

12 April 2013

The General Manager  
Strathfield Municipal Council  
PO Box 120  
Strathfield NSW 2135

For the attention of: Spiro Stavis

By email: [spiro.stavis@strathfield.nsw.gov.au](mailto:spiro.stavis@strathfield.nsw.gov.au)

Dear Spiro,

**RESPONSE TO COUNCIL ASSESSMENT REPORT FOR DA 2012/169  
473 & 483 LIVERPOL ROAD, STRATHFIELD SOUTH**

City Plan Strategy & Development ("CPS&D") acts on behalf of our Clients, and the owners of the above property, Eddy and Anne Bechara.

This letter has been prepared in response to Council's Assessment Report to the JRPP dated 3 April 2013, and is copied to the JRPP for their information and consideration.

We note that Council is recommending approval of the subject DA, subject to deferred commencement conditions, which require substantial design amendments. Whilst our Clients support Council's recommendation for approval, they have concerns regarding a number of Council's conditions, which we will address below.

Before addressing each of these draft conditions, we would like to note that:

- a) This application should be considered as a change of use to a previously approved bulk, scale and form;
- b) No public objections were made in relation to this DA; and
- c) We received no formal written correspondence from the Council outlining its concerns regarding the DA.

For ease of reference, we address each of Council's conditions in the table below.

Council Condition for DA 2012/169	Comment	Recommendation
<b>DEFERRED COMMENCEMENT CONDITIONS</b>		
D1 The proposal shall be amended (by deleting and/or amalgamating and/or re-configuring units 29, 59, 60, 61, 62 and commercial suite 3), in order to achieve a better unit configuration and better internal space/layout for the	We are unsure what Council means by a "better unit configuration". However, for the purposes of this assessment we have assumed this to relate to the provision of "better internal space/layout" of the units and amenity levels. The following statement has been provided by the Project Architect, Richard Mann, in response to this condition:	Deletion of condition

development.	<p><i>"These residential units are large, sunny single bedroom units that provide high levels of amenity. These units are large for single bedroom units, being 60sqm in internal area (it is worth noting that the minimum dimension in the living room is 4.0m. ) but they also have two wide balconies, one for the bedroom &amp; dining and one for the living room. The living rooms are NNW facing and therefore the solar access amenity is obvious. The units have been designed to benefit from cross ventilation and the planning provides for clearly defined spaces dedicated to their specific uses while having a spacious open plan atmosphere. Note therefore that the kitchen and dining areas are discretely located away from the living room. However they flow into the living room space without the need for a separating door."</i></p>	
D2 Units Nos. 1,2, 6, 7, 11, 12, 15,16,19, 42, 43, 50 and 51 shall be redesigned so as to avoid bedrooms being next to or adjoining the living room balconies of other units and vice-versa , thereby minimising potential adverse noise impacts.	<p>The following statement has been provided by the Project Architect, Richard Mann, in response to this condition:</p> <p><i>"This condition appears to be inconsistent and misrepresents the actual condition for which it is requiring a change, when the claimed cause in fact does not exist as follows:</i></p> <p><i>Units 1,2,6,7,11,12,15,16,19 &amp; 50 <u>do not</u> have bedroom balconies adjoining living room balconies.</i></p> <p><i>The bedroom balcony for Unit 42,L5 <u>does</u> adjoin the living room balcony for Unit 43. However, Unit 4 balcony is deeper than the Unit 43 balcony and the two balconies are separated by a deep planter and terracotta screen with climbing plants. The terracotta screen in this case is a double batten design with a full height interleaved glass panel . Acoustical privacy will therefore be achieved.</i></p> <p><i>The same detail applies for Unit 51 on L2."</i></p> <p>In addition to the above comments, we also refer to the Acoustic Report prepared by SLR Consulting, which confirmed that subject to</p>	Deletion condition of

