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14 December 2018

Mr Peter Debnam
Chair - Sydney North Planning Panel

By email: kim.holt@planning.nsw.gov.au

Dear Mr Debnam,

345 VICTORIA AVENUE, 12-14 MALVERN AVENUE AND 5-7 HAVILAH STREET, CHATSWOOD NSW 2067 - AMENDMENTS TO DRAFT CONDITIONS

On behalf of Vicinity Centres (the applicant) we have reviewed the draft conditions issued in respect of DA 2017/503 for the demolition of 2 commercial buildings, reconstruction and expansion of Chatswood Chase Shopping Centre.

This letter requests that certain changes to the Draft Conditions be considered by the Sydney North Planning Panel in the determination of this regionally significant Development Application.

The proposed condition amendments pertain to

- Deferred commencement conditions,
- Stormwater and flooding conditions, and
- General condition wording changes.

This letter includes our proposed amendments to the draft conditions in **red**. Deleted components are shown in ~~strike through~~. The particulars of our reasoning for each proposed amendment are set out below the relevant condition.

Our proposed changes to the draft conditions are supported by supplementary correspondence from:

- **Appendix A** – CJ Arms – Review of Proposed Flooding and Stormwater Conditions
- **Appendix B** - Make Architects - Amended Architectural Drawings
- **Appendix C** – - GTA Consultants – Review of Proposed Transport Conditions (Transport)

Schedule 1 - Deferred Commencement

1. Malvern Avenue and Havilah Street Elevations (Move to 'Schedule 2 – Prior to Construction Certificate')

Submit to Willoughby City Council for approval Prior to the issue of a Construction Certificate, detailed elevation plans for the Malvern Avenue and Havilah Street frontages elevations are to be submitted for approval by the Planning and Infrastructure Director, Willoughby City Council. The plans shall, which demonstrate details of detail building materials, colours, finishes, fenestration, proportion of building elements, and scale of development and articulation which is well articulated. These details are to demonstrate to the Director of Planning's satisfaction that the scale and rhythm of building elements on the facades reduces the overall visual impact of the building when viewed from the adjoining residential areas. The scale and rhythm of building elements on the facades should reduce the impact of building bulk as experienced in adjoining low density residential areas.

(Reason: To add visual interest and increase consistency with the low scale, fine grain pattern of development in adjoining low-density residential areas).

Particulars:

- We request that this Condition be reworded to provide greater clarity around what is required.
- We request that this 'design development' condition be moved to the main consent to be satisfied prior to the issue of a 'Construction Certificate.'

2. Awnings (move to 'Schedule 2 – Prior to Construction Certificate')

Submit to Willoughby City Council for approval Detailed plans and elevations of the awnings to be provided. The awnings are which to comply with Council's plans and policies. These plans are to be submitted for the approval of the Planning and Infrastructure Director at Willoughby Council, prior to the issue of a Construction Certificate.'

(Reason: Compliance).

Particulars:

- Contradicts condition 3(g) which states that no awnings are approved as part of this application and that they are to be deleted from the plans.
- Contradicts page 6 of the SNPP report which states that it is the applicant's intention that detailed design of awnings will be addressed in later DA.
- Notwithstanding the above, the condition is 'design development' and should not be included in deferred commencement.

3. Landscape (move to 'Schedule 2 – Prior to Construction Certificate')

Prior to the issue of a Construction Certificate submit to the Director of Planning at Willoughby Council for approval,

- a) Detailed Landscape Plans.



Schedule 1 - Deferred Commencement

NOT
ACCEPTABLE

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space to an otherwise reflective roof top in turn decreasing the heat island effect and overall, providing a community approach to the development.

- We request that this Condition 3 be moved to Schedule 2 to be satisfied prior to the issue of a Construction Certificate.

4. Signage (re-word and move to 'Schedule 2 – Consent Identification)

Submit to Willoughby City Council for approval detailed plans and elevations of the signage to be provided. The signage is to comply with Council's plans and policies. (Reason: Compliance)

Only the signage zones indicated on the submitted plans are approved as part of this application. Details of all signage, including a signage strategy are to be subject to separate approval.

