 people for the Council facility (place of assembly) use. The development provides 11 spaces (of which two (2) are disabled spaces). The Council facility internal space equates to 297m², so the car spaces equate to 1 space per 27m². While there is no estimate on the number of people, the car parking provision is considered to be adequate.</p> <p>There are two (2) spaces provided for the cafe unit.</p> <p>Overall the development provides 204 car spaces and two (2) loading spaces.</p>	<p>Council facility uses.</p> <p>No for the cafe/ retail use. However, given that the subject site is located in the business zone, it is close to timed on-street parking and the public car park at the rear of the Rochester street shops which can appropriately be used by cafe customers. The proposal is considered to comply with the car parking requirements for the cafe use.</p>
2.9	Car Parking	Dimensions of garage car spaces.	5.8m x 5.5m are the dimensions of the double basement garages provided for each dwelling and the two visitor spaces.	Yes
2.9	Bicycles	Suitable facilities for accommodating bicycle parking in all residential flat buildings must be provided.	Bicycle facilities provided in basement levels	Yes
2.9	Wash bay	For residential development of 10 or more dwellings a designated car washing bay shall be provided on the site.	None shown	Yes - Capable of complying (refer cond #20)
2.10	Clothes drying	All multiple unit developments must	No space has been provided for outdoor clothes drying. A	Yes – capable of complying

Section	Development Standard	Required	Proposal	Compliance
		include sufficient outdoor clothes drying space. The drying of clothes in balcony areas visible from the street is prohibited.	condition can be included to require balcony clothes lines in the portion behind the louvre screens.	(refer cond #61)
2.12	Excavation	All areas of excavation shall be setback from property boundaries in accordance with the building setbacks required in section 2.2 – Front Setbacks and Building Envelope And Side and Rear Setbacks. No cut shall be made to the ground within the required setbacks.	Excavation is proposed with nil setback to sections of the southern, eastern and western boundaries.	No – however conditions have been included to ensure protection of neighbouring properties.
3.1	Residential development in the business zone	Where practicable, development should provide a frontage to the street that creates a continuity of existing shopping centre forms.	The proposed development involves a mix of residential uses and retail at ground level addressing Burlington Road.	Yes
3.2	Residential development in the business zone	A retail or commercial component of a development may be erected to the street alignment, where that is the predominant existing characteristic. Any residential component above should be set back to achieve a consistent facade height on the retail strip.	Two retail spaces are included in the design.	Yes
3.3	Residential development in the business zone	Vehicular access should be provided from the side or rear. Where there is no alternative to access from the front, the access should be designed to minimise disruption to the street and footpath.	Access is only achievable from Burlington Road.	Yes

Section	Development Standard	Required	Proposal	Compliance
3.4	Residential development in the business zone	Side and rear setbacks	See discussion above in part 2.2	No
3.5	Residential development in the business zone	Maximum building height - 4 storeys	See discussion above in part 2.2	No
3.6	Residential development in the business zone	Open space and recreation facilities may be provided in the form of balconies, roof-top decks and the like, and may include indoor facilities. No specific standards apply.	See discussion above in part 2.7	Yes
3.7	Residential development in the business zone	Parking arrangements depend on the circumstances and land use mix. Where adequate off-street parking is provided for business zones, Council may dispense with on-site visitor parking and customer parking or require a contribution towards these facilities as set out in Council's Section 94 Contribution Plan.	All parking is required to be provided on-site and the proposal achieves this with respect to the residential component.	Yes – the proposal is considered to comply with the car parking requirements.

Discussion

Site Requirements

The DCP requires that the site has a width of 30m. The site is an unusual shape and has a width of 15.24m on The Crescent frontage of the site. The building footprint mirrors this unusual site shape throughout the block and as such the northern part of the development has a slim building finger that protrudes into the narrow portion of the site by 15.7m.

The objectives of the requirement refer to safe and visually pleasing vehicular access and adequate side boundary setbacks. There is no vehicular access on this frontage of the site and the building is considered to be setback sufficiently from the adjoining residential development (refer below for discussion regarding setbacks).

The non-compliance of the development with this numerical standard is not considered to detrimentally impact the amenity of the residential development adjacent and is considered acceptable.

Building Height

The DCP states the maximum height in the 2(b) zoned portion of the site is two (2) to three (3) storeys. The DCP states that the maximum height for the 3(a) zoned portion of the site is four (4) storeys. The draft Strathfield LEP 2011 identifies a maximum building height of 17m for the site. The proposal is for four (4) storeys (13m) on the 2(b) zoned portion and seven (7) storeys (23m) on the 3(a) zoned portion of the site.

The applicant has provided justification for the excessive height, particularly relying on the previously approved DA for the site (as approved by the LEC 2008) which shows a part four (4), part five (5) and part six (6) storey building on the site. This DA has been activated and acts as a precedent for what is an acceptable built form on the site. In addition to precedent, impact of the height non-compliance and discussion about amenity impacts have also been considered.

Residential 2(b) Zone

The four (4) storey building approved on the residential 2(b) portion is consistent with the proposed four (4) storey building in the subject application. This portion of the development is considered to be compatible with the adjacent residential development and provides a suitable stepping to the three (3) storey RFBs that extend westward along Burlington Road.

Additionally, the draft Strathfield LEP 2011 shows a permissible height of 17m for the subject site. This portion of the site has a maximum building height of 13m and complies with this control.

While the residentially zoned portion of the site does not comply with the current height controls, it is compatible with the future desired character of the area and is considered to be appropriate.

Business 3(a) Zone

It is important to consider the range of density controls together, as together they equate to a building that is considered to be appropriate height, bulk and scale for the site. While the proposal does not comply with a range of these controls, the variations are minor and the amenity impact on adjoining development also minor.

The current proposal is for one additional level above that of the LEC approval. The proposed development complies with the FSR standard for the site. It is considered that the modulation of the building and compliance with the FSR control support the departure from the height control as the overall density of the development is within that envisaged for this site.

The seven (7) storey building on the business zoned land is considered to have a high level of architectural merit. The design includes stepping the building away from view so that the full seven (7) storeys are not visible from the street, reducing the perception of

the building bulk. The fifth and sixth floors are setback an additional 6.4m from the Burlington Road frontage.

Additionally, the subject application has reduced the overall number of units from the previous approved developments on the site, by providing better access, improved solar access and improved ventilation to the units, including better located and embellished private and communal open space areas, which are considered to result in a more aesthetically pleasing development. The amenity of this design is considered to exceed that of the previous designs.

The business zone portion of the site exceeds the height requirement with a building height of 23m, however the additional ceiling heights provided to the Council facility, retail unit and the residential dwellings are important inclusions in the design which are considered to have improved the amenity of those spaces. It is important to consider that the remaining sites in the business zone also have the 17m height limit and the current proposal will exceed the future envisaged height of the buildings in this location. The height is considered acceptable due to the architectural design of the building which has reduced the prominence of the two (2) top levels by stepping the building in and using materials which reduce the dominance of their appearance. In addition, the proposed building has been designed following SEPP 65 design principles.

The non-compliance with the height control is considered acceptable.

Front Building Setback

Clause 2.2 of the DCP states that in a residential zone, developments may be setback less than nine (9)m where the predominant setback in the street block is less than nine (9)m or the setback would not conflict with the existing streetscape. The proposal has a setback of six (6)m on the residential portion of the site and does not comply with the development control. The development however has a comparable setback with the building in the business zone adjacent and is considered to provide a stepping transition from the business zone to the residential zone. The building is not considered to conflict with the existing streetscape, as two (2) of the front streetscape units on the ground floor have an active frontage – with the café or restaurant use. These active uses are considered to enhance the relationship of the building with the street and achieve the aims of this control.

While the design does not comply with the numerical front setback requirement it is considered to achieve the objective of the control.

Building Envelope

The building envelope control aims to reduce the impact on adjoining buildings (such as overshadowing or privacy impacts). The non-compliance in the 2(b) zone is minor, as a bedroom in each of two (2) units on level three (3) encroach on the building envelope. As discussed in the height non-compliance section above, the height at this corner of the site is four (4) storeys and a projection of approximately 2.2m encroaches into the building envelope. This is considered to be a minor non-compliance and of negligible impact (as it does not result in any additional overshadowing on the western residential flat building).