	recommendations (compliance with statutory BCA requirements and appropriate levels of glazing), the development will be satisfactory with regard to acoustical amenity and design.	
D3 The proposal shall be amended so as to achieve more generous and more readily accessible entry foyer areas. The modified entrances shall be designed so as to be readily identifiable from their respective street frontages.	<p>This condition is vague and whilst we are unsure what Council means by "generous", this concern appears to relate back to Council's comments in the report as follows:</p> <ul style="list-style-type: none"> <li>• <i>Poorly designed lobbies/not defined from the street</i></li> <li>• <i>Small pedestrian path from Liverpool Rd, similar arrangement from Homebush Rd. Entrances are not readily identifiable.</i></li> </ul> <p>In response to the above and this condition, we contend the following:</p> <ul style="list-style-type: none"> <li>• Entrances for public and private visitors have been clearly identified as signature elements in the streetscape to ensure the building is both welcoming and easily navigable.</li> <li>• Clear, safe and separate entries have been provided for residents and visitors with clearly defined and dedicated entries in each case.</li> <li>• Identification of entrances, particularly to the residential lobbies / foyers, will be further aided by appropriate signage.</li> </ul>	Deletion of condition
D4 The interface between the building at ground level and Liverpool Road including the portion of the building "wrapping" around Homebush Road, shall be redesigned so as to "activate" these street frontages. The use of predominantly solid walls and finishes in these sections of the building is not permitted.	<p>Activation can be achieved in a number of ways. For the proposed development, activation at the ground level of the development is achieved by incorporating a large and clearly defined entrance to the development and separate entrances at street level (Liverpool Road) to the commercial tenancies.</p> <p>In relation to the "wrap around" portion of the building, which comprises the proposed cafe at ground level, the external facade (at the corner of Liverpool and Homebush Roads) will comprise fixed glazing to mitigate from noise impacts. However, the use of glazing to the corner of the development, and particularly to Liverpool Road, will promote "activity" within the cafe when viewed from the streetscape. This in conjunction with the entries to the development on both street frontages and the use of commercial tenancies fronting Liverpool</p>	Deletion of condition

	<p>Road will result in an appropriate level of street activation.</p> <p>The following statement has also been provided by the Project Architect to further support our comments above:</p> <p><i>"The condition states: "...ground level and Liverpool Road...Homebush Road will be redesigned so as to 'activate' these street frontages" which therefore is intending to communicate that the design is without activation of street frontages.</i></p> <p><i>This condition is misleading and in fact quite simply again misrepresents the actual building design.</i></p> <p><i>The design incorporates a double height glass walled corner Cafe, retail shopfronts, glazed foyer and garden courtyard entrances and garden fences.</i></p> <p><i>Liverpool Road frontage comprises 70% of glazed frontage and open space to courtyards. Homebush Road comprises 50% of glazed frontage plus integrated cafe frontage solid feature walls. "</i></p>	
<p>D5 The screens proposed along the Liverpool and Homebush Road façades of the building shall be deleted. The proposed treatment of these elevations shall be re-designed to better integrate into the respective streetscapes.</p>	<p>The following statement has been provided by the Project Architect in relation to this condition:</p> <p><i>"The terracotta screens generate as moulded texture in a natural material that reflects the warmth and texture of terracotta elements in the many heritage buildings in Strathfield.</i></p> <p><i>These screens are an important architectural theme that integrates all facades. There is an additional streetscape advantage for the Liverpool Road facade, namely at night the illumination at night from within the building will create an attractive translucency of filtered light between the pattern of the terracotta battens.</i></p> <p><i>Particularly with a corner building, it is</i></p>	<p>Deletion of condition</p>

	<p><i>important that the facades flow one to the other so that the building form is a true urban sculpture and not a series of isolated facades."</i></p> <p>Further to the above, we note that "<i>integration</i>" of the development into the respective streetscapes is not necessarily something that will be achieved by deleting the screens and a re-design of facades. It is clear that the development will be a catalyst for the future redevelopment of the Strathfield South centre. Aside from the LEC approval further east along Liverpool Road, there are no other "new" developments to use as a benchmark to ensure that the development "integrates" into the streetscape. Whilst the development will not result in any adverse impact on the locality and the Strathfield South centre, it will not "<i>integrate</i>" with the streetscapes in urban design terms. It would be virtually impossible for any new development to do so and would be inappropriate in urban design terms (given the current degrading state of buildings in the centre). The high quality nature of the development (design and proposed construction) will set a benchmark for future quality of development in the centre and will allow for the degrading Liverpool Road streetscape to be revitalised.</p> <p>Further to the above, the terra-cotta screens are a design feature that formed part of the previous development approved by the JRPP.</p>	
D6 The height of the development is to be reduced to comply with the Building Height Controls specified under Strathfield LEP 2012 (22m and 16m respectively). The reduction in height shall be achieved by deleting the top floor units.	We have made numerous representations to the Council (at meetings and by written correspondence) regarding our objection to Council's strict imposition of the adopted (but not at the time of the submission) Draft LEP height on the development. There are a number of reasons why it is not appropriate to impose such height restrictions for this particular development. Refer to the summary of our representations to the Council regarding height, following this table.	Deletion of condition
D7 The outdoor dining area associated with the café/club on the Level 1 - Ground Floor, shall be deleted.	Council's report states concerns regarding the potential security risks from the proximity of the outdoor courtyard area of the cafe/cocktail bar and common open space areas of the residential apartments being adjacent to each	Deletion of condition

