

Proposal: Demolition of existing structures and the construction of 8-12 storeys mixed-use development consisting of 4 multi-storey buildings containing 290 residential apartments and 1413m² of commercial/retail floor space above 3 levels of basement car park and associated landscaping.

Location: Lot 101, DP 717004, Lots 3 & 4, DP 524149, No. 48 Court Road and 356-358 The Horsley Drive, Fairfield.

Owner: Ausia Funeral Services Pty Ltd

Proponent: Tallahon Pty Ltd

Capital Investment Value: \$66.3million

File No: DA 687.1/2014

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Fairfield City Council

RECOMMENDATION

1. That the application proposing the demolition of existing structures and the construction a mixed-use development of 8-12 storeys within 4 multi-storey buildings comprising 290 residential apartments and 1413m² of commercial/retail floor space above 3 levels of basement car park be approved subject to conditions as outlined in Attachment I of this report.
2. That the objectors be advised of the JRPP's decision in respect to the application.

SUPPORTING DOCUMENTS

AT-A	Locality Plan	1 page
AT-B	Architectural Plans	40 pages
AT-C	Statement of Environmental Effect	81 pages
AT-D	Design Verification Statement	5 pages
AT-E	Traffic Report	32 pages
AT-F	Acoustic Report	31 pages
AT-G	Compliance Table: RFDC and Fairfield City Centre DCP	47 page
AT-H	Roads and Maritime Services Letter	2 pages
AT-I	Draft Conditions of Consent	31 pages
AT-J	Letters of Objection	8 pages

EXECUTIVE SUMMARY

This development application, as amended, proposes the demolition of existing structures and the construction of an 8-12 storey mixed-use development consisting of 4 multi-storey buildings above 3 levels of basement car park at No. 48 Court Road and No. 356-358 The Horsley Drive, Fairfield. The application seeks approval for the construction of 290 residential apartments and 1413m² retail/commercial suites contained within 4 buildings with associated car parking and landscaping and the provision of a service lane.

The site is zoned B4 Mixed Use under Fairfield Local Environmental Plan 2013 (FLEP). The proposal is permissible with consent within the B4 Mixed Use zone.

The site is situated towards the north-eastern periphery of the Fairfield Town Centre. The consolidated allotment is a large rectangular shaped lot that has a street frontage to The Horsley Drive and Court Road. It is located directly opposite the Neeta City Shopping complex and adjacent to a fast-food restaurant and an existing multi-storey mixed-use development to the north.

The site is located within the Periphery Precinct of the Fairfield CBD, as identified in Fairfield City Centre DCP 2013. The fundamental development control for the subject site allows for 8-12-storeys high mixed-use development consisting of an 8-storey perimeter building facing Court Road and The Horsley Drive with two 12-storey towers to the centre, and a maximum floor space ratio of 3.5:1. In addition, Council's DCP requires the provision of a service lane along the southern edge of the site as part of any re-development of the site.

The application was advertised in the local newspaper and notified to neighbouring property owners twice in accordance with Council's Notifications Policy. A total of 4 submissions were received in response to the public consultation process objecting to the application and requested that certain matters be taken into consideration before the application is determined.

The application is referred to the Joint Regional Panel (JRPP) for determination pursuant to Clause 13B(1)(a) of State Environmental Planning Policy (Major Development) 2005, as the development has a capital investment value (CIV) in excess of \$20million (\$66.3million).

The application, as amended, has been designed in consideration of the requirements of the Fairfield City Centre DCP. The perimeter block typology to Court Road and The Horsley Drive has been followed as well as the tower block forms to the centre of the site. However, the spatial separation between buildings is less than those identified in the DCP, although they are consistent with SEPP 65.

This report discusses the relative merits of the application and provides an assessment of the relevant matters of consideration in accordance with the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Flat Buildings, Fairfield Local Environmental Plan 2013 and Fairfield City Centre Development Control Plan 2013, and the particular circumstances pertaining to the site.

The key planning consideration associated with the application relates to the height of the proposal, building separations, and how the development responds to its development context particularly in respect to the impact on the development potential of adjoining properties. Concerns were initially raised that the development was likely to result in adverse amenity impacts within and upon neighbouring properties in terms of visual/acoustic privacy and overshadowing, having regard to the height and built form of the development.

However, as a result of extensive discussions with Council the applicant has amended the development. Significantly, the previously proposed 9-storey perimeter buildings to The Horsley Drive and Court Road frontages of the site have been reduced to comply with the 8-storey height limit. The building separation between the proposed 12-storey towers has been increased to comply with the requirements of SEPP 65. In addition, the buildings, particularly The Horsley Drive perimeter building and the 12-storey tower blocks, have been re-arranged. The end result is a more efficient building being proposed for the site in terms of cross-ventilation, solar access and acoustic performance.

Moreover, the previously proposed ground floor residential apartments facing The Horsley Drive have been converted into commercial suites and the south facing ground floor residential apartments have been replaced with retail/commercial suites.

In respect to the required service lane identified in the Fairfield City Centre DCP, the application provides for a 6.5m wide access road off Court Road to facilitate vehicular access to the development. This access road, for a length of approximately 63metres, will be constructed as part of the development. The application also proposes to dedicate to Council a 3.9m wide half width road as a public road along the southern boundary edge of the site for the remainder of the proposed service lane identified in the Fairfield City Centre DCP 2013.

In view of the amendments made to the application, the proposed development is considered to appropriately respond to its urban development context, the development potential of neighbouring sites and achieves compliance with the ten design quality principles of SEPP 65. Consequently, the development would positively contribute to the character of the area without having an unacceptable impact upon amenity. Accordingly, the application is considered to have planning merit and warrants support and it is recommended that the proposal be approved subject to conditions.

SITE DESCRIPTION AND LOCALITY

The context for the development is the north-eastern periphery of the Fairfield Town Centre, along the broad stretch of The Horsley Drive near the intersection of The Horsley Drive, Court Road and Nelson Street. Whilst the context is the Fairfield Town Centre, this part of the town centre is not within the vibrant core and enjoys significantly less pedestrian movements. The area is dominated by a mix of commercial and minor industrial uses in one to three-storey buildings. These existing building stocks are irregular with varying setbacks from the streets. The dominating building in the area is the three-storey Neeta City Shopping Complex directly opposite the site in Court Road, which however has no shopfront retail/commercial activities fronting Court Road. Instead, Court Road is being used for access and loading/unloading purposes for the shopping centre.

The area to the north-west of the subject site contains a McDonalds restaurant and Aldi Supermarket surrounded by their on ground carpark. As such, it is considered that the area has been somewhat degraded in terms of its urban built form and limited the opportunity to provide continuous street edge built form. The allotment to the north of the McDonalds restaurant consists of a part 8 and part 9-storey mixed-use tower development.

The area to the south-east of the site consists of a KFC restaurant and 1 to 3-storey commercial developments fronting Alan Street.