The DCP states that the side setback of the development is to be four (4)m. The western side setback of the development is a minimum of 3.05m and does not comply with the control. The side setbacks are to be considered in the context of the building envelope, and as discussed above, the building envelope non-compliance is minor and considered to have no negative impact. The portion of the building located in the business zone is permitted to build up to the boundary and as such the side and rear setback controls are not assessed here.

The side setback non-compliance is considered to be acceptable.

Internal Unit Sizes

The internal unit sizes predominantly do not comply with Council's minimum units sizes as provided in the DCP. The DCP does not contain any objectives to accompany the minimum unit sizes, however discussion refers to the amenity of the subject units and compliance with SEPP 65 design principles and minimum unit sizes.

The proposed development complies with the sunlight access requirements for residential flat buildings, enabling three (3) hours of sunlight to habitable rooms within the development. The design allows for useable spaces, and maximisation of through flow units, as most units have dual balconies/ windows to allow for cross ventilation.

The SEPP 65 design code provides detail and illustrations for unit designs, configuration, furniture layout and dimensions. The relevant unit sizes are provided below:

Unit type	Minimum Unit size	Proposal compliance
Studio	38.5m ²	The studio units all achieve a minimum size of 45m ² . The studio units comply with the standard.
1 bed	50-63m ²	The 1 bedroom units have a minimum size of 55m ² increasing to a maximum of 80m ² .
2 bed	80-89m ²	The 2 bedroom units achieve a minimum area of 80m ² .
3 bed	124m ²	There is one three bedroom unit with an area of 100m ² .

The three (3) bedroom unit does not comply with the SEPP 65 room size standard. This is not considered to be acceptable. A condition is included in this report that that unit be redesigned to be a two (2) bedroom unit and the room configuration adjusted to remove one (1) room from the internal layout (ref cond #2). The non-compliance equates to 20% and is not justifiable in this instance.

The proposal (with the inclusion of the above discussed condition) is considered to comply with the SEPP 65 design code. While Strathfield Council strives to increase the unit size in residential flat buildings in this locality, the SEPP 65 standard is a benchmark endorsed by the Department of Planning as providing a unit development which is of high quality and provides a high level of amenity to the future residents. While the application does not comply with the Council's DCP code, the development is considered to provide a high level of amenity as demonstrated by achievement of the SEPP 65 standard.

Sunlight Access

The proposal will not impact the residential buildings that front The Crescent (those to the east and west of the subject site).

It is noted that the proposal will cast a shadow over the residential building to the west (37-39 Burlington Road) during the morning period. Shadow diagrams submitted show that shadows will fall between the period of 9am-10am in the winter solstice. The drawings show that shadowing will fall on the adjoining dwellings until approximately 9:30am, where the units will have sunlight access until approximately 11:30am. As the sun moves throughout the morning, the building at 37-39 Burlington Road is predominantly overshadowed by its own structures after 11:30am.

The shadow diagrams submitted on the existing situation shows the eastern facing units of the building at 37-39 Burlington Road are limited to two (2) hours sunlight access in mid-winter. The subject development will reduce the sunlight access in mid-winter to the building prior to 9:30am. It is noted that the applicant has identified on the plans where the shadowing of the subject proposal would fall in the LEC approved development. The subject application does not increase the overshadowing experienced by the western residential flat building (more than what it would have experienced in the LEC approved development).

The shadow diagrams provided also show the March, September and December quarters to consider the amount of time throughout the year that the overshadowing impact is experienced by the western neighbour. The March and September drawings show that there is some overshadowing impact on the northern portion of the building at 37-39 Burlington Road in the 9-9:30am period, after which the sun moves and the building is not impacted by overshadowing until later in the afternoon by its own structures. Therefore, the shadowing impact is for a period of less than three (3) months over the eastern facing units at 37-39 Burlington Road.

The LEC has provided planning principles regarding sunlight access, as provided below:

1. The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.
2. The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.
3. Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.
4. For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always

an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.

5. For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.
6. Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.
7. In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.

These matters will now be discussed in regard to the subject development.

1. The proposed development and the adjoining existing development are medium/high density. It is considered appropriate that the sunlight access for the building at 37-39 Burlington Road would have diminished as the subject site was redeveloped. It is noted here that the residentially zoned portion of the subject site is permitted to have residential development to a height of three (3) storeys and an existing approval for construction of a 4 storey building. In addition, the subject application is not considered to significantly increase the overshadowing of the adjoining neighbour as compared to the LEC approval.
2. As discussed, the eastern facing units in the building at 37-39 Burlington Road are impacted by the subject development until approximately 9:30am in mid-winter. After this time, the sun moves and 37-39 Burlington Road receives unimpeded sunlight access until approximately 11:30am, where it is overshadowed by its own structures. Sunlight access to the eastern facing units is provided between 9:30-11:30am (2 hours) in mid-winter. As such, the proposed development impacts the sunlight received prior to 9:30am.
3. The proposed development is considered to be a high quality design. The building includes a stepped building form down to four (4) levels on the western portion of the design so as to reduce the overshadowing impact on the building at 37-39 Burlington Road.
4. The area of the adjoining building which is impacted by the shadow are the balconies off the living rooms and windows to kitchens and bathrooms. These are the private open space areas for the western facing units. It is considered acceptable that this building would be impacted by development of the subject site. The development does allow two (2) hours of sunlight access to these area after 9:30am in mid-winter.

5. Private open space adjoining a unit (balcony/ window) are impacted by shadow as referred to in point 4 above.
6. Only the overshadowing of the building structure have been considered in the discussion. The sites are relatively flat and not impacted by modulating terrain, fences or roof overhang.
7. Both the sites are identified as suitable for medium to high density development. Given the change in the zoning on the subject site and the previous approvals for development, it is considered acceptable that the building at 37-39 Burlington Road would receive some overshadowing impact.

The proposal will create overshadowing impact the eastern facing units at 37-39 Burlington Road in the early part of the morning. The proposal will provide two (2) hours of sunlight access to the eastern facing units of the building at 37-39 Burlington Road. The location of the sites in a med/ high density area, the small reduction in the period of sunlight access and the high quality sympathetic design of the proposal are considered to justify this impact. The reasoning for why this impact is acceptable has following the planning principle as discussed by the LEC.

While the application will have a negative impact on the western adjoining development fronting Burlington Road, the proposal is considered to be acceptable in this instance.

Summary

The proposal has non-compliances with a list of DCP controls. The non-compliances are minor and the proposed built form is largely commensurate with the building envelope and bulk approved by the LEC in 2008. The current proposal is considered to provide a better internal amenity for future residents, while reducing the impact of the development on the adjoining residential development and the Homebush centre (by removing the shopping centre component and reducing the overshadowing impact on the adjoining building). The development will provide much needed revitalisation of this site and provide a high quality built form outcome which will improve the view of the site from the street and public places (including the railway line).

Strathfield Consolidated DCP 2005 – Part H: Waste Management

A waste management plan for the demolition, construction and ongoing management of the site have been submitted.

While Council's Environmental Health Officer did not raise specific concerns regarding waste management and recommended conditions be added to any consent granted, the collection of domestic waste from the site requires further consideration. For this reason, the deferred commencement consent contains a condition requiring the submission to Council of further details demonstrating that waste collection methods will not interfere with public pedestrian movements and adequately cater for waste service vehicles.

The proposal can therefore be made to satisfy the provisions of Part H of the DCP.

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

The retail space does not comply with the numerical standard for the provision of car spaces. This is considered acceptable in this instance due to the location of the site at the edge of the business zone, and as such the customers of the retail shop will be able to use the timed on-street parking and the public car park at the rear of the Rochester Street shops.

Given that the use of the retail space is as a coffee shop, the turnaround of customers is considered to be quite high and the numerical non-compliance is considered to be acceptable.

As discussed in the compliance table above, the proposed development is considered to comply with the Council DCP requirements for car parking.