	<p>other. This is the premise for this condition requiring deletion of the outdoor dining area.</p> <p>The following response has been provided by the Project Architect in relation to this condition:</p> <p><i>"It is unclear as to which outdoor dining area the Council are describing. The Cafe only has access for external tables in the public forecourt area south (i.e.: below Grid ) of the communal Courtyard.</i></p> <p><i>Therefore this area has been provided more as a welcoming sidewalk cafe atmosphere and it does not interact with the Communal &amp; private Courtyard. The two spaces are separated by a fully glazed screen wall.</i></p> <p><i>The Outdoor Space (Grids N- Q &amp; approx. Grids 13 - 11) showing tables and chairs is part of the Communal Courtyard and is for the enjoyment of residents only."</i></p>	
<p>D8 A water treatment system shall be designed in accordance with Council's Water Sensitive Urban Design (WSUD) DCP 2005 Part N and Strathfield Council WSUD Reference Guideline to treat runoff from all impervious areas within the site. Details of the system including but not limited to level(s), grade(s), dimension(s), design flow(s), high flow bypass rate(s), cross-section(s), plant list(s) and manufacturer's specifications including electronic copy of the MUSIC Model prepared in accordance with <b>Strathfield Council WSUD Reference Guideline</b> shall be submitted to Council for approval.</p>	<p>Council was provided with a copy of detailed stormwater plans, a stormwater report and a MUSIC model for the development on 4 April 2013. We note that this information was only requested by Council on 20 March 2013.</p> <p>This information confirms that the proposal is satisfactory and the <i>"WSUD measures proposed for the site will achieve Council's pollutant reduction objectives"</i>.</p> <p>This condition is therefore considered to be unnecessary.</p>	<p>Deletion of condition</p>
<p>D9 In addition to D8 above, a separate detailed Report shall be submitted to Council incorporating MUSIC Modelling</p>	<p>Refer to above comments.</p>	<p>Deletion of condition</p>

details, results and addressing the WSUD criteria in accordance with Council's Water Sensitive Urban Design DCP 2005 Part N and Strathfield Council WSUD Reference Guideline.		
D10 Detailed calculations for the basement pump out system shall be submitted to Council for approval and shall include, but not be limited to, pump calculations, pump curve, cross-section and levels.	Requiring these details is an acceptable request, but one that is usually dealt with as a condition <u>prior to the issue of a Construction Certificate</u> .	Modify this condition to <u>prior to CC</u>
D11 A detailed design of the pipe system under Council's land from the site outlet point to Council's pit shall be submitted to Council for approval. This should include but not limited to detailed calculations, HGL analysis, long sections and structural design.	This information has been provided to Council and is contained in the consulting engineer's report prepared by Meinhardt Group. Note however, that it is unusual for Council to require "long sections and structural design" for a DA as this is detailed design work that is consistently documented prior to CC.	Modify this condition to <u>prior to CC</u>

Further to the above, we wish to further address some of the comments made in Council's assessment report and each of these comments is discussed below.

### Building Height

Council has consistently objected to the height of not only the subject DA, but also the historic DA on the site, as being contrary to Council's desired future character of the Strathfield South Centre.

Council's report to the JRPP recommends that the development be amended to comply with the maximum height prescribed under the draft LEP. Whilst we appreciate Council's reasoning for this recommendation, and its policy to take a consistent approach with Applicants in relation to the draft controls prescribed for development under the Draft LEP, as stated in detail in our SEE submitted with the original application, this development is surrounded by a set of unique circumstances that warrant a variation to this approach. Please refer below for a summary of the key points outlined in our SEE and subsequent representations to Council:

- a) There is **no maximum building height** prescribed for the site under the SPSO which is the primary EPI document to consider in the assessment of this application.
- b) The proposed development results in **minor non-compliances** with this proposed (Draft LEP) building height of 2.10 metres at the south-eastern corner of the site and to a maximum of 5.60 metres elsewhere on the site. The non-compliance in the south-eastern corner of the site does not even equate to a full storey. The non-compliance elsewhere on the site ranges, to a maximum of



approximately two (2) storeys. As demonstrated in the proposal, there is no impact that results from the non-compliance.

