

JOINT REGIONAL PLANNING PANEL

(Sydney West)

Report	Addendum Report to Assessment Report originally submitted to JRPP meeting 8 May 2014.	
JRPP No	2013SYW105	
DA Number	DA 664.1/2013	
Local Government Area	Fairfield City	
Proposed Development	Demolition of an existing at-grade car park and toilet block facilities, subdivision of land and construction of a three (3) storey building comprising ground level retail outlets (30 tenancies with a total 2,995m ² lettable floor area), first level car parking and commercial floor space (4 tenancies with a total 505m ² lettable floor area), third level car parking, and associated road works.	
Street Address	Dutton Lane, Cabramatta.	
Applicant/Owner	Fairfield City Council (Applicant & Owner)	
List all documents submitted with this report for the panel's consideration	AT-A AT-B AT-C AT-D AT-E AT-F AT-G AT-H	Letter to Cabramatta Business Association form Fairfield City Council dated 3 May 2014 and attached independent assessment of the reclassification process and Council's Traffic Engineer memorandum relating to a parking survey CBA letter dated 22 May 2014, plus attachment. Urbis letter dated 22 May 2014, plus appendix. Trafix letter dated 22 May 2014, plus attachments Applicant's response dated 29 May 2014. Group Manager City Development comments. Traffic Engineering comments. Revised Proposed Conditions of Consent
Report by	Paul Grech, Consultant Planner (GLN Planning)	

BACKGROUND

An assessment report was originally submitted for the consideration of the JRPP at its meeting of 8 May 2014. At that meeting, the Chair agreed to adjourn the meeting until 19 June 2014 and for the Cabramatta Business Association (**CBA**) to submit further material to be considered by the Council's planner.

In response to an email request, Council provided the CBA, by letter dated 13 May 2014 (**ATT A**), a response to a question regarding the status of the Cabramatta T-Map, a copy of the independent assessment pertaining to the reclassification process of the Dutton Lane land to operational land for the purposes of the *Local Government Act 1993*, and Council's Traffic Engineer's memorandum relating to a parking survey.

The following additional submissions were made by the CBA, or on behalf of the CBA:

1. CBA letter dated 22 May 2014, plus attachment (**ATT B**).
2. Urbis letter dated 22 May 2014, plus appendix (**ATT C**).
3. Traffix letter dated 22 May 2014, plus attachments (**ATT D**).

The additional submissions were provided to the applicant who was invited to respond, which occurred by way of a letter dated 29 May 2014 (**ATT E**).

REFERRALS

To assist in the consideration of the additional submissions, comments were sought and provided from the following technical officers of Council:

1. Group Manager City Development (Strategic Planning) (**ATT F**);
2. Traffic Engineer (**ATT G**).

Council's development assessment manager was also consulted to ascertain Council's practice relating to Construction Traffic Management Plans and arrangements for access to Dutton Lane contemplated when assessing development applications for premises which abut the Lane.

CONSIDERATION OF ADDITIONAL SUBMISSIONS

The following provides a summary of the issues raised within the additional submissions and a response.

Quantum of Car Parking

Issue

The submissions reiterate the concern that the proposal will result in unacceptable impact due to an inadequacy in proposed car parking.

It is submitted that the proposed development is deficient 30 parking spaces when assessed against the DCP and the 40% discount provided for in the DCP should not be applied. It is submitted that an assessment is required that considers the town centre as a whole. The results of a parking survey undertaken by Traffix for Saturday and Sunday, 17 and 18 May, during the assumed peak middle of the day period was submitted indicating that at those times a total of 915 off-street and on-street parking spaces were at, or effectively at, capacity.

Response

As outlined in the original assessment report, under the DCP the proposed development is required to provide 206 spaces on-site and pay a S94 contribution for 55.44 spaces (total = 261.44 spaces). The applicant proposes to provide 275 spaces on-site and would pay a S94 contribution for 14 spaces (total = 289 spaces).

The proposal seeks a variation from the DCP allowing for a greater number of car parking spaces to be provided on-site and fewer spaces to be off-site by way of a S94 contribution. This results in an overall greater number of spaces in the centre compared to the DCP requirements. Only those spaces provided by way of a S94 contribution attract a 40% discount under the DCP, consequently the variation to the DCP results in the 40% discount applying to fewer spaces.

Notwithstanding the above it is noted that:

- The existing car parking spaces and street spaces lost are proposed to be fully replaced.
- For the proposed commercial/retail uses alone, the DCP would require a total of 133 spaces. Consequently the shortfall in car parking provided for in the proposal (24 spaces) is much less than that which is provided for in the DCP (93 spaces).
- This is because the DCP provisions include more than standard parking rates that, when applied, require only 95.44 spaces instead of the 133 spaces (40 on-site and 55.4 by way of a S94 contribution).
- The basis to the 40% discount for parking paid for by way of a S94 contribution appears to be a nominal rate applied in the preparation of the DCP, but implicitly encourages contributions to centre based public parking allowing greater opportunities to pedestrianise parts of the centre, recognition that such parking would be more efficiently used in comparison to car parking provided for individual developments and encourages the use of public transport.