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

A report considering the existence of acid sulphate soils on the site was provided with the application, which found that the site does not show any indication of the presence of acid sulphate soils.

A Phase II Environmental Site Assessment and Remediation Action Plan (RAP) were submitted to Council and assessed by Council's environmental health officer. Their assessment of the documents submitted found that the detail was satisfactory and conditions were recommended for inclusion in any consent. These conditions were added to the report below.

The proposal satisfies the provisions of Part K of the DCP.

Section 94 Contributions

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

iiia) Planning Agreements (or Draft Agreements)

A draft Voluntary Planning Agreement (VPA) has been submitted for the proposed development pursuant to Section 93F of the Environmental Planning and Assessment Act 1979.

The draft VPA states that the developer proposes to enter into a planning agreement with the Council in order to make development contributions by way of dedication of the Council facility land to the Council to satisfy the developer obligation to pay moneys under Section 94 of the Act.

It is proposed that the draft VPA be exhibited as required under the provisions of Section 93G(1) of the EP&A Act as part of the recommendations in this report. Alternatively, the Section 94 Contributions applicable to the development will be applied.

(b) Likely Impacts:

Context & Setting / Site Design and Internal Design

The subject site is located in a transitional area, between the business zone and the residential zone. The subject development has responded to this by including a retail suite in the development, an active and engaging street frontage, a ground floor Council facility and upgrade and maintenance of the heritage memorial gardens. In addition, the draft Strathfield LEP rezones this site to R4 – mixed use zone and the proposed development is compatible with the new zone objectives.

As discussed above, the proposed development has a number of non-compliances with Council's codes. These non-compliances are considered to be acceptable as discussed above. The architectural features of the building are considered to reduce the view and dominance of this building, inclusions such as steeping the building back for the higher levels and fully protecting the memorial gardens and maintaining the 30m setback from the Crescent.

The internal design of the units is considered to be satisfactory. The units achieve the minimum sunlight access requirements for such a development and the design also achieves the requirements of SEPP 65. The units achieve the minimum internal dimensions and areas and the development provides a wide range of unit types which is commensurate with Council's policy for providing a range of housing options.

The development provides the required amount of private and communal open space. The ground floor courtyard and the level four (4) communal courtyard are both considered to be well oriented, well located and planted with suitable species for aesthetic enjoyment and building maintenance. The fixed furniture and BBQ's are considered to enable communal interaction amongst the building residents, in an area which will receive a high level of sunlight access throughout the year.

Access, Transport and Parking

The application has been supported by a traffic impact assessment which confirms that the proposed development is adequately supplied with off street car parking and is unlikely to adversely affect the local and classified road networks by way of traffic generation and capacity. The proposed development is also located within 200m of the entry to the Homebush Railway Station and is considered to be extremely well located for such medium/ high density development.

Water

The subject site is burdened by a Sydney Water stormwater easement, measuring 3m in width running diagonally through the site. Extensive consultations have been held with Council, Sydney Water and the applicant. Sydney Water provided a letter to Council dated 26 March 2012 wherein they withdraw their formal objection of the proposal, however formal acceptance of the stormwater inclusions on the site need to be undertaken prior to conditions being able to be applied.

The previous LEC approved DA included a deferred commencement consent provision relating to obtaining Sydney Water agreement and imposition of conditions relating to

development on the subject land. While Sydney Water has been unable to provide written agreement and conditions for the proposed development, it is proposed to include this requirement as a deferred commencement consent requirement for the applicant to resolve. At that point, conditions will be applied to enable the development to not impinge on the Sydney Water easement. This issue is not considered sufficient to warrant refusal of the development, however the construction of the development relies on resolution of this issue.

In addition, as Sydney Water has not yet provided their conditions, Council's drainage engineer has been unable to review the conditions and add Council's drainage conditions. An additional condition of the deferred commencement consent condition is for the addition of Council's drainage conditions to be added regarding the overland flow path and any other relevant matters.

Flora & Fauna

The proposed development involves extensive basement excavation in proximity to existing trees. Issues associated with the excavation of the basement have been subject to a consulting arborist's report which outlines tree protection measures to be implemented during works in order to successfully protect and retain the existing trees. The recommendations of the arborist's report have been included amongst the recommended conditions of consent.

(c) Suitability of the Site:

The site is suitable for a mixed use development and the current proposed development is considered to be suitable for development. Previous designs for the site have included a taller building and a shopping centre which was considered incompatible with its location on the fringe of the business area. The amendments which have largely resulted in the development complying with Council's development controls are considered to resolve the previous issues with the suitability of the development on the site. The redesign of the development which has reduced the overall scale and density has improved the relationship of the building with adjoining development, streetscape and character of the Homebush village.

(d) Submissions:

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

Adjoining owners were notified in accordance with Clause 59E of the Strathfield Planning Scheme Ordinance and Part L of the Strathfield DCP 2005 from 12 January 2012 to 26 January 2012. The application received two (2) written submissions.

The issues raised are summarised below:

- *The proposal will result in an increased demand for on street parking*
- *The proposal will increase the traffic congestion and pollution of Burlington Rd*

Response:

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

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

- *The scale of the development is out of character with existing development in the area*

Response:

The proposed development largely complies with Council's development controls. The non-compliance with the height control is considered to be acceptable due to the architectural inclusions of the design (such as stepping the higher portions of the building away from the adjoining residential units at 37 Burlington Rd) and also due to the location of the site on the fringe of the business area.

- *The proposal will negatively impact the privacy and amenity of the adjoining residential units*

Response:

The subject development has offset the balcony and window location so as not directly oppose the windows/ balconies of the adjoining development. While the balconies are oriented towards the adjoining residential development, they include privacy screens which limit the opportunity for overlooking.

- *The proposal will negatively impact the sunlight access to the adjoining residential units*

Response:

The subject sites are oriented north/south, as such the eastern oriented units which adjoining the subject site will be negatively affected by the sunlight angle, particularly in winter.

The proposed development allows two (2) hours of sunlight to the adjoining residential units in winter. While the proposal will reduce the sunlight to the adjoining development, the development achieves compliance with the provisions for sunlight access as further discussed earlier in this report.

(e) Public Interest:

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments (EPI's), development control plans and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised. Despite several variations to the development controls under the Multi-unit Housing DCP, the proposed development is considered to provide an acceptable level of amenity to future residents taking into account existing site constraints and opportunities. Furthermore, the variations are unlikely to adversely affect the existing

amenity afforded to adjoining residents to the north and west. Accordingly, approval of the application is not contrary to the public interest.

EXTERNAL REFERRALS

1. Sydney Water

Sydney Water initially objected to the development, however have withdrawn their formal objection to the development (subject to inclusion and acceptance of the negotiated provisions in the development consent). As such deferred commencement consent provisions have been provided at the end of this report as conditions need to be negotiated with Sydney Water by the applicant.

2. RailCorp:

Rail Corporation NSW (RailCorp) has reviewed the DA and raised the following concerns in a letter to Council dated 24 January 2012:

- a) Noise and Vibration – RailCorp is concerned that the future occupants of the development will encounter rail-related noise and vibration from the rail corridor. Rail noise can seriously affect residential amenity and comfort, jeopardise the structural safety of buildings and thus should be addressed early in the development process.
- b) Stray Currents and Electrolysis from Rail Operations – Council is requested to impose the following condition:
- c) Crane and Other Aerial Operations - Council is requested to impose the following condition:

RailCorp requested the inclusion of three conditions of consent to address the above matters. These conditions have been included in the recommendation at the end of this report.

3. Roads and Traffic Authority

The application was considered at the Sydney Regional Development Advisory Committee (SRDAC) meeting on 1 February 2012. The SRDAC requested the inclusion of 4 conditions to any consent. These conditions have been included in the recommendation at the end of this report.

INTERNAL REFERRALS

The application was referred to Council's Building Surveyor, Development Engineer, Drainage Engineer, Traffic Engineer and Landscape Officer for comment.

Building Surveyor

Council's building surveyor reviewed the application and recommended standard conditions of consent be added. Identified conditions have been included below.