Almost rectangular in shape, the subject site has a frontage of 52m to The Horsley Drive and 66m to Court Road and a total site area of approximately 9,252m². It is one of the biggest single allotments within Fairfield CBD. Presently erected upon the site are 2 large brick warehouse buildings being one and two-storey in height with on-grade parking. These buildings are being used for various retail and commercial activities including a tyre retailer, a furniture shop, a funeral parlour and a grocery store. The site is almost completely sealed, but there are a number of trees within landscape beds situated on the site.

The Fairfield town centre is bounded by The Horsley Drive on its northern side, Cunningham Street on its western side, Barbara Street on its southern side and part of the eastern side of the railway line.

Although the Fairfield town centre is presently dominated by low scale developments of one to three-storeys in height, the scale and built form is changing to high-rise developments, having regard to the number of recently completed high-rise developments of up to 12-storey in heights. The town centre is regulated by the Fairfield City Centre Development Control Plan 2013. The DCP divides Fairfield town centre into 7 distinct Precincts: Nelson Street Precinct, The Crescent Precinct, Smart Street Precinct, Ware Street Precinct, Periphery Precinct, Site Specific DCP Sites and Court Road Precinct (site is located).

BACKGROUND

- On 30 October 2014, Fairfield City Council received the subject development application (DA 687.1/2014) for the demolition of existing structures and the construction of a 9-12 storey mixed-use development above 2 levels of basement car park containing 305 residential apartments, 730m² of commercial floor area and associated landscaping.
- On 23 February 2015, the application was deferred pending the submission of amended plans/additional information in respect of a number of matters including the following:
 - The proposal is inconsistent with Figure 4.7-3 of the Fairfield City Centre DCP 2013 in that the perimeter buildings proposed along Court Road and The Horsley Drive frontages of the site, at 9 storeys in height, exceed the allowable building height of 8 storeys. Also, the required 18m - 24m building separation between buildings was not provided.
 - Proposal is unsatisfactory in terms of cross-ventilation in that less than 56% of the apartments are naturally cross-ventilated.
 - The required landscape area and deep soil zone not provided as per the DCP.
 - Block D is a poor performing building in terms of acoustic performance and cross-ventilation.
 - A service lane to be provided along the southern boundary of the site in accordance with the DCP.
 - Solar access to apartments and communal open space is sub-optimal.
 - Additional car parking spaces required for the proposal.
 - Proposed development needs to address flooding due to Mainstream Flooding and Overland flooding.
 - Submission of details in respect to existing easements affecting the site.
 - Traffic and parking issues associated with the proposal.
 - Proposed treatment of the public domain to have regard to Council's Public Domain Treatment Manual.
- On 30 April 2015, the Sydney West Joint Regional Planning Panel was briefed of the proposed development where the deficiencies identified above were discussed.

The JRPP requested that the following additional matters be addressed by the applicant before the application was referred to the JRPP for determination/consideration:

- Panel was concerned about ground level residential apartments having poor amenity in terms of solar access and ventilation.
- Ground level residential apartments facing The Horsley Drive are unacceptable in terms of residential amenity. The Panel suggested

- that these be converted to commercial uses or setback from The Horsley Drive, if to be maintained as residential.
 - Consideration be given to converting unsatisfactory ground level residential apartments into community room or gymnasium.
 - The required storage area to be provided per apartment.
 - Flooding to be fully addressed and indicate how it complies with Flood Policy
 - Improvements required to Court Road frontage of the development.
 - Proposal to comply with SEPP 65 and Council's planning controls.
- On 14 May 2015, a letter sent to the applicant in respect to the issues raised by the JRPP that need to be addressed by the applicant.
- On 30 June 2015, amended plans received from the applicant. The amendments include the following:
 - The ground floor apartments facing The Horsley Drive have been converted to commercial suites;
 - The south-facing ground floor apartments converted into a gymnasium;
 - Height of Block D reduced to 8-storeys, but the height of Block A increased to 10-storeys.
 - An additional vertical core (lift and stairs) added to Block D, which allowed the conversion of single aspect apartments into corner or cross-through apartments.
 - An additional level of basement car park proposed and re-arrangement of vehicle circulation.
- On 14 August 2015, a letter was sent to the applicant in response to the amended plans/additional information received. The letter required the following issues to be addressed by the applicant:
 - The proposed additional level to Block A to 10-storeys is not supported.
 - Concerns raised that inadequate spatial separation provided between Block B and Block C. As such, the proposal would unsatisfactorily overshadow the southern adjoining sites and its communal open space.
 - Flooding and drainage issues unresolved.
 - Traffic and parking issues unresolved.
- On 9 September 2015, further amended plans were received from the applicant, following discussions between the applicant and Council. The amended application provides the following amendments:
 - The height of Block A lowered to 9-storeys – still does not comply.
 - The building separation between Block B and Block C increased to 18m-24m.
 - Communal open space increased.
 - The number of residential apartments has been reduced to 291.

- On 18 November 2015, further amended plans were received from the application in response to discussions with Council. The amended application provides the following amendments:
 - The height of Block A has been reduced to 8-storey, now complying with the 8-storey height limit.
 - The ground floor of Block D is pulled back from The Horsley Drive by 3.5m. It is also setback 3.5m off the southern boundary in order to facilitate the provision of a drainage easement along The Horsley Drive and part of the southern boundary to drain a low point on The Horsley Drive to Alan Street via the site.
 - The previously proposed gymnasium on the ground floor has been replaced with a retail suite.
 - The retail suites facing Court Road is now setback off Court Road, so as to facilitate the provision of disabled access and provide a 500mm freeboard above the 1 in 100 year flood level.

PROPOSAL

The application, as amended, seeks approval for the demolition of existing structures and the construction of 8-12 storey residential and retail development within 4 multi-storey buildings above 3 levels of basement car park, associated landscaping and a service lane.

The proposal provides for an 8-storey perimeter building fronting The Horsley Drive and Court Road frontages of the site with two 12-storey towers to the centre, containing 290 residential apartments and 1413m² retail/commercial suites. The buildings are connected by the basement and at grade car parks.

Initial Development Application

The application, as initially submitted, incorporated the following:

- Demolition of existing structures and the construction of 9-12 storey mixed-use development comprising 4 separate buildings containing 730m² of ground floor retail space, 305 residential apartments above 2 levels of basement and at-grade car park and associated landscaping.
- The application involved a 9-storey perimeter building fronting Court Road (Block A) and The Horsley Drive (Block D). There are two x 12-storey tower buildings (Blocks B and C) proposed to the centre of the site, sandwiched by the perimeter buildings. In addition, the proposal incorporated part of the required laneway running along the southern edge of the site.
- The 4 residential towers/buildings are connected by the at-grade and basement car park. The two 12-storey tower buildings are provided with a single level podium. These buildings are connected to the perimeter buildings by pedestrian bridges.