(reason: Compliance)

Particulars:

- No detailed signage was sought as part of the application.
- Deferred Commencement Condition 4 contradicts Consent Condition 3(f) which states that no signage is approved as part of this application and is to be deleted from the plans.
- Deferred Commencement Condition 4 contradicts page 6 of the SNPP report which states that all signage will be addressed in later DAs.
- The imposition of this deferred commencement condition is not necessary. The condition should be deleted and the wording of condition 3(f) amended to retain the signage zones indicated on the plans.
- The applicant contends that it is reasonable that the proposed signage zones can be retained on the approved DA plans with details of the signage provided in subsequent DAs.

5. Demolition plans (Move to prior to Construction Certificate)

Submit to Willoughby City Council for approval full demolition plans, clearly indicating the areas of the existing buildings on site to be demolished prior to the issue of the relevant Construction Certificate.

Written evidence of Councils approval is to be provided to the Certifying Authority prior to the commencement of demolition other than such approved under a Complying Development Consent (CDC).

(Reason: Compliance)

Particulars:

- Imposing demolition plans as a deferred commencement Condition 5 is onerous and is not acceptable to the applicant as it will unnecessarily delay activation of the consent and the ability to commence works on site.
- We contend that is standard practice for any conditions relating to demolition be included within the main consent to be provided to the Certifying Authority prior to the issue of a CC.

6. Flooding (Delete or amend and move to prior to Construction Certificate)

A review of the Stormwater and Flooding Conditions has been provided by CJ Arms at **Appendix A.**

a) ~~Flood Protection Measures~~ **[delete]**



Probability (AEP) and the Probable Maximum Flood (PMF). The assessment is to be carried out by a qualified civil engineer for the 0.5%, 0.2%, 0.1% and 0.05% AEP flood event, as well as the PMF and submitted to Council for assessment.

Written evidence of Councils approval is to be provided to Certifying Authority.

(Reason: Managing flood risk)

CJ Arms – Consulting Engineers have advised

- A flood mitigation assessment has been previously submitted to Council. Refer CJ Arms 'Flood Modelling Report' submitted to Council on 17/09/2018. We have not submitted 1 in 200, 1 in 500, 1 in 1000 and 1 in 2000 AEP flood events. These can be done but are all well above the planning requirement that considers flows up to and including 1 in 100 events. The inclusion of a freeboard allowance is generally used to accommodate these greater events. We have looked at the impact of climate change and impact this will have on the storm events and flooding.
- The flood evacuation plan will consider what would happen in events greater than 1 in 100 year and provisions will be made in this document for these events.
- There have been no prior discussions with Council regarding the PMF and we would view this requirement as excessive. There is no requirement with Council's DCP for assessments of the PMF, refer extract:

'The FDM defined flood prone lands as lands affected by the Probable Maximum Flood (PMF), which is the largest flood that could physically occur in a location of interest. From the perspective of an urban council, it is not feasible or economically desirable to alienate land from development within the PMF.'

The Flood Planning Levels adopted for this policy is generally the 1% Annual Exceedance Probability (AEP) event, which is also sometimes loosely known as the 1 in 100 years Average Recurrence Interval (ARI) flood plus a freeboard. This freeboard is dependent upon the type of development, location, land usage, continuing risk, etc.'

- We recommend that requirements of the PMF are removed from this condition
- d) *Stormwater Management Plans – Water Quality and On Site Detention*

Submit to Council prior to the issue of the relevant Construction Certificate revised stormwater management plans complying with Part C.5 of the Willoughby DCP and referenced Technical Standards. The stormwater management system shall incorporate "water quality" and "on-site detention (OSD)" systems designed in accordance with Part C.5 of the Willoughby DCP and with Technical Standard No. 1 "On Site Detention" and Technical Standard No. 5 "Water Quality".