Environmental Health Officer

Council's environmental health officer reviewed the application and recommended standard conditions of consent be added. Identified conditions have been included below.

Development Engineer

Council's development engineer reviewed the application and recommended standard conditions of consent be added. Identified conditions have been included below.

Drainage Engineer

Council's drainage engineer raised a number of concerns with the documentation provided and the unresolved issue with Sydney Water, their pipeline and the easement that affects the site. These issues have been taken into account and form part of the deferred commencement consent provisions of this report. It is proposed to seek Sydney Water conditions of approval and following that, Council will be in a position to add their conditions to resolve the construction of and ongoing treatment of the pipeline and the easement.

Landscape Officer

The proposal shall adopt the tree protection measures outlined in the consulting arborist's report. Conditions to this effect have been included below.

CONCLUSION

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

The proposed development is permissible in the zone and consistent with the objectives of the SPSO, 1969 and draft Strathfield LEP, 2011. Despite a variation to the building height control and resultant variations to several of the development controls of Council's Consolidated DCP Part C, the proposal is likely to provide an acceptable level of amenity to future residents without significantly compromising the amenity of adjoining residents or the future development of properties to the west of the site. Accordingly, the application is recommended for deferred commencement consent subject to relevant conditions.

RECOMMENDATION

That DA2011/195 to demolish the existing two (2) storey brick commercial building (known as the Para Quad Centre) and the two (2) storey brick building accommodating a wholesale butcher at 29 Burlington Road, and construction of a multi level building (varying between four (4) and seven (7) storeys in height) comprising 126 residential units (13 x studio, 38 x 1 bedroom, 74 x 2 bedroom and 1 x 3 bedroom units), one (1) retail unit, a ground floor Council facility and two (2) basement car park levels with 204 car spaces be subject to a DEFERRED COMMENCEMENT CONSENT subject to the following conditions:

CONDITIONS

DEFERRED COMMENCEMENT CONDITIONS

- 1 This consent is not to operate until:
- (A) Conditions of consent from Sydney Water are obtained by the applicant and Council has issued written advice confirming the consent is operative;
 - (B) Council has reviewed the Sydney Water conditions of consent and applied any relevant conditions regarding the overland flow path and its management or any other relevant impacts. Approved stormwater engineering plans are to be included in Council's conditions; and
 - (C) Details, acceptable to Council showing domestic and commercial waste collection area(s). Waste collection areas shall be placed so as not to impede or compromise on the safety of pedestrians, vehicles and/or on street parking and be located so as to minimise any detrimental aesthetic impact on the existing streetscape. Waste collection areas shall allow the practical collection of waste by waste service vehicles.

The matters raised above shall be submitted to Council for consideration within six (6) months from the date of issue of the deferred commencement consent notice, after which time the consent shall be deemed to have lapsed.

PART B - OTHER CONDITIONS

Plans

- 1 The development shall be completed in accordance with the approved plans and documents listed below, prior to the building being used or occupied, and subject to any amendments "in red" and any variation as required by conditions of this consent:

Basement Level 1 Dwg A110 Issue B prepared by Tony Owen Partners and received by Council 4 May 2012.

Basement Level 2 Dwg A111 Issue B prepared by Tony Owen Partners and received by Council 16 March 2012.

Basement Level 3 Dwg A112 Issue B prepared by Tony Owen Partners and received by Council 16 March 2012.

Ground Floor Dwg A100 Issue B4 prepared by Tony Owen Partners and received by Council 8 May 2012.

First Floor Dwg A101 Issue B4 prepared by Tony Owen Partners and received by Council 8 May 2012.

Second Floor Dwg A102 Issue B4 prepared by Tony Owen Partners and received by Council 8 May 2012.

Third Floor Dwg A103 Issue B4 prepared by Tony Owen Partners and received by Council 8 May 2012.

Fourth Floor Dwg A104 Issue B4 prepared by Tony Owen Partners and received by Council 8 May 2012.

Fifth & Sixth Floor Dwg A105 Issue B4 prepared by Tony Owen Partners and received by Council 8 May 2012.

Roof Floor Plan Dwg A106 Issue B4 prepared by Tony Owen Partners and received by Council 8 May 2012.

Elevations (North) Dwg A120 Issue B4 prepared by Tony Owen Partners and received by Council 8 May 2012.

Elevations (East) Dwg A121 Issue B4 prepared by Tony Owen Partners and received by Council 8 May 2012.

Elevations (South) Dwg A122 Issue A4 prepared by Tony Owen Partners and received by Council 16 March 2012.

Elevations (West) Dwg A123 Issue A4 prepared by Tony Owen Partners and received by Council 16 March 2012.

Elevations (West) Dwg A123 Issue A4 prepared by Tony Owen Partners and received by Council 16 March 2012.

Section A-A Dwg A130 Issue A4 prepared by Tony Owen Partners and received by Council 16 March 2012.

Section B-B Dwg A131 Issue A4 prepared by Tony Owen Partners and received by Council 16 March 2012.

Ramp Section Entrance Ramp Dwg A135 Issue A4 prepared by Tony Owen Partners and received by Council 16 March 2012.

Ramp Section Internal Ramp Dwg A136 Issue A4 prepared by Tony Owen Partners and received by Council 16 March 2012.

Landscape plans numbered 2909.LP.01, 2909.LP.02, 2909.LP.03 and 2909.LP.04, prepared by Environmental Partnerships (NSW) and received by Council on 16 March 2012.

Aboriginal Impact Assessment prepared by Tree and Landscape Consultants (TALC) and received by Council 19 December 2011.

BASIX Certificate Nos. 263454M_04 and 263259M_04 received by Council 19 December 2011.

Waste Management Plan by Elephants Foot Waste Compactors P/L and received by Council 16 March 2012.

Construction Certificate must be obtained either from Council or a privately accredited person before commencement of any construction/demolition associated with this consent.

The Principal Certifying Authority must be appointed prior to work commencing to supervise the work and authorise occupation/use of the building when completed.

- 2 A copy of the endorsed stamped plans and specifications, together with a copy of the Development Consent, Construction Certificate and any approved Traffic Management Plan are to be retained on site at all times.

Special Conditions

- 3 The above architectural plans be amended to redesign unit G10 as a two bedroom unit within the same unit area of 100m² (as the unit size is unsatisfactory as a 3 bedroom unit). The amended plans shall **be submitted to the Principle Certifying Authority prior to the issue of a Construction Certificate.**
- 4 The BASIX certificate be updated to reflect the plans identified in the approved plans listed above.
- 5 Compliance with the conditions required by the Roads and Traffic Authority (RTA) by letter dated 6 February 2012 outlined as follows:
 - (1) All vehicles shall enter and leave the site in a forward direction.
 - (2) The layout of the proposed car parking areas, loading docks and access driveway associated with the subject development (including grades, turn paths, sight distance requirements, aisle widths, aisle lengths, loading bay dimensions and parking bay dimensions) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002 for heavy vehicles.
 - (3) A Demolition and Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council, for approval, **prior to the issue of a construction certificate.**
 - (4) All costs associated with the proposed development shall not be at cost to the Roads & Maritime Service.
- 6 If air conditioning units are to be installed they shall not be located on the floor of balconies in order to prevent them from acting as climbing aids. The Principal Certifying Authority shall confirm compliance with this condition **prior to the issue of an Occupation Certificate/use of the building.**

General

- 7 The building shall not be occupied or used until the development has been completed in accordance with the conditions of this consent, construction has been completed in accordance with the Construction Certificate and an Occupation Certificate has been issued by the Principal Certifying Authority.