- c) The proposed building height **does not exceed the height of the development approved by the JRPP** under DA 2011/032 (approved on 11 August 2011). A precedent for the proposed building height on the site has therefore been set. The JRPP considered the height of the development to be appropriate with regard to the strategic direction for this centre outlined in the sub-regional strategy and with regard to the appropriateness of the development for the site, its context and impacts on surrounding development.
- d) If the draft LEP had been in place, the provisions of Clause 4.6 would apply and a variation to the building height could be sought by the Applicant, and approval would be within Council's discretion. The discussion provided in our SEE in relation to height therefore concludes that there are sufficient environmental planning grounds for the proposed building height and a variation to Council's draft controls. The discussion also notes that the proposed building height would not set an adverse precedent for development in the area for a number of reasons (refer to point d above) and also note that other sites in the centre are unlikely to be redeveloped to the same bulk and scale due to, lot size, orientation, location (i.e. northern side of Liverpool Road) and multiple ownership and subsequent challenges to amalgamation and redevelopment). The provisions of Clause 4.6 have therefore essentially been addressed in our SEE.

Further to the above, Council's assessment report states that we have *"consistently argued that because the [draft LEP] height was approved under the previous DA, Council should relax its height controls and therefore forgo its desired future character for the site"*. This is not correct. The reasons listed above do not only extend to the previous JRPP approved DA. We consider that the deviation from the maximum draft height controls is appropriate for a number of reasons and mainly due to the fact that the difference between a draft LEP compliant envelope / building height and the proposed scheme does not result in any *"real"* or tangible differences in terms of environmental impact. This was an issue that was addressed in some detail as a part of the previous application.

Moreover, CPSD made representations to the Council upon exhibition of the draft LEP in relation to the proposed maximum building height for the site. In these representations, we requested that the Council amend the proposed height control to reflect the height approved on the site under the previous DA. Council's response was that the proposed heights would not be amended and that the JRPP approval *"entitles the applicant to develop in accordance with the approval irrespective of the final form of the DLEP 2011"* (quote from pre-DA minutes for the subject DA, dated 22 August 2012).

For the reasons set out above and in detail in the original documentation submitted with the DA, we consider that the proposed building height for the development is appropriate.

## Density

Council's report states that:

*"The Applicant contends that the FSR for the development is 2.96:1 (or 7,553sqm).*



*The Applicant has provided floor area calculations in plan, showing what part of the building has been included or excluded from the calculations. The plans show that some of the corridor space has been excluded (approx. 144sqm).*

*The definition of GFA under SLEP 2012 clearly does not exclude these areas from the calculations and hence the proposed FSR as stated by the Applicant is incorrect. When the floor area is correctly calculated (i.e. including the corridors), the FSR reaches 3.02:1."*

This issue has been revisited by the Project Architect. It is important to note that in calculating the total GFA/FSR, the external wall thicknesses were included in the calculation, resulting in a total FSR of 2.96:1. This is actually not consistent with the draft LEP definition of GFA which requires the floor area of each floor of a building to be measured "from the internal face of external walls". To take this into consideration and remove the area included in the calculation from the thickness of external walls, the total FSR is actually 2.81:1 and fully compliant with the maximum FSR of 3:1 allowable on the site (under the current SPSO and the draft LEP). The external structural walls thickness comprises approximately 390m<sup>2</sup> of the floor space originally included in the 2.96:1 FSR calculation.

It is also noted by the Project Architect that corridors have been included in the calculation (aside from the open balcony along the southern facade, which may have been misinterpreted as a corridor).