- Block A is separated from Block B by 13m - 16m. Block B and Block C are separated between 12m-18m for the first 8th levels, and the separation increases to 24m for the next 4 levels. Block C is provided with a minimum spatial separation of 9m from Block D.
- The proposal provided for 11 x studio units, 85 x 1 bedroom units, 129 x 2 bedroom units and 80 x 3 bedroom units. The following provides a breakdown of the proposal:

Unit Configurations

Ground/Podium Level

Ground/Podium Level incorporates 13 residential units, involving the following dwelling mix:

- 4 x 1 bedroom units (55m²-70m²)
- 2 x 2 bedroom unit (82m²-96m²)
- 7 x 3 bedroom units (100m²-145m²)

Block A

Block A incorporates a total of 63 residential units, involving the following dwelling mix:

- 5 x studio units (38.5m²-46m²)
- 5 x 1 bedroom units (52m²-75m²)
- 18 x 2 bedroom unit (70m²-120m²)
- 35 x 3 bedroom units (82m²-120m²)

Block B

Block B incorporates a total of 95 residential units, involving the following dwelling mix:

- 1 x studio (49m²)
- 15 x 1 bedroom units (50m²-55m²)
- 70 x 2 bedroom unit (76m²-83m²)
- 9 x 3 bedroom units (83m²-102m²)

Block C

Block C incorporates a total of 95 residential units, involving the following dwelling mix:

- 5 x studio (39m²-48m²)
- 18 x 2 bedroom unit (77m²-80m²)
- 13 x 3 bedroom units (100m²)

Block D

Block D incorporates a total of 39 residential units, involving the following dwelling mix:

- 2 x 1 bedroom units (50m²)
- 21 x 2 bedroom unit (76m²-82m²)
- 16 x 3 bedroom units (97.8m²-120m²)

Commercial Tenancies

The proposal incorporates 5 commercial tenancies on the ground floor fronting Court Road with a total floor area of 730m² that range from 101m² to 202m².

Parking

- The proposal provides 2 levels of basement and at-grade parking containing a total of 429 parking spaces. A breakdown of the parking arrangements are as follows:

Basement Level 2:

152 residential car parking spaces; and 25 residential visitor car parking spaces, inclusive of 10 disabled car parking spaces.

Basement Level 1:

152 residential car parking spaces; and 25 residential visitor car parking spaces, inclusive of 10 disabled car parking spaces.

At-Grade:

8 residential car parking spaces;
30 visitor car parking spaces;
9 commercial car parking spaces; and
8 shared car parking spaces.

The proposal also provides bicycle parking spaces at-grade.

Amended Development Application

As a result of on-going discussions between the applicant and Council staff, the application has been amended numerous times particularly as a result of non-compliance with SEPP 65 matters and building height limits. Details of the amended application are as follows:

- The 9th level of Block D has been deleted, bringing Block D to comply with the maximum permitted building height of 8 storeys as per the Fairfield City Centre DCP.
- An additional lift core has been added to Block D. Consequently, the number of single aspect apartments facing The Horsley Drive has been re-configured to cross-through, dual aspect, apartments. This has resulted in significant improvements to the ability of this building to achieve cross-ventilation and improve its acoustic performance.
- The 5 ground level apartments within Block D fronting The Horsley Drive have been deleted and replaced with 2 commercial suites.
- Block D is setback 3.5m off The Horsley Drive in order to allow for the relocation of a drainage pipe and the creation of a 3.5m wide drainage easement in favour of the Roads and Maritime Services.

- The 2 south-facing residential apartments on the ground floor which back onto the at-grade car park have been removed and converted into a retail floor space.
- The number of ground level residential apartments has been reduced from 13 to 5 in response to concerns raised by the JRPP Panel at the Briefing meeting.
- The building separation between Block B and Block C has been increased to 18m for the first 8 levels in accordance with the building separation requirements of SEPP 65. The floors above the 8th levels remain unaltered at 24m. In doing so, the residential apartments within Block B and Block C have been re-configured and the communal open space on the podium level has also increased. Additional windows have also been added to the inboard, deep recessed, residential apartments so as to facilitate cross-ventilation.
- An additional basement level has been provided, increasing the number of basement parking to 3 levels. As a result, the internal layout and circulation within the basement car park have been amended to allow vehicles to satisfactorily manoeuvre on site and enter/exit the site in a forward direction. The total number of car parking spaces has been increased to 461.
- The previously proposed 9th level above the perimeter building fronting Court Road has been deleted. The end result is that the proposed development now complies with the Fairfield City Centre DCP in terms building height.
- The amended application has reduced the number of residential apartments from 305 to 290, whilst the commercial suites has been increased from 730m² (previously only fronting Court Road) to 1413m² which also front The Horsley Drive frontage of the site and internally.
- The combined entry and exit driveway off Court Road has been widened to provide for a 6m entry and 4m exit. In addition, a 3m wide strip of land along the southern boundary of the site is proposed to be dedicated to Council as a service lane. The driveway will be dedicated to Council as a public road.
- The Horsley Drive and Court Road frontages of the site are proposed to be upgraded to provide for the replacement of the existing street trees and provision of granite pavers to pavement to Fairfield City Council's Public Domain Manual Specifications.

STATUTORY REQUIREMENTS APPLICABLE TO THE SITE

1. Fairfield Local Environmental Plan 2013

The subject site is located within zone B4 Mixed Use pursuant to Fairfield Local Environmental Plan 2013. The proposed development, submitted as 'commercial premises', residential flat building' and 'shop top housing', is permissible with consent within B4 zoned land.

Commercial premises, residential flat building, and shop top housing are defined by Fairfield LEP 2013 as follows:

commercial premises means any of the following:

- (a) business premises,
- (b) office premises,
- (c) retail premises.

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

Zone Objectives

The objectives of Mixed Use B4 zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To support the development of Prairiewood, Fairfield and Cabramatta as the principal locations for specialist cultural, retail, business, tourist and entertainment facilities and services.*

Clause 2.3(2) of the LEP states *that a consent authority must have regard to the objectives for development in a zone when determining a development application in respect to land within a zone.*

The proposed development involving a mixed residential and commercial development is considered to be consistent with the above objectives in that it provides for the establishment of a mixture of compatible land uses and it provides for the integration of suitable business, residential and retail development in an accessible location that would maximise public transport patronage. Also, the proposal would support the development of Fairfield as a location for specialist cultural, retail, business tourist and entertainment facilities and services.

Height of Building

Clause 4.3 Height of Buildings specifies that the height of buildings on any land is not to exceed the maximum height shown for the land on the *Height of Building Map*. The *Height of Building Map* specifies a maximum building height of 38 metres for the subject site. The proposed development is within the allowable height limit.

Floor Space Ratio

Clause 4.4 specifies that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the *Floor Space Ratio Map*. The *Floor Space Ratio Map* specifies a maximum floor space ratio for the site of 3.5:1. The proposed development is within the allowable FSR of 3.5:1.

STATE ENVIRONMENTAL PLANNING POLICY NO. 65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT

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

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development is applicable to the subject application, as the proposal exceeds 3 storeys in height and contains more than 4 dwellings. The overriding objective of the SEPP is to improve the quality of residential flat development in NSW through the establishment, inter-alia, ten design quality principles that must be taken into consideration in the design and assessment of an application.

The application is accompanied by a SEPP 65 Assessment Report prepared by Bureau SRH Architecture dated 29 October 2014 that provides an analysis of the proposal against SEPP 65, including the Residential Flat Design Code (RFDC).