- 8 For residential flat developments which are subject to State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Flat Development and required to be accompanied by a design verification from a qualified designer under Clause 50(1A) of the Environmental Planning and Assessment Act Regulation 2000, a certifying authority must not issue:
- (a) a **Construction Certificate** unless the certifying authority has received a design verification statement from a qualified designer that verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted having regard to the design quality principles set out in Part 2 of SEPP No. 65, in accordance with Clause 143A of the Regulations; and
 - (b) an **Occupation Certificate** to authorise a person to commence occupation or use of the residential flat building unless the certifying authority has received a design verification statement from a qualified designer that verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of SEPP No. 65, in accordance with Clause 154A of the Regulations.
- 9 A Works Permit shall be obtained from Council's Customer Service Centre at least 48 hours prior to undertaking any works on public/Council-controlled areas. The permit must be retained on site at all times.
- 10 Storage of goods or the use of portable clotheslines on balconies visible from a public place is strictly prohibited.
- 11 All exhaust and other emissions including noise from the premises shall comply with the provisions of the Protection of the Environment Operations Act 1997 and Regulations.
- 12 The applicant or any contractors carrying out works in public or Council controlled lands shall have public liability insurance cover to the value of \$10million and shall provide proof of such cover to Council prior to carrying out works.
- 13 A building containing more than 10 sole occupancy units must provide a closet pan and washbasin in a compartment or room located at ground level and accessible to employees without entering a sole occupancy unit as required by table F2.1 of the Building Code of Australia.
- 14 RL 10.20 at the end of the accessible ramp needs to be the same level to the entry of the Council facility.

Financial Matters

- 15 A draft Voluntary Planning Agreement (VPA) for the ongoing ownership and management of the Council facility included in the subject application was submitted with the application. In accordance with Section 93F of the Environmental Planning & Assessment Act 1979, this draft VPA is required to be publicly exhibited, submissions

considered and an agreement entered into. The VPA shall be finalised **prior to the issue of a Construction Certificate or as otherwise specified in writing by Council.**

Should the VPA be unable to be finalised, condition 14 below regarding Section 94 Developer Contributions is applicable.

- 16 This condition is only applicable in the event that Condition 13 is unable to be complied with. In accordance with the provisions of Section 94(1)(b) of the Environmental Planning and Assessment Act 1979 and Strathfield Section 94 Contributions Plan 2001, a contribution in the form of cash, cheque or credit card (financial transaction fee applies) shall be paid to Council for the following purposes:

Provision of Community Facilities	\$113,192.90
Provision of Major Open Space	\$550,721.50
Provision of Local Open Space	\$183,521.70
Provision Roads and traffic Management	\$26,243.00
Administration	\$23,480.30
TOTAL	\$897,159.40

The total amount of the contribution is valid as at the date of determination and is subject to annual indexation. If the contribution is paid after 1st July in any year, the amount of the contribution under this condition shall be indexed in accordance with clause 2.14 of the Strathfield Direct Development Contributions Plan 2010-2030.

The required contribution shall be paid **prior to the issue of a Construction Certificate or as otherwise specified in writing by Council.**

- 17 A security payment of \$250,254.00 in the form of cash, bank guarantee, cheque or credit card (financial transactions fees apply) shall be paid to Council **prior to the issue of a Construction Certificate.** The security payment is GST inclusive and comprises the following:

Refundable works bond	\$	50,000
Drainage Bond	\$	200,000.00
Non-refundable administration fee (\$127/bd)	\$	254.00
TOTAL	\$	250,254.00

The security payment covers the following matters and will be released upon satisfactory completion of these items:

- (a) Construction of new drainage line and drainage pits;
- (b) Creation of drainage easement in favour of Council;
- (c) Creation of the positive covenant on the property title;
- (d) connection to Council's stormwater drainage system;
- (e) installation and maintenance of sediment control measures for the duration of construction activities; and,
- (f) ensuring no damage occurs to or building debris/materials are left on Council land including footpath, nature strip, kerb and gutter. The security bond may be

used to recover the costs incurred by Council in cleaning and restoring the land to its original condition.

- 18 For construction of the new drainage structures and connection to Council's and Sydney Water's drainage system, inspections will be required:

- (a) After the excavation of pipelines
- (b) After the laying of all pipes prior to backfilling;
- (c) After the completion of all pits and connection points

For inspection of drainage works on Sydney Water's assets, inspections shall be arranged with Sydney Water.

Parking/Traffic Matters

- 19 Car parking and service vehicle provisions shall satisfy Council's Consolidated Development Control Plan 2005.
- 20 All car parking spaces shall be a minimum dimension of 5.5m x 2.5m; and lock up spaces to be a minimum of 3.0 x 5.5m.
- 21 All disable parking spaces shall be designed in accordance with AS 2890.6:2009.
- 22 All disable parking spaces shall be desirably located in the immediate vicinity of lifts. If such arrangement is not practical, the two way traffic aisles that have to be traversed by mobility impaired persons to gain access to the lifts should be painted like a marked foot crossing to enhance the safety of such persons.
- 23 A car washing bay of minimum dimension 4.0 x 5.5m shall be provided on the site.
- 24 Car parking and service vehicle layout shall comply with AS 2890.1 and AS 2890.2 respectively.
- 25 The ramp/ driveway gradient shall be in accordance with Council's Consolidated Development Control Plan 2005.
- 26 All construction activity shall take place on-site and the use of any public street be subject to the approval of Strathfield Traffic Committee.
- 27 All costs for traffic management measures associated with the construction of the proposed development, including any permanent regulatory signs and line marking, associated with the development and recommended by the Strathfield Traffic Committee, shall be borne by the developer.
- 28 A condition shall be imposed on the Strata Plan stating that the residents and occupiers of the proposed development shall not be eligible to participate in any On-Street Permit Parking Scheme that may be introduced in the area.

Drainage/Stormwater

- 29 The utility services within the area of the effect of the proposed drainage line (i.e gas, water, sewer, electricity, telephone etc) shall be physically located. The location of utility services shall be shown on the long section of drainage plans. The relevant authority's written consent for minimum required clearance between their service drainage conduit shall be obtained. Any adjustments required shall be at no cost to Council.
- 30 A works permit shall be obtained from Council's customer service prior to undertaking any works on public/ Council-controlled lands and Council's assets. This includes any work on the nature strip, footpath, driveways, Council's drainage kerb & guttering and roadways.
- 31 A Traffic Management Plan shall be submitted for approval of Council's Manager Engineering Work & Services **prior to the commencement of drainage works.**
- 32 All works related to the construction of the new drainage line must be completed **prior to the commencement of building works onsite.**
- 33 Council's existing drainage line shall not be removed until construction of the new drainage pipe is completed and approved by Council's Manager Engineering Works & Services.
- 34 On completion of drainage works, the affected areas, ie roadway, nature strip, footpath, kerb & guttering and driveways shall be reinstated to the satisfaction of Manager Engineering Works & Services Section of Council at no cost to Council.
- 35 Upon Completion of drainage works and **prior to the commencement of building works onsite** the chartered engineer who designed the stormwater drainage line and pits shall provide Council with written certification indicating compliance with the design and Australian Standards, prior to Council considering the final approval and release of the \$200,000 drainage bond.
- 36 In addition, full works-as-executed plans, prepared and signed by a registered surveyor shall be submitted for approval of Council's Manager Engineering Works & Services. Where changes have occurred the plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.
- 37 A drainage easement in favour of Council shall be created over the Council's upgraded pipe for the purpose of constructing and maintaining the stormwater drainage structures. The cost of creating drainage easement shall be at the applicant's expense.
- The width of the easement shall be the pipe, box or channel width plus 1.5m. Registration of the easement shall be effected before completion of the development and **prior to the occupation/ use of the building.**
- 38 A positive covenant under Section 88E of the Conveyancing Act shall be created on the title of the property detailing the overland flow path incorporated in the development and regularly cleaned and maintained. The wording of the instrument shall be submitted for approval of Council's Manager Engineering Works & Services prior to the lodgement at the Land and Property Information NSW. The instrument shall

be registered **prior to the occupation/ use of the building** and a registered copy of the document shall be submitted to and accepted by Council prior to release of the drainage bond.