### **Safety and Security**

Council's report states that:

*"Whilst the proposal provides adequate casual surveillance of the external public areas and internal foyer areas, there is concern that the proposed public access corridor from Liverpool Road into the common residential courtyard areas will create the potential for loitering and may therefore pose a security risk. Further security risk exists due to the proximity of the outdoor courtyard area of the café/cocktail bar and common open space areas of the residential apartments being adjacent to each other."*

The Project Architect has provided a response to the above, as follows:

*"The Public Access area is separate from the Private Communal Courtyard by a glazed wall against which will be landscaping and terracotta batten detailing. The Courtyard privacy will be therefore be fully provided without compromise.*

*Between Grids M & N there will be an additional nighttime access door for the resident's access (not shown on the drawings) that will be closed when the Cafe closes each evening.*

*Therefore there will not be a security risk for residents."*

### **Residential Amenity**

Council's report raises a number of concerns regarding residential amenity and particularly in relation to layout, solar access, cross ventilation and noise.

The only time that residential amenity was raised as an issue during the assessment process was at the meeting on 15 March 2013 with the project team. At that meeting, Council made some general comments about how residential amenity could be improved and there were some general concerns raised regarding the configuration of some of the units. The Council suggested that an amended design (mainly to reduce the height of the development) could also look at resolving some of these "amenity" issues. However, there was no clear guidance provided from the Council as to the specific issues it had with residential amenity.

Notwithstanding this lack of guidance, we submitted a response to the issues raised at the meeting with Council with commentary and justification provided regarding the level of residential amenity afforded to the development. We concluded that section of the letter to Council (dated 19 March 2013) with the following:

*"If Council has any specific concerns in relation to internal amenity of the units, we would be pleased to respond to these accordingly."*

We have received no further correspondence from Council to clarify the outstanding issues regarding residential amenity.

Following a review of Council's assessment report, we now understand where Council's concerns lie and wish to address each of these as follows.

### **Solar Access**

Council's report states that

*"The report prepared by Meinhardt states that the majority of the units will receive at least three (3) hours of sunlight. However, the extent and quality of the solar access into each of these units has not been verified or clarified."*

In response to the above, we note that the RFDC does not include any provisions regarding the "extent or quality" of solar access required. Notwithstanding this, we note that 79% of units (exceeding the minimum 70%) achieve the required three (3) hours of solar access, with many of these units receiving four (4) or five (5) hours in mid-winter.

We consider that the development is satisfactory with regard to the solar access guidelines of the RFDC.

### **Cross Ventilation**

Council's report states that the "Applicant claims 83% [of units] comply, however no evidence [has been] provided".

The following response to Council's report regarding cross ventilation is provided by the Project Architect, as below:

*"Cross ventilation performance was designed into as many units as possible, a feature which very much contributed to the building form. Reaching the figure of 83% was a rationale laid down early in the design stage."*

*A simple check of this figure can be reached by assessing individual unit plans that provide for simultaneous positive and negative pressure air flow patterns for that unit.*

*The units deemed to provide for natural cross flow ventilation (51 units) are as follows:*

L1: 23,56,24,25,26,57,58  
 L2: 52,53,55,29  
 L3: 30,32,34,1,2,3,4,5,59  
 L4: 35,37,39,6,7,8,9,10,60  
 L5: 40,42,44,61,11,12,13,14  
 L6: 45,46,47,15,16,17,18,62  
 L7:49,50,19,20,21  
 L8: 22."

### **Social Dimensions and Housing Affordability**

Council's report states that:

*"The proposed size of units within the development whilst varied, are generally considered large and would not necessarily assist with housing affordability."*