Regarding the on-site detention (OSD) system, the plans shall also comply with the following:

- (a) The OSD system must be located in an area where it can be readily accessible for maintenance purposes, with an access pit located directly over the outlet. Access grates shall be in accordance with Council's policy. Attention is also drawn to the provisions of AS 2865 - "Safe Working in Confined Spaces".*
- (b) Storage volume and the Permissible Site Discharge rates (PSD) shall be calculated from Table 1 and Table 2 of Council's Technical Standard No.1 – On- Site Detention.*

SCHEDULE 2

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a construction certificate. **Details demonstrating compliance must be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate**

Amend the following conditions to require their completion prior to the 'issue of the first construction certificate'

ACCEPTABLE Conditions: **4, 20, 27**

NOT ACCEPTABLE { Amend the following conditions to read 'issue of the relevant construction certificate'

Conditions: **8, 12 (if retained), 14, 15, 17, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 35.**

3. Amendments (Amended)

Prior to the issue of the Construction Certificate, the proposal is to be amended in the following manner:

- a) The proposed development shall be modified **so that the portion of the building on the eastern elevation fronting Havilah Street which includes the proposed co-working spaces complies with the 34m maximum building height above existing ground level prescribed by Clause 4.3 WLEP 2012.** 'Existing ground level' is to be regarded as being equivalent to the natural ground level indicated on the survey plans, rather than being measured from the existing basement level.
- b) ~~The proposed development is to include 128 motorcycle spaces.~~
- c) ~~A minimum of 97 car spaces must be accessible in accordance with Clause C6.2.2 WDCP.~~
- d) ~~There will be no change to the existing on-street car spaces on Malvern Avenue.~~
- e) ~~The proposed development is to include 204 bicycle lockers (or secure equivalent) and 595 bicycle racks.~~
- f) ~~No signage is approved as part of this application, and is to be deleted from the plans.~~
- g) ~~No awnings are approved as part of this application and are to be deleted from the plans.~~
- h) The operating hours of the proposed development (including deliveries) are to be restricted to **6am to Midnight 6pm**, 7 days per week excepting the following:
 - (i) The operating hours of outdoor areas of any premises (including retail or outdoor recreation areas) facing Havilah Street **at Level 00** are to be restricted to 7am to 6pm. Windows and doors of any such premises must be closed between 6pm and 7am.
 - (ii) Collection and delivery of goods and materials from and to the premises shall not take place between 10pm and 7am.

Plans detailing these amendments are required to be shown on the Construction Certificate plans.
(Reason: Ensure compliance)

- Overall, the removal of parking during peak hours will improve the function of Malvern Avenue for all users, including the school.
- **Condition 3 (e)** should be deleted. GTA note at **Appendix C** that the provision of a total of 799 bicycle racks and lockers is excessive.
 - The Transport Impact Assessment notes that the number of bicycle spaces (322 additional comprising 81 lockers and 241 racks) represents a significant proportional increase over existing facilities. When combined with the existing 58 spaces, the post development provision is 380 spaces
 - The transport assessment also referenced travel mode surveys completed at the centre which confirmed zero existing travel by bicycle and that demand for bicycle facilities by both customers and staff is low.
 - GTA confirm that the number of spaces being provided is sufficient to accommodate any expected increased demand for cycling.
 - GTA notes that provision of 799 bicycle racks and lockers would result in a significant surplus and underutilisation.
- **Condition 3 (f)** should be deleted as it is inconsistent with the recommended deferred commencement condition requiring signage details to be provided prior to activation of the consent.
 - The assessment report and the conditions are contradictory and provide no valid planning reason for the deletion of the proposed signage zones.
 - The application is for signage zones only and as such, unless there is a valid planning reason as to why these should not be approved it is our opinion that these zones can be approved with details of the signage to be provided as part of a subsequent detailed signage application.
 - A new condition relating to Signage has been provided for the Panel's consideration at Schedule 1 - Deferred Commencement Condition 4.
- **Condition 3 (g)** should be deleted as it is inconsistent with Deferred Commencement Condition 2.
- **Condition 3 (h)** should be amended as it is inconsistent with the hours of operation specified on page 72 of the assessment report – 6am – 10pm.
 - Notwithstanding the inconsistency, we maintain that the proposed hours of operation be approved 6am to Midnight, consistent with the parameters of the Development Application for these reasons:
 - The NIA did not raise any concerns in relation to noise emissions from internal areas of the proposed building.
 - The NIA has proposed specific recommendations to ensure that noise emissions from outdoor areas remain within the nominated criteria for residential receivers. These recommendations can be included in Condition 130.