Public Authority Matters

- 39 **Prior to the issue of an Occupation Certificate** all existing overhead electricity and telecommunication cabling adjacent to the development site shall be placed underground at the applicants' expense in accordance with the specifications of Energy Australia and the telecommunications supplier and the following requirements:
- (a) Where the property is located on the **opposite side of the street** to the main power lines and telecommunication cables, the services are to be placed underground from the development site to the nearest location on the opposite side of the street for connection to the existing mains supply as directed by Energy Australia and the telecommunications carrier. The method of construction across the road carriageway shall be by directional boring beneath the road pavement; **OR**
 - (b) Where the property is located on the **same side of the street** as the main overhead power lines and telecommunication cables, all services are to be placed underground for the full length of the frontage of the site. Any overhead powerlines and telecommunication cables that cross the road from the development site must also be placed underground and the cabling installed and distributed to properties in accordance with Energy Australia and the telecommunications carriers' requirements.
- 40 **Prior to the issue of a Construction Certificate** the applicant must contact the Engineer Planning and Supply Negotiations (West) Energy Australia on 131 535, to obtain a quotation to underground power supply lines and where appropriate a quotation to underground the main overhead power supply lines adjacent to the frontage of the subject property and the telecommunications carrier on 1100 advising that undergrounding of the telecommunication cabling is required.
- 41 If required, an easement shall be created in favour of electrical and telecommunications suppliers and comply with the following:
- For the provision of underground services and above ground pillar boxes for access to their equipment;
 - The easement is to be 3m wide abutting the property boundary at the point of entry and 1.5m within the property;
 - Where the easement is to be enclosed, a minimum headroom of 2m is required above the floor level; and
 - The wording of the easement shall be approved by Energy Australia and the Telecommunications Carrier where applicable, **prior to the issue of a Construction Certificate**.
 - Written evidence that the wording of the easement has been approved by the relevant service providers shall be provided to Council **prior to the issue of a Construction Certificate**.

- The required easement shall be created and registered **prior to the issue of an Occupation Certificate or use of the building.**
- 42 Any disturbance to public land as a result of the undergrounding of services shall be restored at no cost to Council.
- 43 Where undergrounding services, a plan indicating the depth and location of all services (i.e., gas, water sewer, electricity, telecommunication, traffic lights, etc) within the area affected by the development shall be submitted to Council **prior to the issue of a Construction Certificate.**

Furthermore, any adjustments required shall be at no cost to Council or any public authority. The relevant authorities' written consent for any adjustments or works affecting their services shall be obtained and a copy provided to Council **prior to the issue of a Construction Certificate.**

Landscaping/Tree Matters

- 44 The applicant and/or any contractors shall comply at all times with the recommendations of the endorsed Arboricultural Report prepared by Tree and Landscape Consultants (TALC) and received by Council on 19 December 2011 which requires the following conditions be complied with:
- a) That trees numbered 1-45 on the aerial tree identification plan (appendix F in the TALC received by Council dated 19 December 2011) be retained with tree protection zones to be established as identified in Section 6 at setbacks identified in table (of same report);
 - b) That the ground area be protected in accordance with Section 5.2.3 for any temporary access required within the dripline of trees to be retained;
 - c) Any underground services proposed with Tree Protection Zone setbacks identified in table 2 are to be located at depths not less than 750mm and are to be installed utilising underground lateral boring type equipment (see section 5.2.1 of the TALC report);
 - d) Any proposed construction works within the setbacks identified in table 2 column G to these trees are to be undertaken by hand to establish the presence of any woody roots that may be present. If any roots are encountered greater than 50mm diameter, construction is to be undertaken in accordance with section 5.3.2(A) to avoid damage to these roots. Any roots may be encountered with a diameter of 50mm or less are to be treated in accordance with Section 5.3.2(B);
 - e) That the driveway to be located between trees 1 & 2 be elevated above or at existing ground level and as further detailed within section 5.3.2;
 - f) Any demolition works in close proximity to trees to be retained be undertaken by hand or use of light machinery under the supervision of a consulting Arboriculturist to ensure tree protection is maintained;
 - g) To further protect woody roots with a diameter 50mm or greater, structural soil as a fill material near to trees to be retained, should be used where appropriate (see section 5.3.4);

- h) Where tree protection zone fences are to be moved or relocated this must be undertaken in consultation with the Consultant Arboriculturist to ensure tree protection is maintained;
- i) Any pruning of tree canopies to accommodate proposed building envelopes is to be undertaken in accordance with section 4;
- j) To preserve trees to be retained no work shall commence including clearing works for the site until the above tree protection zone measures have been established. The fence(s) shall be maintained intact until completion of all works on site;
- k) That a percentage of the replacement tree species to be utilised within the landscape design be advanced specimens with stems gradually tapering, with crowns symmetrical and roots established and proportional to the crown but not pot bound in at least a 25Lt volume bag, having been propagated to the standards of Specifying Trees a Guide to assessment of tree quality (2nd edition) by Ross Clark, or approved similar;
- l) That an inspection schedule be implemented in keeping with the framework of the proposed development works as follows:
 - i. Initial certification of establishment of tree protection zones to be undertaken prior to the demolition of the existing building
 - ii. Attend the site and supervise activities during the development works close to the dripline of the trees to be retained
 - iii. Inspection of the site when half the building works near to the subject trees are completed
 - iv. Final inspection of the trees when all site works are completed

45 Tree protection must be installed prior to the commencement of construction. The establishment of a **protection zone** before any site works begin (including any demolition/excavation). The protection zone shall be maintained for the duration of works and implemented as follows:

- A minimum 1.2m high barrier (made of hardwood/metal stakes with suitable hessian or canvas material) shall be erected around the perimeter of the stated Protection Zone as measured from the base of the tree (or where practical). The barrier shall be constructed so as to prevent pedestrian and vehicular entry into the protection zone. The barrier shall not project beyond the kerb onto the roadway or any adjacent footpath.
- No concrete slurry or wash, building materials, builders' rubble, excavation spoil or similar shall be placed or stored within the tree protection zone.
- The whole of the tree protection zone shall be mulched to a minimum depth of 75mm.
- The tree protection zone shall be regularly watered.
- Any major structural roots which are encountered shall be pruned by a qualified Arborist.

- **No excavation or construction shall be carried out** within the stated Excavation Zone distances from the base of the trunk surface.
 - Only permeable surfaces (e.g. decomposed granite, gravel, turfpave, permeable paving systems or soft landscaping) are permitted within the canopy spread of the trees to be protected.
- 46 All noxious weeds on the site shall be removed and destroyed as per their classification under the Noxious Weeds Act.

Rail Corp Conditions

- 47 An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document entitled '*Development Near Rail Corridors and Busy Roads – Interim Guidelines*'.
- 48 Prior to the issue of a Construction Certificate the applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principle Certifying Authority with the application for a Construction Certificate.
- 49 Prior to the issue of a Construction Certificate the applicant is to submit to the Rail Authority a plan showing all craneage and other aerial operations for the development and must comply with all RailCorp requirements. The Principle Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from RailCorp confirming that this condition has been satisfied.

Construction Matters

- 50 The proposed development shall comply with the Building Code of Australia and details demonstrating compliance shall be submitted to the Principal Certifying Authority for approval **prior to the issue of a Construction Certificate.**
- 51 Footings shall be designed in accordance with the soil classification of H, or Highly Reactive (unless determined to the contrary by a suitably qualified person).
- 52 If the soil conditions require it retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and adequate provision must be made for drainage.
- 53 Certification shall be obtained from a registered surveyor at the following stage(s) of construction confirming that the building has been constructed in accordance with the approved plans including any approved amendments (S.96 approvals) and plans and details required by Council as conditions of development consent:
- (a) footings excavation prior to placement of concrete;
 - (b) car park/garage level prior to placement of concrete or pavement;
 - (c) ground floor and first floor levels;
 - (d) roof ridge height;

- (e) all floors of the building, roof eaves and all roof ridges;
- (f) wall setbacks from property boundaries and street alignment;
- (g) dimensions and areas of balconies/courtyards;
- (h) vehicular ramp gradients.

Copies of the surveyor's certificates must be submitted to and accepted by Council at the stages nominated above.

- 54 The existing ground levels shall not be altered except in accordance with the levels shown on the approved plans as part of this consent. Finished ground surface levels shall match the existing levels at the property boundary. Any survey plan shall also show the extension of these levels in relation to adjoining properties.