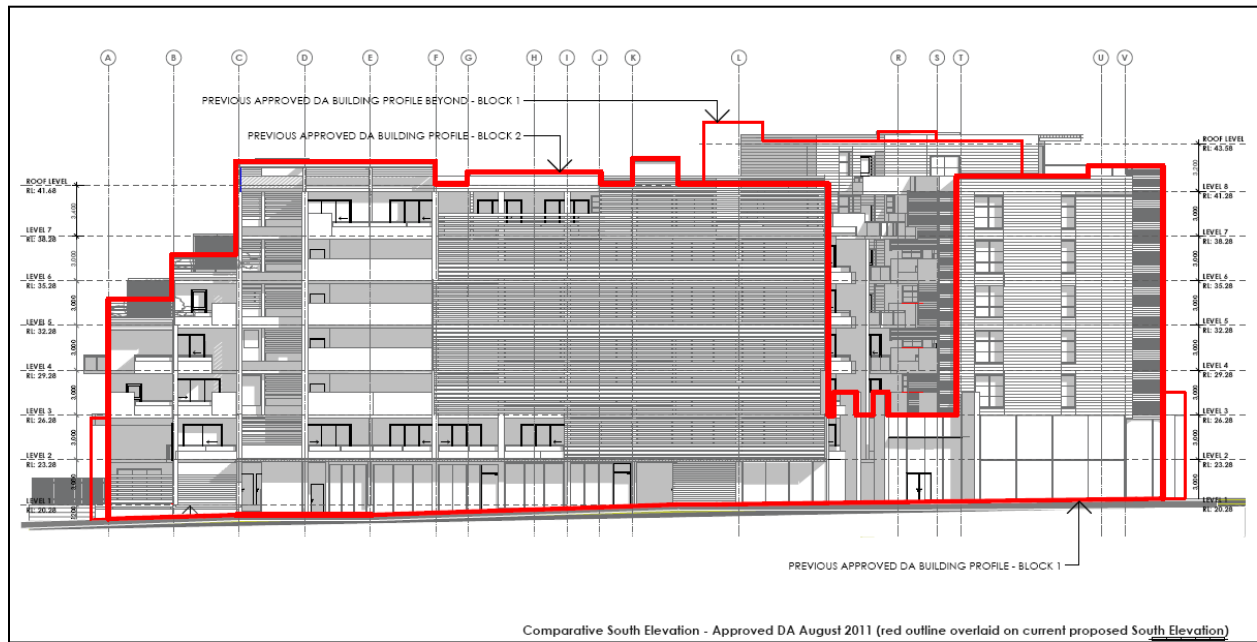
The RFDC provides minimum unit sizes and a requirement for an appropriate unit mix. The proposal complies with the unit mix guide and the minimum unit sizes. There is a small percentage of three (3) bed units (3%) and a much higher proportion of studios, one (1) bed and two (2) bed units (44% studios and 1 beds and 53% 2 beds), which is considered to assist in housing affordability.

### **Protrusions Beyond Approved Envelope**

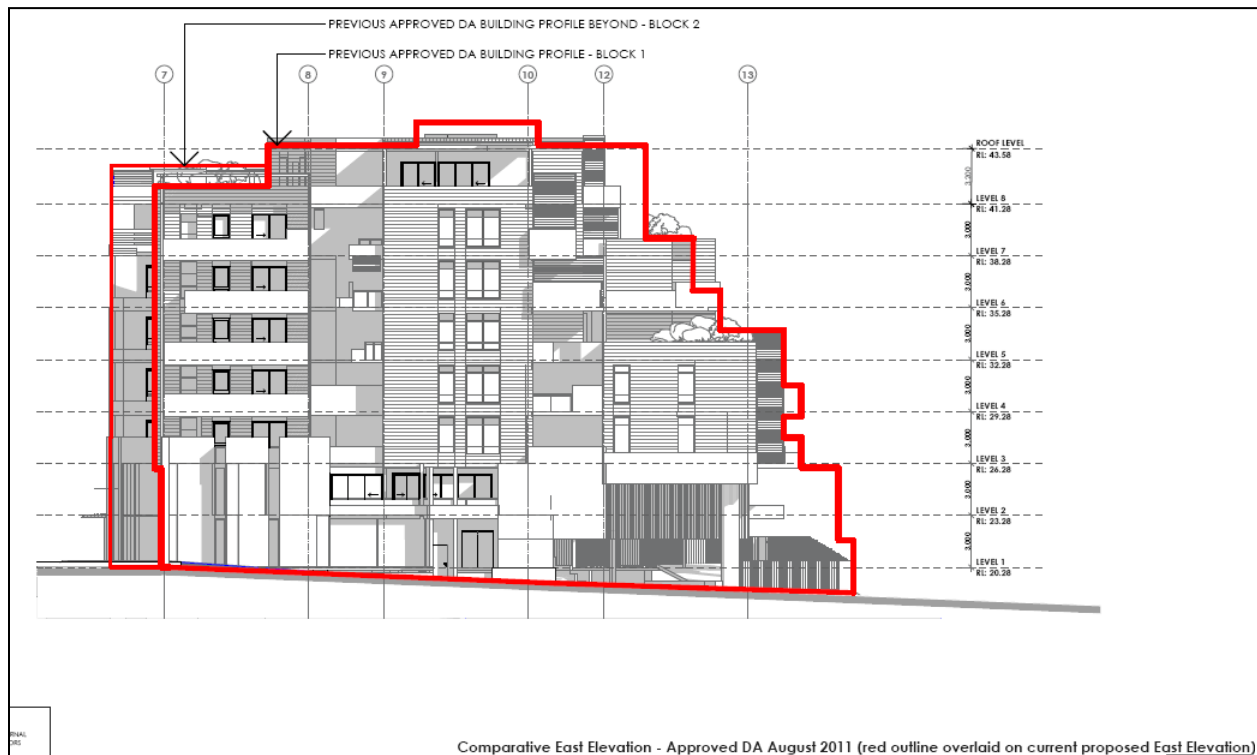
Council's report states that *"there are some clear protrusions from the approved envelope"* from prior DA 2011/032 (JRPP approval) and that this conflicts with our argument that the application generally retains the approved built form.