It is considered that the submitted SEPP 65 report has generally demonstrated that the proposal achieves compliance with the ten design quality principles of SEPP 65 and the development has been designed with due regard to the controls of the Residential Flat Design Code and the Fairfield City Centre DCP 2013. The scale and built form of the development observes the scale and built form for the site as identified by the Fairfield City Centre DCP.

As part of the assessment process, Council engaged the services of an urban designer to assist in the review of the proposal specifically against the requirements of SEPP 65 and the Residential Flat Design Code.

The following provides a summary of the assessment of the proposal in respect to the ten design quality principles:

1. Context

Good design responds to 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 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 an area. (SEPP65)

The project is in the Court Road precinct of the Fairfield town centre and is bounded by The Horsley Drive to the east, Court Road to the west, developable properties facing Alan Street to the south and some existing developments to the north-east as well some developable land to the north-west.

The proposal generally follows the Fairfield Town Centre DCP. The basic perimeter block typology to The Horsley Drive and Court Road has been observed as has the tower block forms to the centre of the site. Whilst there are some discrepancies with respect to setbacks, in general terms the proposal addresses the desired future character of the area and the block specifically.

The proposal meets the objectives of this 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. (SEPP65)

In terms of building heights, the proposal, as amended, adheres to the numbers of floors and building height identified in the DCP. The floor plates are, however, larger than anticipated in the DCP. However, the amended scheme has provided sufficient justification relating to internal planning for some of these discrepancies.

The proposal generally meets the objectives of this 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 the building elements.

Appropriate built form defines the public domain, contributes to the character of streetscape and parks, including their views and vistas, and provides internal amenity and outlook. (SEPP65)

The proposal, more or less, follows the built form intention of the DCP. The architects have proposed 3 different building types for the development including:

- A crossover style building on the Court Road frontage (Building A)
- More standard tower form and buildings for the central blocks with deep indents (Buildings C and B)
- Single sided apartments facing The Horsley Drive with rear longitudinal corridors.

The crossover style building facing Court Road is a positive response to this situation as it provides excellent amenity as all apartments are cross ventilated. The only drawback with this built form is the inability to create adaptable units. The proposal relies on the number of units within other parts of the development to make up the shortfall.

The central towers employ deep recesses within the facades to enable light to deeply set bedrooms and potentially cross ventilation. The incorporation of windows to these deep recesses, as part of the amended scheme, allows these apartments to be naturally ventilated.

The 3rd built form type in building D relies on an externally placed corridor to provide access to apartments. This typology is problematic in that it does not allow for good cross ventilation. Only the northern and southern apartments on each level are cross ventilated.

As initially proposed, less than 50% of the units in this block are ventilated. However, the incorporation of an additional lift core has allowed the single sided apartments facing The Horsley Drive to be replaced with cross-through dual aspect apartments. Cross-ventilation has been increased to 90% of the units and the acoustic performance of building has also been improved, as openings are no longer just restricted to The Horsley Drive facade.

Building Separation

The spatial separation between Buildings A and B are minimal and assume that the lower building form up to 8 stories is to be taken into account in order to justify 13m between habitable rooms/balconies and non-habitable rooms. It could be argued that the taller buildings should be taken as the standard in which 18m would be required. On balance, however, the proposal is workable, as there are no direct facing habitable rooms/balconies between these 2 buildings.

Building B has appropriate setbacks to the north and the south. Design solutions have been found to the east facing units facing Building C and, as modified, the gap between these 2 buildings has been widened from 12m to 18m for the first 8 levels, which is appropriate and complies with the building

separation between buildings. Building C has a significant setback transgression on the north-eastern corner.

A 24m setback from the building to the north is required from balcony to balcony. A small portion of the north-east section of Building C does not meet this requirement. Appropriate privacy screens to the balconies of the north-east section of Building C that are setback less than 24m from the balconies of the northern adjoining multi-storey building shall be provided. The apartments in question are C113, C114, C122, C123, C131, C132, C140, C141, C149, C150, C158 and C159.

Buildings C and D are very close and the same comment applies to the separation between Buildings A and B. The circulation space in the building allows for the western façade of the building deemed to be treated as a non-habitable space. However, it will be important to ensure that these corridors are screened so that you cannot look across to Building C. The setbacks are otherwise workable and acceptable.

The proposal generally meets the objectives of the principle. The amended application which has now increased the setback between Block B and Block C to 18m for the first 8 levels is considered satisfactory and complies with SEPP 65 building separation.

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. (SEPP 65)

This proposal is for an additional 290 units to the Fairfield town centre. Increased densities adds to the vitality and prosperity of an established town centre, however adequate open-space, public services and public domain improvements need to be considered in order to ensure a balanced and amenable town centre.

The proposal meets the objectives of this 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 re-use of water. (SEPP65)

As amended, the proposal achieves a good rate of cross ventilation of approximately 90%.

What is more difficult to establish is the degree to which the proposal will achieve a 70% solar access figure. Three-dimensional views from the sun including existing and proposed buildings in the Court Road precinct would need to be provided in order to make an accurate assessment. Factors that will inform the outcome of this analysis will be the degree to which the buildings to the North overshadow the development, the amount of sun onto the eastern façade of Building D, the number of south facing units within towers B and C. It will be difficult for the project to achieve 70% of units receiving 3 hours of sun between 9am and 3pm on 21 June. The applicant has demonstrated that the subject site is significantly affected by the shadows of the northern adjoining development. However, the amended application would receive 2 hours of solar access to 69% of the units.

The project has the potential to harvest rainwater for reuse and has the potential to provide space for outdoor clothes drying which can make an enormous impact on long-term carbon footprint of the building.

The proposal has the potential to meet the objectives of this 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 site's natural and cultural features in responsible and creative ways. It enhances the development's natural environment performance by coordinating water and soil management, solar access, microclimate, 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 usability, privacy and social opportunity, equitable access and respect for neighbours' amenity and provide for practical establishment and long-term management. (SEPP65)

The project has the potential to provide a significant amount of deep soil planting, however the podium underneath the towers in the centre of the site appears to occupy a significant proportion of this potential space. The project should be providing good quality parklike spaces for its residents. Children's play areas and the like should be provided. The information provided for the landscape proposed appears to be adequate, however the landscape needs to include some larger trees in deep soil zones for screening and shading.

The proposal partially meets the objectives of this 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. (SEPP65)

Some of the major amenity issues have been addressed above. The entries from Court Road and The Horsley Drive are adequate in that they are extended into the tower blocks at the centre of the site. This should resolve the issue of where “pizzas are to be delivered” however the ground floor apartment beneath Blocks B and C could be problematic in this regard. Adaptable units have been provided and the project is accessible from both the Court Road and The Horsley Drive.

The proposal partially meets the objectives of this 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. (SEPP65)

The project will have a positive impact on the level of safety and security in the Court Road precinct. The activation of the Court Road commercial spaces coupled with the passive surveillance from the apartments in Building A will be of great benefit to the street. Similarly, the incorporation of commercial suites to The Horsley Drive would also activate The Horsley Drive frontage of the site.