If the existing ground levels are altered during construction, Council may require a survey plan of the finished ground levels to be prepared and submitted **prior to the issue of an Occupation Certificate** to determine if there have been changes to the pre-development levels and if there are any impacts on adjoining properties as a result.

- 55 All construction, demolition and excavation work shall be restricted to 7am and 5pm (Eastern Standard Time) on Mondays to Saturdays (inclusive) and prohibited on Sundays and public holidays.
- 56 The public area adjacent to a work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 57 All excavations and backfilling associated with the approved works must be executed safely and in accordance with appropriate professional standards. All excavations must be properly guarded and protected to prevent them from being dangerous to life or property.
- 58 If an excavation associated with the approved works 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:
- Must preserve and protect the building from damage; and
 - If necessary, must underpin and support the building in an approved manner, and
 - Must, at least seven (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.
- 59 There are built structures which may be in the zone of influence of the proposed works and excavations on the site. A qualified practicing geotechnical engineer must prepare a Construction Methodology Report demonstrating that the proposed construction method including any excavation and the configuration of the built structures will have no adverse impact on any surrounding property and infrastructure.

The report must be submitted with the application for a Construction Certificate and must include an investigation to determine the design parameters appropriate to the specific development and site. This would typically include;

- a) the location and level of nearby foundations and footings (site and neighbouring);
- b) proposed method of excavation;
- c) Permanent and temporary support measures for excavation;
- d) Potential settlements affecting footings and foundations;
- e) Ground water levels (if any);
- f) Batter slopes;
- g) Potential vibration cause by method of excavation; and
- h) De-watering including seepage and off site disposal rate (if any).

Excavation, retention, underpinning and construction must be undertaken onsite by an excavation contractor with specialist excavation experience. A suitably qualified geotechnical engineer, specialising in excavation must supervise the excavation procedure.

- 60 The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- 61 The common access pathways, letterboxes and entry doorways to the building shall be provided with suitable low level artificial lighting systems to ensure safe and convenient access at night. Details shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**
- 62 To maintain pedestrian safety in common areas suitable lighting is to be provided on the development site adjoining each street frontage and near pedestrian main entrances to the site. Details shall be submitted and approved by the Principal Certifying Authority **prior to the installation** thereof.
- 63 All temporary buildings shall be removed from the site at the completion of the development.

Building Matters

- 64 Individual clotheslines shall be provided on the balconies behind a suitable screen wall or balustrade. The clotheslines shall be designed and located so as to not be visible from any public street. A detailed drawing (to a scale of 1:20) of the clothesline and any privacy screening shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**
- 65 The external glass used in the building shall have a reflectivity index of less than 20%. Details and specifications of the glass shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**
- 66 The proposed metal roof shall be of a pre-coated, low-reflective finish in a dark, recessive colour which is compatible with the building design and surrounding development.

- 67 Identification numbers are to be clearly displayed at the front of the premises and be easily visible from the street.

If it is proposed to strata subdivide the building, the lot numbers and unit numbers shall be the same as those nominated on the approved plans and be in accordance with Council's requirements. For strata subdivision, parking spaces shall have the same lot number as the residential portion and shall not be numbered separately.

- 68 Where building intruder alarms are installed in the building they shall be fitted with an automated "cut-off" timing device and operated as per the Protection of the Environment Operations (Noise Control) Regulation 2008.

Sustainability

- 69 Water collected in the rainwater tank must be roof water only and not surface water. Water from the rainwater tank must only be used for following purposes and not for human consumption:

- Toilet flushing;
- Clothes washing;
- Garden irrigation;
- Car washing and similar outdoor uses;
- Filling swimming pools, spa pools and ornamental ponds; and
- Fire fighting.

- 70 Water heating systems to multi-unit residential developments shall be located so as not to be visible from public places and the ground level of adjoining properties. Details (type and location) of the water heaters shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**

Demolition

- 71 Demolition shall be carried out in accordance with Australian Standard 2601 - 'The demolition of structures' or any subsequent standard and the relevant legislation.
- 72 The demolition of the building shall be carried out by a licensed demolition contractor. A copy of the licence shall be submitted to Council and the Principal Certifying Authority **prior to any work commencing on site.**
- 73 Details demonstrating that excavated and demolished materials including asbestos-based materials will be disposed of at an approved site shall be submitted to the Principal Certifying Authority **prior to any work commencing on site.**
- 74 The cleared ground surface of the site shall be suitably stabilised to prevent the generation of dust and the erosion of soil on the site.

Fire Safety Measures

- 75 Upon completion of works a final fire safety certificate is to be issued from a properly qualified person in respect of each essential fire safety measure installed within the building and specified in the fire safety schedule. The final fire safety certificate shall be provided **prior to the issue of an Occupation Certificate**.
- 76 As soon as practicable after a final safety certificate is issued, the owner of the building to which it relates:
- shall submit a copy of the fire safety certificate (together with a copy of any current fire safety schedule) to the Commissioner of NSW Fire Brigades;
 - shall submit a copy of the fire safety certificate (together with a copy of any current fire safety schedule) to Council for registration; and
 - shall ensure the current fire safety schedule is prominently displayed in the building.
- 77 The following is a schedule of existing and/or new essential fire or other safety measures required to be installed, and the minimum standard to which these measures must be designed, installed and/or maintained under Part 7B of the Environmental Planning & Assessment Regulation:

New Measures

Essential fire or other Safety Measures		Minimum Standard Performance			
		Building Code of Australia (BCA96A1) Part/Clause/Specification			Australian Standard No. or other reference
1.	Access panels, doors & hoppers to fire resisting shafts	C1-3	C3.13/5	Spec C1.1/8	
2.	Automatic fail safe devices	C	C3.6, D2.21/2	Spec C3.4	
3.	Automatic fire detection & alarm systems	E G	E2.2, G3.8	Spec E1.7/G3.8	1851 (Pt8) 1989 1603, Pt1/4/6, 3786 1670-1995
4.	Automatic fire suppression systems	C	C2.3, E1.5	Spec E1.5/G3.8	1851 (Pt3) 1985 2118.1/4/6 1995
5.	Emergency lighting	E	E4.2, 4.4		2293 (Pt1) 1987/88/92
6.	Emergency lifts	E	E3.4		1735.2 1993
7.	Emergency warning and inter-communication systems	E H	E4.9	Spec G3.8	2220-1989/89/93
8.	Exit signs	E	E4.5-4.8		2293 (Pt1/2) 1987/88/92
9.	Fire control centres and rooms	E	E1.8	Spec E1.8	
10.	Fire dampers	C E			1668 (Pt1/2) 1991
11.	Fire doors	C3	C3.4	Spec C3.4	1851 (Pt7) 1984

					1905 (Pt1) 90 (Pt2) 89
12.	Fire hydrant systems	E	E1.3		1851 (Pt4), 2419.1 1996
13.	Fire seals protecting openings in fire	C	C3.4/D1.12 C3.12/15	C3.4/D1.12	4702-1995
14.	Fire shutters	C2/3	C3.4	Spec C3.4	1905 (Pt2) 1989
15.	Fire windows	C	C3.2	Spec C3.4	
16.	Hose reel systems	E	E1.4		1851 (Pt2) 1989 1221-1991, 2441-1988
17.	Lightweight construction	C	C1.8	Spec C1.8	
18.	Mechanical air handling systems	CEH	E2.2/7 H1.2	Spec E2.2/6 G3.8, H1.2	1851 (Pt6) 1983 1668 (Pt1/2) 1991
19.	Perimeter vehicle access for emergency vehicles	C	C2.4		
20.	Portable fire extinguishers	E	E1.6		1851 (Pt1) 1989, 2444-1995
21.	Safety curtains in proscenium opening	H	H1.3	Spec H1.3	
22.	Smoke and heat vents	C	C2.3	Spec E2.6/G3.8/H1.2	1851 (Pt5) 1981, 2427-1983
23.	Smoke dampers	E2 H1			
24.	Smoke detectors and heat detectors	C, D, E, G	C3.5-8/11 E2.4	Spec E2.2/G3.8	1603 (Pts 1/2/4/6) 3786
25.	Smoke doors	C, D	C2.5/3.4 D2.6	Spec C3.4	
26.	Solid-core doors	C	C3.11		Self closing & tight fitting solid-core door(s) not less than 35 mm thick
27.	Stand-by power systems	CHE GH			
28.	Wall wetting sprinkler and drencher systems	C	C3.4	Spec C3.4	
29.	Warning and operations signs	CEG H			
30.	Other				

Hoardings

- 78 No advertisements of any kind shall be affixed to hoardings except for a board not exceeding 2.4m x 1.8m on which may be shown the architect's/builder's/demolisher's names or any particulars regarding the subject building and notices regarding the existing or future occupancies in the building.
- 79 Hoardings/overhead protective structures at ground level shall have mesh wire or other such material fixed to the surface to a height at least 2 metres in order to preclude the fixing of posters.