We do not suggest that there are no protrusions and indeed the proposal does involve a number of minor protrusions internally within the development, mainly where balconies have been provided to units. In terms of the general bulk and scale of the development, as can be seen in the comparative elevations below, the proposed scheme *does* retain the general envelope of the approved development. In considering potential impacts from the bulk and scale of the development, the purpose of the comparative elevations is to demonstrate that the development is substantially the same as the approved scheme and is appropriate in regard to its physical relationship and compatibility for the site and its surrounding locality.

Further to the above, the area of concern raised at the previous JRPP meeting related to the bulk of the proposal on the northern extent of Block 1. As can be seen in the figures below, the subject proposal generally does not change the bulk and scale of the approved scheme in this location. In fact, the new east elevation shows that there is a minor decrease in height.



**Figure 1 - Comparative South Elevation - red line showing outline/envelope of approved scheme**



**Figure 2 - Comparative East Elevation - red line showing outline/envelope of approved scheme**

### Additional Matters

Council has also raised concern regarding the following provisions of the RFDC:

Control	Council Comment	Project Team Comment
Building depth	Council states that the building does not comply with the maximum building depth of 10m - 18m.	
Building separation	Council states that the proposed provides no separation and is one continuous building footprint.	The development is consistent with the principles of the building separation guideline.
Orientation	Council states that 19 out of 62 of the units are not north facing and therefore is not consistent with the RFDC.	The site has a north-south orientation and it is inevitable that not all units will have a north orientation. However, the proposal achieves a level of solar access and cross ventilation which far exceeds the minimum RFDC guidelines and most units (89%) have been given multiple orientations, with single orientation units comprising only 7 out of a total of 62 apartments (11%).
Building Entry	<p>Council states that the pedestrian entries are not readily identifiable.</p> <p>Council also states that both pedestrian entrances offer no visual connection between building and street.</p>	<p>Refer to the following comments provided by the Project Architect:</p> <p><i>"Homebush Road Entry:</i>  <i>This entry is for residents and their visitors only. It is clearly identified in the facade street elevation rhythm so that it cannot be confused as a commercial entry. Building name and appropriate signage space has been specifically designed adjacent to the entry. The entry is therefore both dignified and identifiable.</i></p> <p><i>The entry is not only connected to the street, but forms an important part of the architectural expression of the streets cape.</i></p> <p><i>Liverpool Road Entry:</i>  <i>This entry has a dual role. It has to both announce a public access as well as a private residential access for residents.</i></p> <p><i>The tall signature brightly coloured columns announce the entry zone in the long facade. Once approaching the entry zone, further architectural expression of specific entries</i></p>

		<p>for the Cafe and Units assist with navigational elements for visitors to the building.</p> <p><i>The striking architectural brightly coloured vertical blades relate to the street as signature features within the streetscape activation architectural expression of horizontal glazed facades and shopfronts."</i></p>
Apartment layout	Council states that most of the cross-through units are at, or exceed, the maximum depth of 15 metres.	<p>Refer to the following comments provided by the Project Architect:</p> <p><i>"It is assumed that Council are referring to Units 30,32,35,40,45,47 are approximately 18.8m in overall length. However these units are also narrow in their width and have external walls for virtually their full length. The 15m rule of thumb rule is therefore being misapplied by the Council, as the long side is therefore a length and not a depth. Importantly these units all have excellent daylighting and natural ventilation.</i></p> <p><i>For example, out of the six units of claimed concern by Council, two (40 &amp; 45) have long landscaped terraces down their long side. Units 32 &amp; 47 have two balconies. Unit 30 has three balconies and Unit 32 has a single enormous balcony terrace for virtually its full length."</i></p>

Furthermore, Council states the following:

*"some of the units/suites have been "squeezed" to fit within this approved building bulk, which has led to inferior accommodation and layout as follows:*

- *Convolutd corridor spaces as access to units within Buildings 1 and 2;*
- *Inappropriate location of Lift 1 being so far away from Homebush Road;*
- *Location of commercial suite and public access thoroughfare creating potential security issue;*
- *Proximity of units to outdoor commercial space leading to potential amenity impacts (see Units 26 and 58);*
- *Awkward layout of units 29, 59, 60, 61, 62; and*
- *Proximity of roof garden on level 7 to Bedroom of unit 19."*

A response to the above issues is provided by the Project Architect, as follows:

#### Convolutd Corridor spaces

*"This is not the case with most corridors being short and the others only requiring 8 units out of the entire 62 units to be accessed via two changes of direction being required instead of a single or no*

*change of direction."*

Inappropriate Location of Lift 1 so far from Homebush Road

*"This is a strange comment, as the Lobby to Lift has direct access to Homebush Road as well direct disabled access from Homebush Road with a total distance to be traversed being 15metres, all of which is undercover and secure access."*

Commercial suite and public access creating security issue

This issues has been addressed earlier in this letter.

Proximity of units to outdoor commercial space leading to amenity impacts (U26 & 58).

"

*This is simply incorrect. U58, centred on Grid G, is a nominal 25m from the Cafe outdoor tables (with an intervening glazed wall) and 35m from the Cafe interior and is also oriented away from the direction of the Cafe.*

*U 26 is separated by a nominal 18m from the outdoor tables (also separated by a glazed wall) and a nominal 28m from the Cafe interior."*

Awkward Units

Previously addressed under the response to Condition D1.

Proximity of roof garden on L7 to Bedroom of Unit 19

*"This is an irrelevant comment as Bedroom 1 Unit 19 does not overlook the neighbouring roof garden and looks past the garden. For the extent of the roof garden extending beyond the external wall o the Bedroom 1 Unit 19, the roof garden has been designed to be densely landscaped and screened (see elevations) so that there is not a traffic able area close to the window to Bedroom 1 Unit 19."*

**Conclusion**

We understand that Council has a number of concerns regarding the subject DA with the key issue being the height of the development and inconsistency with the draft LEP control. Despite the fact that the draft LEP has now been gazetted, the application is saved by the provisions of Clause 1.8A and the application must be determined as if this Plan had not commenced. The Council acknowledges in the report that the current EPI is the Strathfield Planning Scheme Ordinance ("SPSO") but provides no assessment of the application under its provisions and rather provides a detailed assessment of the proposal under the draft Strathfield Local Environmental Plan 2012.

We have considered the issues raised at the meeting with Council on 15 March 2013, including the key issue regarding building height.

For the reasons set out in the original DA documentation, our representation on behalf of our Client to the draft LEP, the post-lodgement correspondence to Council and the discussion in this letter, we consider that the development is supportable on a merit basis and warrants approval. Amendments to the scheme



in accordance with Council's recommendation may result in a "*compliant*" building height, consistent with the draft LEP, but would also result in:

- An approach to planning that essentially constitutes "*planning by numbers*" and one that does not consider the merits of the development on a holistic scale and is not justified by any adverse or environmental impacts;
- A completely different development than that which is currently proposed and a recommendation that is essentially tantamount to a refusal; and
- Whilst not an assessment consideration under S79C, a development that is not financially viable for our Client. The importance of the redevelopment of this unique site has been acknowledged by the Council. It will be a key catalyst for the revitalisation of a declining centre. The amendments recommended by the Council will impact on the viability of the development. With the housing market dictating that a permanent residential population is more appropriate for this site than a transient hotel/serviced apartment population (due to the many recent approvals in the Olympic Park area), there is a very real possibility that this unique site may remain undeveloped in the future. On a strategic level, this would likely impact on the Council's desired future character for the Strathfield South centre.

A considerable amount of time, effort and cost has been afforded to the preparation of this development application and we would request that the Council and the JRPP considers this response to the assessment report dated 3 April 2013 prior to the determination meeting on 17 April 2013.

Should you wish to discuss any aspect of the contents of this letter, please do not hesitate to contact the undersigned on (02) 8270 3500.

**YOURS SINCERELY**



**CHRIS OUTTERSIDES**  
**DIRECTOR**  
**CITY PLAN STRATEGY AND DEVELOPMENT**