The proposal meets with the objectives of the 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 of the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community. (SEPP65)

The mix of one, 2 and three-bedroom apartments is appropriate for a building in the Fairfield town centre. Of concern is the lack of usable communal outdoor space and community facilities within the development. If the podium were removed, the communal open space of the development would be

significantly enhanced. However, given that the northern adjoining site is elevated and consists of a large expanse of blank wall facing the site, the proposed arrangement is considered acceptable.

The proposal partially meets the objectives of this 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. (SEPP65)

The elevations and the photomontages show a skilful articulation and façade treatment of the buildings facing Court Road and The Horsley Drive. The materials samples and precedents indicated describe a sophisticated and well handled palette of materials. The difference in apartment typologies such as the crossover apartments on the Court Road side has been expressed, however this could be further improved by exploring the possibility of further expressing the differences relating to the levels and the horizontal divisions within the building.

Verticality brought by the indents and the fact that they are treated quite differently from the perimeter block buildings.

The proposal meets the objectives of this principle.

Having conducted a review of the proposal, Council's urban designer has concluded that *On the whole, this is a creditable proposal that could meet the objectives of the principles of good design. It observes the intent of the Council's built form as described in the DCP and addresses the varying conditions of each building intelligently. The major concern is the degree to which the building transgresses the setback requirements between building C and the existing building to the North on The Horsley Drive. The amount of landscaping is also an issue but otherwise, any other concerns are 'design fixable' or could be addressed using conditions.*

In light of the amendments made to the development including reducing the height of the perimeter buildings to comply with the allowable height limit, increasing the spatial separation between the tower building forms and the re-arrangement of the apartment layouts, it is considered that the amended application has now satisfactorily address the design principles of SEPP 65.

RESIDENTIAL FLAT DESIGN CODE

As SEPP 65 is applicable to the application, the proposed development has also been assessed against the provisions of the Residential Flat Design Code (RFDC). A compliance assessment of the proposed development

against the requirements of RFDC is outlined in Attachment F of the report. The assessment has found the development complies with the requirements of the RFDC.

STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

BASIX certification has been submitted for all dwellings and is provided with the development application documentation, demonstrating that the proposal will meet the NSW Government's requirements for sustainability. The following scores have been achieved: Water – 41 (Target 40), Thermal comfort – pass (Target pass), Energy – 24 (Target 20).

STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – CONTAMINATED LAND

In respect to the requirements of SEPP 55 – Contaminated Land, the Statement of Environmental Effects has provided the following comments:

Given the historical use of the site for commercial purposes, land contamination is likely to be a consideration. Further investigation and reporting under SEPP 55 is not considered necessary given the commercial use of the site and no indication of potentially contaminated materials on the site. Council can be satisfied that the provisions of Clause 7 of the SEPP is satisfied. If any contaminated material or suspected contaminated material is unearthed during the construction process then actions consistent with the legislative requirements and guideline document will be undertaken.

Council's Environmental Management Section has advised that in consideration of the current use of the site for commercial purposes and the site is largely sealed, the EMS does not believe that a contamination assessment is warranted at this stage. Therefore any investigation would need to be conducted after demolition of the existing buildings. Should any contamination (or potential for contamination) be discovered after demolition (and prior to construction), further investigation would be required at that stage. In view of above, the EMS has recommended for the following conditions to be placed on the development consent:

- ***Post demolition site inspection***

Subsequent to demolition works and prior to the issue of a Construction Certificate, a site inspection shall be conducted by a suitably qualified and experienced environmental consultant. The inspection shall identify any potential for land contamination (visible or old factory signs) to exist at the subject premises. An inspection report shall be submitted to Fairfield City Council confirming the results of the inspection prior to the issue of a Construction Certificate.

- **Land Contamination**

Any new information which comes to light during any works which has the potential to alter previous conclusions about site contamination must be notified to Council immediately after discovery.

FAIRFIELD CITY CENTRE DEVELOPMENT CONTROL PLAN 2013

Fairfield City Centre Development Control Plan 2013 (the DCP) applies to all land within the Fairfield Town Centre including the subject site. The DCP is a detailed document that supplements the statutory provisions of Fairfield LEP 2013. Attachment F provides a compliance table against the requirements of the Fairfield City Centre DCP 2013.

INTERNAL REFERRALS

During the assessment process, comments were sought from a number of sections within Council, as detailed below:

Building Control Branch	Satisfactory, subject to standard conditions
Development Engineering	Satisfactory, subject to standard conditions. See below for more detailed assessment.
Open Space Branch	Satisfactory
Traffic and Road Safety Branch	Satisfactory and no further concerns with the amended application, subject to standard conditions. See below for a more detailed assessment
Environmental Management Branch	Satisfactory, subject to standard conditions
Strategic Planning Branch	No concerns with the proposal
Waste Management Section	Satisfactory, subject to conditions
Place Manager – Fairfield	Satisfactory, subject to conditions
Property Branch	Satisfactory, subject to conditions requiring the creation of a separate lot for the proposed service lane as a public road.

Traffic Engineering Branch

Council's Traffic Engineering Branch initially requested that the applicant address the following matters:

1. Proposal does not comply with required number of car parking spaces and non-compliance with AS2890.1:2009 in respect to entry/exit driveway;
2. A loading dock management plan be prepared and submitted;
3. Traffic Impact Assessment to assess impact of proposed access driveway on the road network; and

4. Analysis of impact of the proposal on the intersection of Court Road/Nelson Street/The Horsley Drive and Court Rd/Spencer St/Alan St be submitted; and
5. Afternoon peak traffic assessments be conducted for Thursday afternoon to reflect the existing peak traffic activities in the road network.

In response to the concerns raised by Council's Traffic Engineer, the applicant has submitted an amended application and additional traffic information. Council's Traffic Engineer has no further concerns with the proposal and provided conditions to consent. The conditions of consent to be incorporated into any approval include the following:

- A Loading Dock Management Plan detailing the safe operation of the loading dock with respect to its proposed uses as a shared loading dock for the development and the safe management of the development shall comply with Work Health and Safety Act 2011;
- Provision of car parking spaces in accordance with Council's DCP; and
- The provision of access driveway to comply with AS 2890.1:2004 in respect to widths, location, grades and manoeuvrability.

Development Engineer

Council's Development Engineer has advised that the subject site is identified as being affected by main stream flooding. The 100 Year Annual Rainfall Interval (ARI) flood level is 10.0m AHD as noted below.

Size of Flood	Flood Level (m AHD)
PMF	12.4 – 12.6
100Year ARI	10.0
50 Year ARI	Not Applicable
20 Year ARI	Not Applicable

The proposed development provides for a finished floor level of 10.5m Australian Height Datum (ARH) at the ground level, being 500mm freeboard above the 100 Year (ARI) flood level of 10.0m AHD. As a result of the flood affectation of the site, a 4m wide flood offset storage area is proposed along the northern boundary of the site to cater for any loss of flood storage as the buildings are proposed outside of the existing building footprint along The Horsley Drive.