- ~~(a) The pumpout drainage system shall comprise with two (2) submersible type pumps. The two pumps shall be designed to work on an alternative basis to ensure both pumps receive equal use and neither remains continuously idle.~~
- (b) The design capacity of each pump shall be based on the flowrate generated from the 1 in 100 year ARI storm event of the area draining into the system.
- (c) An alarm warning device (including signage and flashing strobe light) shall be provided for the pump-out system to advise the occupant of pump failure. The location of the signage and flashing strobe light shall be shown on the stormwater management plans.
- ~~(d) The volume of the pump-out tank shall be designed with a minimum storage capacity equivalent to the runoff volume generated from of the area draining into the tank for the 1 in 100-year ARI storm event.~~

All drawings shall be prepared by a suitably qualified and experienced civil engineer and shall comply with Part C.5 of Council's Development Control Plan, AS3500.3 – Plumbing and Drainage Code and the National Construction Code.

(Reason: Prevent nuisance flooding)

Particulars

CJ Arms – Consulting Engineers have advised:

- This condition contradicts previous discussions with Council as well as what was submitted in CJ Arms 'Flood Modelling Report' to Council on 17/09/2018. Water ingress into the Basement areas currently occurs through the Victoria Avenue entrance in a 1 in 100yr storm event.
- It has previously been discussed with Council that providing a pump with a design capacity equivalent to the 1 in 100 year ARI is not physically possible.
- Council previously advised that it would not be physically feasible to provide pumps to cater for the Q100 storm event, given the high inflow rate.
- We believe pumps are required (these are currently are used by Vicinity) but given the extraordinary circumstance, the pump out rate should be such that water can be removed from the basement in an acceptable period.
- We recommend the removal of conditions 13a) and 13d) as they cannot be physically provided.

14. Overland Flow/Flood Level (Amended)

~~A suitably qualified and experienced civil engineer must certify that all basement carparking areas (existing and proposed) shall be protected from the ingress of overland flow for all storm events up to the probable maximum Flood (PMF).~~

The engineer must undertake an assessment of the critical flows as determined necessary to satisfy this condition. Where floor levels need to be raised or other flood protection measures are deemed necessary, details must be submitted and approved by the Certifying Authority prior to the issue of the relevant Construction Certificate.

All Flood mitigation measures designed by a qualified civil engineer, required under Schedule 1 of this consent shall form part of any construction certificate issued. (Reason: Prevent property damage)

Particulars:

CJ Arms – Consulting Engineers have advised:



(Reason: Support active transport use to the Chatswood Chase development)

Particulars

- Amend to clarify that end of trip facilities will be provided for employees only and not visitors to the centre.

PRIOR TO COMMENCEMENT

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. All of these conditions are to be complied with prior to the commencement of any works on site, including demolition.

~~45. — Application for Vehicle crossing (delete)~~

~~Submit an application with fees to Council for the construction of a plain concrete vehicular crossing.~~

~~(Reason: Protection of public asset)~~

Particulars

- Duplicates Condition 42

DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

The following conditions are to be complied with throughout the course of site works including demolition, excavation and construction.