- 80 A sign with the words “Billposters Will Be Prosecuted” shall be attached or printed on the hoarding/overhead protective structures at regular intervals so it is visible from the street or any adjoining public place.
- 81 Any hoarding, fence or awning is to be removed when the work has been completed.

Subdivision

- 82 The subdivision shall be in accordance with the endorsed subdivision plans, but subject to any variations as required by the conditions detailed herein.
- 83 The final plan of the subdivision shall not be issued until a survey certificate prepared by a registered surveyor is submitted to Council which shows the location of all buildings in relation to the property boundaries and confirming compliance with the development consent.
- 84 A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained for the proposed development. Application must be made through an authorised Water Servicing Coordinator. For details see the Sydney Water website www.sydneywater.com.au then follow the “e-developer” icon, or telephone 13 20 92.
- The Section 73 Certificate must be submitted to the Principal Certifying Authority **prior to the issue of a Subdivision Certificate or occupation of the development.**
- 85 The approval of the relevant electricity supply authority shall be obtained for the supply of electricity to the site.
- 86 **Prior to the issue of a Subdivision Certificate**, compliance with the requirements of relevant service authorities.

Disabled Access

- 87 Access to the building for persons with disabilities shall be in accordance with the requirements of the Building Code of Australia and the relevant standards. Details shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**
- 88 Sanitary facilities for persons with disabilities shall be provided in the building in accordance with the Building Code of Australia and the relevant standards. Details shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**
- 89 Car parking spaces for persons with disabilities shall be provided in accordance with Condition 16, the Building Code of Australia and the relevant standards. Details shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**

Waste Management

- 90 Full compliance must be given to the endorsed Waste Management Plan submitted for the proposed development. Copies of any weighbridge receipts from all approved waste disposal facilities shall be retained for presentation to the Principal Certifying Authority upon request.
- 91 The waste storage room shall be designed to comply with the relevant standards and details shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**

Land Contamination

- 92 The applicant is to commission a site investigation report and Remedial Action Plan (RAP) including soil and groundwater testing (where required), to appropriately manage any contamination found on site.

The site investigation report and RAP shall be prepared by suitably qualified personnel, accredited by the Contaminated Sites Section of the Department of Environment and Climate Change (DECC).

A copy of the site investigation report and RAP shall be submitted to Council.

On completion of remediation, Council is to be furnished with a written statement from the author of the RAP stating that all recommendations made in the plan have been complied with and the subject site is in a suitable condition for the proposed use as per the DECC guidelines.

No authority to commence and building works on the site will be granted until after the verification has been supplied to Council and Council has advised the Principle Certifying Authority in writing that a Construction Certificate can be issued.

- 93 A Remedial Action Plan (RAP), is to be undertaken before issuing of any Construction Certificate. The ESA shall contain a definitive statement as to the suitability of the site for the proposed use, irrespective of the requirement for an RAP to be undertaken. Copied of these documents shall be provided to Council and the Principle Certifying Authority **prior to the issue of the Construction Certificate.**
- 94 Submit to Council a Site Audit Statement and Summary Audit report completed and signed by an accredited site auditor in accordance with the Contaminated Land Management Act 1997 and the relevant guidelines and legislation. The Site Audit Statement and Summary Audit report should clearly state that the land is suitable for the proposed use without the need for any further remediation and testing.
- 95 The validation report and any required documentation shall be submitted to and approved by the Principle Certifying Authority **prior to the issue of the Construction Certificate.**
- 96 Any new information that comes to light during the remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the Principle Certifying Authority immediately.

- 97 All fill imported on to the site shall be validated by an appropriately qualified person/body to ensure the imported fill is suitable, from a contamination perspective, for the proposed land use. Fill imported onto the site shall also be compatible with the existing soil characteristics for site drainage purposes.
- 98 Details of the appropriate validation of imported fill material are to be submitted with any application for future development of the site. All fill imported onto the site is to be validated during remediation works by sampling and analysis of the fill material in accordance with the applicable guidelines to ensure that the material is not contaminated.

Condition for Café Uses

- 99 The fitout, use and operation of the premises including all preparation and food storage areas shall comply with the Australian/ New Zealand Food Safety Standards Code and relevant standards. Details shall be submitted to the Principal Certifying Authority and approval obtained **prior to the issue of a Construction Certificate.**

Note: Copies of the Code are available from the Food Standard Australia New Zealand website at <http://www.foodstandards.gov.au/>

- 100 The food business must appoint a Food Safety Supervisor in accordance with the Food Act 2003. Further information in relation to Food Safety Supervisors can be accessed at: <http://www.foodauthority.nsw.gov.au/industry/fss-food-safety-supervisors>
- 101 Food premises registration must be obtained from Strathfield Council **prior to the issue of an Occupation Certificate and/or use of the premises.**
- 102 The applicant shall notify the NSW Food Authority of the proposed operations **prior to the use of the premises.**
- Please note this notification is able to be completed online through www.foodnotify.nsw.gov.au
- 103 Waste oil shall be stored in a covered and suitably bunded area pending regular removal to a waste oil recycler.
- 104 The cool room shall be designed and constructed in accordance with the relevant standards and details shall be submitted to the Principle Certifying Authority and approval obtained **prior to the issue of a Construction Certificate.**

Noise Conditions

- 105 The use of the premises shall not give rise to:
- (a) The transmission of unacceptable vibration to any surrounding occupancy; and
 - (b) A noise level exceeding the background (L_{90}) noise level by more than 5dB(A) when measured from an adjoining premises. The source noise level shall be assessed as an $LA_{eg, 15min}$ reading and adjusted in accordance with current EPA Guidelines for tonality,

- frequency weighting, impulsive characteristics, fluctuations and intermittency or any subsequent guidelines.
- 106 Any noise generated on the premises from the use at any time shall not have any detrimental effect on the occupants of any adjoining residential dwellings.
- 107 Full compliance shall be given to the recommendations contained in the endorsed acoustic consultant's report.
- 108 Plans and specifications showing details of all mechanical ventilation systems shall be submitted to the Principal Certifying Authority and approval obtained **prior to the issue of a Construction Certificate.**
- 109 All exhaust and other emissions including noise from the premises shall comply with the provisions of the Protection of the Environment Operations Act 1997 and Regulations.
- 110 As required by the Protection of the Environment Operations (Noise Control) Regulation 2008, air-conditioning units or heat pump water heaters shall not be audible in the habitable rooms of any other residential premises before 8am or after 10pm on any Saturday, Sunday or Public Holiday, or before 7am or after 10pm on any other day.

Heritage Conditions

- 111 Care be taken when removing the cypress pines in the affected area of the Sydney Water Stormwater Culver. Either the removed trees or mature replacement species are to be planted in their former location after the completion of the works. This should be done in consultation with an arborist and ensure the tree root balls have sufficient soil depth.
- 112 The infrastructure and service works in the Memorial Garden which involves the removal of topsoil, also include the reinstatement of same the topsoil upon excavation of the Memorial Gardens in order to preserve any scattered ashes that may be present in the garden and lawn areas.
- 113 The works to the Memorial Gardens shall be **completed prior to the issue of an Occupation Certificate.**