There is an existing 1050mm diameter stormwater drainage pipe passing through the subject site, partly under the existing building draining a RMS roadway: The Horsley Drive. This pipe is proposed to be relocated outside of the proposed building footprint at ground level and to be upgraded to a 1200mm diameter pipe along the north eastern and south eastern boundaries. In doing so, a 3.5m wide easement is proposed to be created over the

proposed pipe in favour of the RMS and a minimum 5m vertical clearance is proposed above the pipe for maintenance purposes.

As for drainage from the development, it is proposed to be connected to the existing drainage pipe via an OSD system.

On the whole, Council's Development Engineer has advised that the amended proposal is satisfactory from drainage and flooding perspectives and comply with Council's Flood Policy. Accordingly, Council's Development Engineer has provided conditions of consent that have been incorporated into the draft conditions of consent.

Place Manager – Fairfield

The Place Manager for Fairfield requested that the application takes into consideration of the requirements of Council's Public Domain Manual in respect to the proposed treatment of The Horsley Drive and Court Road frontages of the site. This includes the replacement of the existing remnant trees along the Court Road frontage of the site (old and causing damage to pavement) and the planting of Street trees along The Horsley Drive frontage of the site.

Following discussions with Council, the applicant has amended the landscape plan that now incorporates Council's Public Domain Manual. The Place Manager is satisfied with the amended landscape plan subject to the following:

- Replace the Court Road Street tree planting species from *Tristania* (Brush box) to *Cupaniospis* (Tuckeroo) in order to continue the theme for Court Road that began at Nelson Street end with *Flindersia*. Tuckeroo is now a replacement for *Flindersia* in Fairfield City Centre;
- Replace the proposed *Tristania* (Brush box) as Street tree along The Horsley Drive with *Pyrus* (either Chanticleer or Capital), which have narrower canopy against adjacent traffic lane.
- Final Street pavement (i.e., layout, specification), and Street Tree pit design (i.e. specification) to be reviewed by Council and applicant prior to the issue of a Construction Certificate.

The above requirements have been made as conditions of consent of any approval.

EXTERNAL REFERRALS

Roads and Maritime Services

In accordance with Section 104 of State Environmental Planning Policy (Infrastructure) 2007, the application was referred to the Roads and Maritime

Services for comments/concurrence. The RMS, in its correspondence dated 15 December 2014, provided comments for Council's consideration (see Attachment E for details). The requirements of the RMS have been taken into consideration as part of the assessment of the application and will be incorporated as conditions of consent, where appropriate.

Police

The application was referred to the NSW Police for comments in accordance with protocol established between Council and the Police. The Police have no issues of concern with the proposal.

PUBLIC NOTIFICATION

In accordance with Fairfield City-Wide Development Control Plan 2013, the application was advertised in the local newspaper and notified to adjoining and surrounding owners and occupiers on 2 separate occasions for a period of 21 days each. The initial notification period was from 20 November 2014 – 11 December 2014 where 3 submissions were received in response.

The amended application was advertised in the local newspaper and notified to adjoining and surrounding owners and occupiers from 15 July 2015 – 5 August 2015. 1 submission was received.

The submissions raised the following issues with the proposal:

- The proposal will require improvements to existing infrastructure
- Adequacy of the road capacity to cater for such a big development
- Loss of privacy to nearby buildings due to the scale of the proposal
- Proposal will block view of The Horsley Drive
- Proposal will affect the wellbeing of neighbours
- Decrease the value of properties
- The proposal does not comply with the required number of car parking spaces. The required car parking spaces must be provided on site
- Concerns that the replacement of an existing commercial use to a development that incorporates residential may adversely affect the operation of existing businesses in the area. A request was made that consideration be taken into account in respect to existing businesses in the area which generate patrons/visitors, vehicle traffic, sounds, lights, smells and particular visual amenity in line with their approved use, and that efforts be made to protect the rights of existing businesses from potential grievances from new residents.
- Proposal is going to interfere with many current businesses operating from the site, affect their livelihood and possibly force them out of the area and out of business.

The following comments are provided with respect to each of the issues raised in the submissions:

The proposal will require improvements to existing infrastructure

The proposed development is consistent with the intent of the Fairfield City Centre DCP 2013 to allow for the re-development of the site into a mixed-use development of 8-12 storeys in height. The desired future character for the site consists of 8-storey perimeter buildings along The Horsley Drive and Court Road frontages of the site with two 12-storey towers at the centre.

The proposal will upgrade The Horsley Drive and Court Road frontages of the site. That is, the provision of new pavements to comply with Council's Public Domain Manual and the replacement of the existing Street trees in Court Road (old and remnant trees that are causing damage to pavement) with more suitable species. Also, Street trees are to be planted along The Horsley Drive frontage of the site.

Vehicular access to the site from Court Road will be upgraded and a service lane is proposed from Court Road. The purpose of the service lane is to ultimately benefit the southern adjoining sites fronting Alan Street when they are re-developed in the future. That is, vehicular access to those sites shall be off Court Road so as to ensure the provision of a continuous shopfront to Alan Street, rather than being interrupted by driveways.

In addition, the application seeks to relocate and amplify an existing 1050 diameter pipe that drains The Horsley Drive through the site to Alan Street with a 1200 diameter pipe.

Adequacy of the road capacity to cater for such a big development

The application was referred to Council's Traffic Engineering Section who is satisfied that the existing road capacity within the Fairfield City Centre is adequate to cater for the proposed development. As such, no issues of concern was raised to the proposal with respect to traffic generation matters.

Loss of privacy to nearby buildings due to the scale of the proposal

The proposed development has been designed observing the built form and scale outlined in Figure 4.7-3 of the Fairfield City Centre DCP 2013 and the applicant advised that the configuration and building typology of the development have been conceived in response to surrounding properties.

In addition, the spatial separation between the proposed development and the adjoining sites is consistent with the recommended building separation identified in the Residential Flat Design Code, designed to specifically address amenity issues in terms of visual/acoustic privacy and overshadowing between buildings.

Having regard to the above and the internal arrangement of the apartments, particularly balconies and windows placements, it is considered that the proposed development is unlikely to result in an unsatisfactory visual privacy issues to any surrounding properties.

Proposal will block view of The Horsley Drive

The proposed development, as amended, is consistent with the built form and scale for the site as identified in the Fairfield City Centre DCP 2013. What can be said about the proposal is that the development satisfactorily reinforces the geometry of the street pattern and activates The Horsley Drive as well as Court Rd.

Proposal will affect the wellbeing of neighbours

As articulated above, it is considered that the applicant has demonstrated that the proposed development is unlikely to result in an adverse impact upon the amenity of any surrounding properties. In addition, the manner in which the development has been conceived, particularly the setback provided from adjoining and adjacent sites, is unlikely to prejudice the development potential of any neighbouring properties to be re-developed in accordance with Council's planning controls for the Fairfield Town Centre.

These, coupled with the fact the development complies with Council's DCP and SEPP 65, the concerns that the proposed development will have an impact upon the wellbeing of neighbours is considered unsubstantiated.

Decrease the value of properties

The proposed development is permitted with consent and the design of the development is unlikely to prevent any adjoining sites from being re-developed in accordance with Council's DCP.