48. Hours of Work - General

~~All construction/demolition work relating to this Development Consent within the City, unless varied by an Out of Hours Work Permit, must be carried out only between the hours of 7 am to 5 pm Mondays to Fridays and 7 am to 12 noon on Saturdays. No work is permitted on Sundays or Public Holidays.~~

~~An application for an Out of Hours Work Permit to allow variation to these approved hours must be lodged with Council at least 48 hours prior to the proposed commencement of the work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and must be accompanied by the required fee. One (1) permit is required for each variation to the approved working hours within any 24 hour period.~~

~~If a variation to these approved hours for multiple or extended periods is sought, an application under Section 4.55 of the Environmental Planning and Assessment Act 1979 must be lodged with Council at least twenty one (21) days in advance of the proposed changes to the hours of work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and be accompanied by the required fee.~~

~~Note: This Section 4.55 application may require re-notification in some circumstances. (Reason: Ensure compliance and amenity)~~



(Reason: Ensure local road works are completed to Council's satisfaction)

Particulars

- Amend wording, remove irrelevant text.
- Wrong section of consent. Condition 86 should be moved to 'Prior to Occupation'.

PRIOR TO OCCUPATION OF THE DEVELOPMENT

The following conditions of consent must be complied with prior to the issue of an ~~the~~ relevant occupation certificate. (amend)

Amend the following conditions to read the 'issue of the final occupation certificate':

Conditions 92- 103, 106-110, 111, 113, 126, 129, 130

Amend the following conditions to read 'issue of the relevant occupation certificate':

Conditions 89, 90, 104, 112, 114 -121, 124, 125, 127, 130-133

88. Access for the Disabled - Disability Discrimination Act (Amend)

The building/development must comply with the requirements of the Disability Discrimination Act Access to Premises Standard (2010).

It should be noted that this approval does not guarantee compliance with this Act and the applicant/owner should investigate their liability under this Act.

(Reason: Access and egress)

Particulars

- Amend to reflect the correct reference to the Act and relevant technical standard.

~~117. Construction of Flood Mitigation Works~~

~~Prior to the issue of any Occupation Certificate, all Flood Mitigation Measures works which are to be incorporated into the redevelopment of Chatswood Chase which prevent the ingress of overland flow into the carpark areas (existing and proposed) for all storm events up to Probable Maximum Flood (PMF) shall be completed in accordance with the approved drawings under Schedule 1 of this consent, Council's standard drawings, conditions and specification (AUS-SPEC).~~

~~(Reason: Ensure compliance)~~

Particulars

CJ Arms has advised:

- This condition is contrary to previous discussions with Council as well as what was submitted in CJ Arms 'Flood Modelling Report' to Council on 17/09/2018. Water ingress into the Basement areas currently occurs through the Victoria Avenue entrance in a storm event. Council previously advised that it would not be feasible to prevent water ingress in this location due to the subsequent impact on surrounding properties.
- We would advise given previous discussions with Council regarding the design strategy to store overland flow in the event of a large storm that this condition is removed.

ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land, and relevant legislation.

TBA.

~~143. Overland Flow~~

~~The applicant's attention is drawn to potential overland flow from the upstream catchment as identified in the revised flood report prepared by C.J Arms & Associates. Appropriate measures where required shall be implemented to ensure overland flow does not enter the building including the basement carparking areas (existing and proposed).~~

~~(Reason: Protection of building)~~

Particulars

- This condition is vague, is at odds with the existing situation and does not provide any certainty.
- The condition Contradicts requirements for no adverse impacts external to the site.

CJ Arms – Consulting Engineers have advised:

- This condition is contrary to previous discussions with Council as well as what was submitted in CJ Arms 'Flood Modelling Report' to Council on 17/09/2018. Overland flow into the basement areas currently occurs through the Victoria Avenue entrance in a storm event.
- We would advise given previous discussions with Council regarding the design strategy to store overland flow in the event of a large storm that this condition be removed.

ACCEPTABLE

~~145. Trees on Adjoining Properties~~

~~No approval is given for the removal or pruning of trees on the nature strip, adjoining reserves, or neighbouring private land.~~

~~(Reason: Environmental protection)~~

Particulars

- Delete Condition 145, duplicates 144.

ACCEPTABLE

~~147. Noise Control – Offensive Noise~~

~~To minimise the noise impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act 1997.~~

~~(Reason: Amenity)~~

Particulars

- Delete Condition 147, duplicates 146.