It is noted that there could be a potential deficiency in car parking between the time that new development occurs and when S94 funded centre based car parking is constructed. In this case the proposed variation from the DCP reduces this deficiency. Further, impacts associated with visitors and workers unable to find car parking within the centre would be dependent on whether there is existing spare capacity in parking supply.

The Traffix submission indicates that at peak times (11am – 1pm Saturday and 12 noon – 1pm Sunday) on-street parking is at 100% capacity and off-street

parking is at 97% capacity). The applicant has identified that the Traffix survey fails to include parking and loading facilities in Arthur Street, Park Street and Hill Street and that when considered over an extended period (November 2013 to April 2014), the Dutton Lane car park alone operates at 94% capacity at its highest peak for a 30 minute period. Council's Traffic Engineer was also critical of the Traffix parking survey because it had not examined a full seven day period and was based on a 200m catchment instead of a 400m catchment.

If it was assumed that the Traffix position was correct, during peak hours around the middle of the day on Saturday and Sunday there could be difficulty in finding parking in that part of the Cabramatta centre near to the subject site, but this does not appear to be the situation for the majority of the time during the week and substantially relates to an existing situation. The proposed development provides more car parking than a proposal that is fully compliant with the DCP. Should the Traffix position be incorrect, then the parking difficulties during the midday weekend peaks would be less. Furthermore, the car parking situation will improve upon construction of the decked car park in Hill Street as provided for in the S94 Plan.

The conclusion reached in the original assessment report is unchanged and it is considered that the proposed number of car parking spaces provides a reasonable balance between complying with the intent of the DCP and responding to concerns raised by the CBA and others.

Loading Facilities

Issue

Traffix submits that the loss of 11 existing loading spaces on the site are not adequately replaced and the provision of 1 loading space for the proposed commercial/retail development is deficient.

Response

Council's traffic engineer concludes:

The proposed development will not result in net loss in the number of loading zones but there will be changes to the type of vehicles that could be accommodated. Furthermore, the applicant will be requested to provide a detailed Plan of Management to effectively manage the loading facilities on Dutton Lane and Hughes Street.

It is considered that the loading facilities being retained/provided are satisfactory.

The applicant notes that the rearrangement of loading spaces will contribute to an overall improvement in vehicular and pedestrian safety in the Dutton Lane precinct, being the view also expressed in the original assessment report. Further, while there is no legal entitlement to the loading spaces within the site, Council Assessment officers have advised:

Council's standard approach to development proposals in the vicinity of Dutton Lane is to allow operators to utilise the servicing facilities within Dutton Lane as part of their business operations. This approach was

undertaken to support the ad-hoc nature of business activities in Cabramatta and the continual needs of many businesses who require vehicle servicing at any given time throughout the day. Servicing in Dutton Lane includes garbage removal, loading and unloading associated with different uses in the area.

The proposed development will replace existing loading spaces and provide satisfactory loading facilities for the proposed development, and will continue to provide access opportunities to surrounding premises.

Status of T-Map

Issue

During and after the JRPP meeting, the CBA sought clarification as to the status of the Cabramatta T-Map.

Response

The CBA was advised by Council (ATT-A) that the T-Map was a requirement of the RMS following Council's public consultation on a Draft LEP and DCP for Cabramatta and is presently a working document. Council's strategic planner (ATT-G) confirmed that the increased densities proposed by that Draft LEP and Draft DCP have not been implemented at this stage.

Construction Traffic impacts

Issue

Traffic submits that the circumstances of the proposed development warrant a detailed Construction Traffic Management Plan (**CTMP**) to be assessed as part of the DA, notwithstanding a recognition that usual practice would be to require such a plan as condition of development consent.

The CBA and Urbis submissions reiterate this position and submit that the object and provisions of the DCP (Clause 3.5) mandate that the existing car parking and loading spaces within the development site be temporarily replaced prior to the commencement of construction, should development consent be granted.

Response

The literal interpretation of clause 3.5 of the DCP is not clear. The applicant contends that as the 157 existing parking spaces will be reinstated on-site clause 3.5 does not apply. Notwithstanding, as required by the Act a flexible interpretation of DCPs that seeks to ensure the intent of provisions is achieved, is appropriate.

Construction traffic relates to temporary impacts and the requirement for a CTMP for assessment at the DA stage would not be reasonable or necessary. Notwithstanding, the originally proposed condition of consent requiring the CTMP has been expanded to ensure the measures offered in the applicant's response (ATT-E) and matters discussed in the Traffic Engineers comments will be addressed.

Council's Development Assessment Manager has confirmed that Council's current approach is to require a CTMP to be provided prior to the issue of a

Construction Certificate. This is consistent with the advisory comments received from the RMS. Examples were cited by Council of recent development consents of a comparable scale that corroborate this practice, including Stage 2 of the redevelopment of the Wetherill Park Stockland complex approved by the JRPP (DA-533/2012) and a mixed use development incorporating offices and 140 apartments in Fairfield West approved by Council (DA-166/2010).