There is no evidence to suggest that the proposed development will result in the depreciation of the property values of surrounding properties.

The proposal does not comply with the required number of car parking spaces. The required car parking spaces must be provided on site

The initial scheme for the site was short of the minimum required car parking spaces by 21 car parking spaces. In response to concerns raised by Council the amended application now provides for an additional level of basement car park. In doing so, the proposed development now complies with the required number of car parking spaces.

Concerns that the replacement of an existing commercial use to a development that incorporates residential may adversely affect the operation of existing businesses in the area. A request was made that consideration be taken into account in respect to existing businesses in the area which generate patrons/visitors, vehicle traffic, sounds, lights, smells and particular visual amenity in line with their approved use, and that efforts be made to protect the rights of existing businesses from potential grievances from new residents.

The subject site is zoned B4 Mixed-use under Fairfield LEP 2013, for which residential and commercial developments are identified as permitted land uses with consent. The concerns of the objectors of the need to protect the operation of existing businesses in the area have been noted.

Given the built form of the development and the spatial separation between the proposed development and adjoining and adjacent properties, it is considered adequate that buffer has been provided between the proposal and adjoining sites that would minimise potential conflicts between the different land uses.

Moreover, the proposed development generally follows the built form and scale for the site as outlined in the Fairfield City Centre DCP. The urban design rationale behind the intent of the DCP was designed to not only provide a reasonable level of residential amenity for occupants of the proposed development, but also to protect surrounding properties including their development rights.

Proposal is going to interfere with many current businesses operating from the site, affect their livelihood and possibly force them out of the area and out of business.

The concerns of business owners operating from the site that the proposed development, if approved, will force these businesses from the site have been noted. However, this is a commercial decision that has been made by the owners of the property to give consent to the applicant to lodge the subject application for re-development of the site. Whilst the application, if approved, will require businesses presently being operated from the subject site to relocate, the application also provides an opportunity to revitalise this part of the Fairfield City Centre as well as present other business opportunities. The proposal provides over 1000m² of retail/commercial floor space.

SECTION 94 CONTRIBUTIONS

The proposed development provides for a total of 290 residential apartments (9 x studio, 88 x 1-bedroom, 156 x 2-bedroom & 37 x 3-bedroom). Under Fairfield City Council's Section 94 Developer Contributions Plan 1999, the proposed development provides 97 small dwelling (less than 70m²), 156 medium dwellings (70m²-100m²) and 37 large dwellings (greater than 100m²). The payable Section 94 Developer Contributions fee for the proposed development is \$2,063,116.

Section 79C Considerations

The proposed development has been assessed and considered having regard to the matters for consideration under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979 and no issues have arisen that

would warrant the application being refused on planning grounds. The following is a brief assessment of the proposal with regard to Section 79C.

(1) Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) *the provisions of:*

(i) *Any environmental planning instrument*

The subject site is zoned B4 Mixed-Use under Fairfield Local Environmental Plan 2013.

The objectives of the zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To support the development of Prairiewood, Fairfield and Cabramatta as the principal locations for specialist cultural, retail, business, tourist and entertainment facilities and services.*

The proposed development is permitted with consent within the *B4 – Mixed Use* zone, for which the site is zoned. It is considered that the development proposed by the development application is generally consistent with the zone objectives.

Clause 4.3 Height of Buildings specifies that the height of buildings on any land is not to exceed the maximum height shown for the land on the *Height of Building Map*. The *Height of Building Map* specifies a maximum building height of 38 metres for the subject site. The proposed development proposes a height of 38m and is within the allowable height limit.

Clause 4.4 specifies that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the *Floor Space Ratio Map*. The *Floor Space Ratio Map* specifies a maximum floor space ratio for the site of 3.5:1. The proposed development has a maximum FSR of 3.1:1.

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

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development is applicable to the subject application, as the proposed development exceeds 4 storeys in height and contains more than 4 dwellings. The overriding objective of the SEPP is to improve the quality of residential flat development in NSW through the establishment of ten design quality principles that must be taken into consideration in the design and assessment of an application.

The design verification statement submitted in support of the application has demonstrated that the proposed development achieves compliance with the ten design quality principles of SEPP 65 and the development has been designed with due regard to the controls of the Residential Flat Design Code and the Fairfield City Centre DCP 2013.

- (ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and**

There is no draft environmental planning instrument that is applicable to the proposed development.

- (iii) any development control plan, and**

The DCP applicable to the subject site is the Fairfield City Centre DCP 2013.

The development site is located within the Periphery Precinct. The proposed development complies with all the requirements of the DCP, with the exception of separation between buildings.

The separation between buildings has been previously discussed and is considered acceptable.

- (iv) any matters prescribed by the regulations, that apply to the land to which the development application relates.**

Not applicable.

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,**

The proposed development is unlikely to result in a detrimental impact upon the locality.

(c) The suitability of the site for the development

The Flood Risk Management Report and its subsequent assessment by Council engineers have confirmed that the site is suitable for the development proposed. These and other matters have been addressed by the Development Engineers who have provided conditions which will be incorporated into the conditions of consent.

The subject is considered to be suitable for the proposed development.

(d) Any submissions made in accordance with the Environmental Planning and Assessment Act or the Regulation.

4 submissions were received during the notification process. The issues of concern have been addressed in the report.

(e) the public interest.

Approval of the application is considered to be in the public interest.

TOWN PLANNING ASSESSMENT

The fundamental planning issues associated with the application relate to building height, building separation, communal opens pace, service lane, and impact upon surrounding properties.

1. Building Height

The proposed development generally follows the Fairfield City Centre DCP. The basic perimeter block typology to The Horsley Drive and Court Road has been observed so as the tower block forms to the centre of the site. The original scheme proposed a 9-storey perimeter building to The Horsley Drive and Court Road frontages of the site with two 12-storey tower forms at the centre of the site. The scheme did not comply with the allowable building height as the perimeter buildings exceeded the allowable building of 8-storey for perimeter buildings. Concerns were expressed by Council that the additional building height proposed to The Horsley Drive and Court Road perimeter buildings contravenes the desired future character for the Periphery Precinct. As such, the additional building height proposed was unacceptable and not supported by Council.

It is to be noted that the desired built form and scale of the Periphery Precincts sites are generally perimeter type building with a maximum building height of 6-storeys in order to minimise the extent of overshadowing upon the public domain. Exception being those properties, such as the subject site, which are able to accommodate a perimeter building running in an east-west axis, in which case these perimeter buildings have a maximum building height of 8-storeys.

Following lengthy discussions with Council staff, the applicant has amended the application whereby the height of the perimeter buildings proposed along The Horsley Drive and Court Road frontages of the site have been reduced to the allowable building height of 8-storeys. The end result is that the amended application now complies with the allowable building height for the site as identified by the Fairfield City Centre DCP.

2. Building Separation

The proposed development generally follows the built form identified in Figure 4.7-3 of the Fairfield City Centre DCP (See below Figure 1 for details). The development, however, does not comply with the required 24metres building separation between the 12-storey tower buildings (Block B and Block C) and between the 12-storey tower building (Block B) and the perimeter building fronting Court Road (Block A). Moreover, the required 18m separation between Block C and Block D is not observed.



Height and Setback Controls - Court Road Precinct

Figure 1: Source: Fairfield City Centre DCP 2013

The building separations identified in the DCP are generally designed to address critical amenity issues in respect to visual/acoustic privacy and overshadowing between buildings and in response to the building separation requirement of SEPP 65. The desired built form for the site, as conceived in the DCP, is to specifically to address these issues and ensures that any proposal for the site would provide high level of residential amenity within the site and does not prejudice the development potential of any neighbouring properties when they are re-developed.

The proposed development has a larger building footprint to that outlined

in the DCP. The result is that the proposed development does not comply with the stated building separation in respect to:

- Block A is separated from Block B between 13.2m and 16m. The DCP stipulates a 24m building separation;
- Block B and Block C are provided between 18m and 24m separation. The DCP stipulates a 24m building separation.
- Block C is separated from Block D of 9m. The DCP requires 18m separation.

Whilst the spatial separation between Block A and Block B does not meet that shown in the DCP, the design of these buildings do not have habitable rooms (i.e., balconies/habitable rooms to balconies/habitable rooms) directly facing each other that would warrant the 24m building separation outlined in the DCP. Accordingly, the proposed 13.2m-16m spatial separation between Block A and Block B is not considered to be unreasonable. Also, the proposed spatial separation between Block A and Block B is consistent with the recommended building separation as per the RFDC.

In the case of the building separation between Block B and Block C (12-storey towers), the initial scheme provided 13m separation between these 2 Blocks for the first 8 levels and the separation increased to 24m for the next 4 levels. Concerns were raised that the DCP's stipulated 24m building separation should be provided for the entire height of the buildings so as to address visual and acoustic privacy and overshadowing within and to adjoining sites. It is considered critical that greater building separation between these 2 buildings be provided in order to minimise overshadowing of the southern adjoining sites fronting Alan Street and protect their re-development potential.

In response, the applicant has amended the development where the building separation between Block B and Block C for the first 8 levels have been increased to 18m and the building separation increased to 24m above the 8th level. The increased building separation to Block B and Block C to 18m is consistent with the recommended minimum building separation as identified by the RFDC. The increased building separation between these buildings now appropriately address visual/acoustic privacy issues as well as overshadowing within the site. In doing so, the podium communal open space for the development has been increased so as its ability to receive greater solar access in winter and the extent of overshadowing of the southern adjoining sites facing Alan Street has been reduced.

Accordingly, the spatial separation between Block B and Block C is now considered acceptable.

As for Block C and Block D, these 2 buildings are afforded with a 9m

building separation. Whilst it would be of greater benefit if the building separation identified in the DCP is provided, the proposed reduced building separation is considered acceptable on the basis that there are no directly facing habitable rooms between these 2 buildings and the proposed building separation complies with the recommended building separation of the RFDC.

On the whole, whilst the proposed reduced building separation for the proposal does not comply with those set out in the DCP, the applicant has sufficiently demonstrated that the proposed building separation is consistent with the RFDC and there is acceptable amenity impacts within the development and to adjoining sites, particularly in terms of visual/acoustic privacy and overshadowing.

3. Communal Open Space

The proposed development does not comply with the minimum required landscape area of 50% of the total site area for the Periphery Precinct. It also did not comply with the minimum required deep soil zone of 25% of the total site area. Having regard to the size of the site, the scheme has the ability to provide a significant amount of deep soil planting, including the provision of good quality parklike spaces for its residents: children play areas and common recreation areas.

The amended application has increased the spatial separation between Block B and Block C in order to provide the required building separation of 18m for residential flat buildings of up to 8-storeys in height. In doing so, the applicant has now provided a minimum of 46.8% of the site as communal open space (combination of ground and podium level) and 27% of the communal open space as deep soil zone. The proposed communal open space consists of landscape areas along the northern and southern boundaries of the site (deep soil zones) and on the podium level between the 12 storeys towers.

Whilst the total communal open space provided for the development falls short of the required 50% of the site to be dedicated as communal open space as per Council's DCP, the proposed communal open space exceeds the minimum required communal open space of 25% of the site as required by the RFDC.

On the basis that the proposed communal open space is considered to be functional and meaningful space that would add to the amenity of the residents and it complies with the minimum required stipulated in the Residential Flat Design Code, the strict non-compliance with the DCP is not considered to be unreasonable. This must also be considered in the context that the site is located within a dense urban town centre and it would be difficult to provide 50% of the site as landscape area, having regard to the allowable building height and FSR controls. Moreover, each residential apartment is provided with more than the minimum required private open space in the form of balconies.

4. Service Lane

The Fairfield City Centre DCP requires a service lane to be provided along the southern boundary of the site. The purpose of the service lane is to ensure that any re-development of the subject site and those properties fronting Alan Street will utilise the proposed service lane for access and services. Consequently, a continuous active retail frontage would be provided to Court Road and Alan Street properties when they are re-developed in accordance with the DCP, rather than being interrupted by multiple driveways.

In this regard, any re-development of the subject site requires the dedication of a half road service lane as a public road. The balance of the required service lane will therefore be dedicated to Council to facilitate future development of the precinct identified in the DCP.

The applicant is proposing to construct a 6.5m wide access road off Court Road for a length of 63m to facilitate vehicular access to the development. Moreover, a 3.9m wide half width road along the southern boundary of the site is proposed to be dedicated to Council as a public road so as to facilitate the creation of a service lane identified by the DCP (refer Attachment B for details). It is proposed that a condition be incorporated into any approval requiring the applicant to dedicate the 6.5m wide access road off Court Road and the identified 3.9m wide half road width along the southern boundary of the site as a public road toward the creation of a service lane.

CONCLUSION

In consideration of the assessment of the application against the relevant planning instruments applicable to the development, the proposed development, as amended, is considered to appropriately respond to its urban context. The proposed development is permitted with consent and compliant with the allowable building height and FSR applicable to the site. Exception relates to spatial separation between buildings.

Whilst the proposed development does not strictly comply with the building separation outlined in the DCP, it is considered that the applicant has satisfactorily demonstrated that the reduced spatial separation between buildings is not unreasonable on the basis of compliance with the minimum required building separation outlined in the Residential Flat Design Code and acceptable residential amenity would be provided within the development and adjoining sites.

It is considered that the development has been designed having regard to the possibility of other developments occurring on neighbouring sites. As such, the development would unlikely impact on the development potential of neighbouring sites, as it is unlikely to result in detrimental visual and acoustic

privacy and overshadowing of one building to another when the adjoining sites are similarly re-developed.

Accordingly, it is considered that the development would make a positive contribution to the area. Accordingly and notwithstanding the submissions received, the application is considered worthy of support and therefore recommended for approval subject to conditions.

RECOMMENDATION

That the application proposing the demolition of existing structures and the construction of an 8-12 storeys mixed-use development within 4 multi-storey buildings comprising 290 residential apartments and 1413m² of commercial/retail floor space above 3 levels of basement car park be approved subject to conditions as outlined in Attachment I of this report.