Design Deficiencies

Issue

The Traffix submission refers to “numerous design deficiencies” identified in their earlier submission and a need to assess vehicular circulation areas based on the B99 Design Car.

Response

Relevant design issues were reviewed in the original DA assessment report, including comments received from the RMS and Council’s Traffic Engineer. Notwithstanding the more recent comments received from Council’s Traffic Engineer include:

In order to reduce the unnecessary circulation of motorists looking for vacant car parking spaces, the applicant will be required to explore the option of implementing an electronic parking guidance system for the car park which provides an up to date information regarding the number and availability of vacant car parking spaces.

A turning path assessment has been undertaken for B99 vehicle to check the layout of the car park and was found to be satisfactory.

The additional information provided has been considered and does not change my recommendation or advice in relation to this matter.

The first point above has been incorporated in revised proposed conditions.

S94 Contribution

Issue

THE CBA submission questions the applicability and relevance of the S94 Contributions Plan.

The Urbis submission contends that the S94 contributions determined by applicant and confirmed by calculations within the original Assessment Report is incorrect. It is submitted that the required S94 contribution should be for 55.4 spaces not 14 spaces.

Response

The original assessment report set out 2 methodologies to determine the deficit in car parking that should be met by way of a S94 contribution, both concluding that payment for 14 spaces should be required. This accords with the legal advice obtained by Council.

Height Variation

Issue

The Urbis submission implies that the assessment report inappropriately concludes that the proposed variation to the 10m height limit is minor and acceptable by suggesting this can only be allowed if the higher height limit of 16m is taken up which requires 50% of the site to be “landscaped open space” (clause 7.3(5) of FLEP 2013).

Response

As outlined in the assessment report, FLEP 2013 provides two alternate approaches for a proposed development, for which either a 10m or 16m height limit would apply. The applicant has not chosen to rely on the 16m height limit which would require 50% of the site to be “landscaped open space” and consequently this is not applicable. The variation from the 10m height limit has been assessed as minor and acceptable.

Reclassification Process

Issue

The CBA raised concerns in regard to the process that led to the reclassification of the site to “operational land” for the purposes of the Local Government Act 1993. In particular the concerns centre on a lack of attendance at the public hearing and the expectation for the future use of the site communicated to the public by Council’s “statement of interest”.

Response

The applicant’s response outlines the purpose of Council’s statement of interest during the reclassification process. Further, it is noted that Council inherently considers the public interest in the management of land in its ownership, and associated revenue that might be generated from land, in the context of the broader community within the LGA.

The issues raised by the CBA do not invalidate the reclassification of the subject site to operational land.

Community Expectations and the Public Interest

Issue

Urbis and the CBA submit that the proposed area of public open space is inadequate and does not meet community expectations. Reference is made to the public consultation process that preceded the adoption of the current DCP and the following statement in the DCP (pg.27):

The Dutton Lane Precinct will provide a centrally located pedestrian common as the third significant piece of public open space west of the railway line and will link to Freedom Plaza, John Street and Cook Square.

Response

The applicant’s response notes:

The proposed development incorporates a sensible and practical

amount of public open space. This provides numerous public benefits which would otherwise potentially not be provided if the site was sold and developed privately.

When considered together with the LEP provisions (clause 7.3(5)) that provide a height incentive for provision of public open space, it could be interpreted that no public open space is required in the case the applicant does not opt for the higher height limit. Further, it is commonly recognised that the only mechanism to require the provision of public open space is through a S94 Contributions Plan, and such a provision this does not apply in this case.

Accordingly when assessed in context, the proposed provision of public open space is considered acceptable.

Plan of Subdivision

Issue

The CBA note that should Council propose an alternate plan of subdivision in response to the matters raised within the assessment report, then this should be made available for comment.

Response

No amended plan of subdivision has been submitted.

Economic Impact

Issue

The CBA consider this issue has not been properly considered or assessed, particularly having regard to the lost opportunity to develop the site with “medium scale use” instead of small shops.

Response

This issue was reviewed in the original assessment report. There is no basis to conclude that development of small shops as proposed would have a detrimental impact on the viability of the Cabramatta centre.

Notification and Review of Submission by Elton Consulting

Issue

The CBA submission is critical of the “invitation document” assumingly being a reference to Council’s notification letter and the review of submissions prepared by Elton Consulting on behalf of the applicant.

Response

The notification letter and Council’s web site includes information in multiple languages. This is standard for all development applications.

While the applicant elected to provide a response to submissions received during the exhibition of the DA (through Elton Consulting), all submissions were also independently reviewed by the assessment planner.

CONDITIONS OF CONSENT

As a consequence of matters arising since the preparation of the original assessment report, including comments received in the above supplementary submissions, minor revisions to the proposed conditions of consent have been made. (ATT H);

CONCLUSION

The additional submissions have been reviewed and it considered that there are no matters arising that would lead to a conclusion that the proposed development is unacceptable and should be refused. However, some additional comments provided by Council's technical officers and the response of the applicant have led to a further refinement of the proposed conditions of consent.

Accordingly, the application is recommended for approval, subject to conditions.
