

# Assessment report to Sydney Central City Planning Panel

Panel reference: 2018SWC008

## Development application

<b>DA number</b>	SPP-17-00047	<b>Date of lodgement</b>	21 December 2017
<b>Applicant</b>	Coles Group Property Developments Ltd		
<b>Owners</b>	Lot 30 DP 1191922 and Lot 2 DP 1248598 are owned by Coles Group Property Developments Ltd Lot 1 DP 1248598 is owned by Blacktown City Council		
<b>Proposed development</b>	Section 4.22 Concept Development Application for a shopping centre in 2 stages, comprising a supermarket, specialty retail shops, child care centre, at-grade and basement car parking spaces, signage, infrastructure and stormwater works, landscaping and subdivision		
<b>Street address</b>	227 Railway Terrace, Schofields Part of the former roadway of Pelican Road		
<b>Notification period</b>	7 to 21 March 2018 and 26 March to 9 April 2019	<b>Number of submissions</b>	2

## Assessment

<b>Panel criteria</b> Section 7, SEPP (State and Regional Development) 2011	<ul style="list-style-type: none"> <li>Capital investment value (CIV) over \$20 million (DA has CIV of \$34.4 million).</li> </ul>
<b>Relevant section 4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 – 1997)</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</li> <li>State Environmental Planning Policy No. 64 – Advertising and Signage</li> <li>State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>State Environmental Planning Policy (Sydney Region Growth Centres) 2006</li> <li>Blacktown City Council Growth Centre Precincts Development Control Plan 2018</li> <li>Blacktown Development Control Plan 2015</li> <li>Central City District Plan 2018</li> </ul>
<b>Report prepared by</b>	Holly Palmer, Senior Project Planner
<b>Report date</b>	2 August 2019
<b>Recommendation</b>	Approve, subject to the conditions listed in attachment 10, including deferred commencement conditions

## Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning map and height of building map extracts
- 4 Detailed information about proposal and DA submission material
- 5 Development Application plans
- 6 Assessment against planning controls
- 7 Issues raised by the public
- 8 Letter from RMS regarding road layout and design controls
- 9 Transport for NSW Guidelines for bus capable infrastructure in greenfield sites
- 10 Draft conditions of consent

## Checklist

### Summary of section 4.15 matters

Have all recommendations in relation to relevant section 4.15 matters been summarised in the Executive summary of the Assessment report? Yes

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments, where the consent authority must be satisfied about a particular matter, been listed and relevant recommendations summarised in the Executive Summary of the Assessment report? Yes

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the SSEP) has been received, has it been attached to the Assessment report? Not applicable

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (section 7.24)? Yes

### Conditions

Have draft conditions been provided to the applicant for comment? Yes

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## **1 Executive summary**

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- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
- The proposal is deficient and should be amended to ensure that the development and the Precinct are serviced by appropriate road access at the intersection of Railway Terrace and Jacqui Avenue.
  - The proposal is deficient and should be amended to ensure that compliant vehicular access to the site is achieved.
  - Railway Terrace should be constructed in line with the Growth Centres Development Control Plan.
  - Jacqui Avenue and Minerva Street should be constructed generally in accordance with the Indicative Layout Plan and must have sufficient width to enable bus services to operate.
  - The proposal does not adequately or appropriately respond to the site and its context, as required by the relevant controls.
  - The subdivision pattern is inconsistent with the desired future layout of the local centre and provides inadequate roads.
  - The proposed infrastructure is insufficient.
  - There is no public access available to the proposed shopping centre via a private access road over Lot 1 DP 1248598 at the rear of the site.
  - The proposed development requires permanent on lot stormwater quality control and temporary on-site stormwater detention.
  - The development generates a requirement to pay contributions under Contributions Plan No. 20.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments have not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.3 The application is considered to be satisfactory if it is amended in line with the recommendation of this report, when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.4 Assessment of the application has also been undertaken in line with Clause 7 of State Environmental Planning Policy No. 55 (Remediation of Land) and we are satisfied that the site can be made suitable for development for retail use and a child care centre, subject to conditions.
- 1.5 This report recommends that the Panel approve the application subject to the recommended conditions listed in attachment 10.

## **2 Location**

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- 2.1 The site is located in the Alex Avenue Precinct of the North West Growth Centre and is an area that is undergoing transformation by planned urban development.
- 2.2 Schofields Railway Station and associated car parking areas are located to the west. Land further to the west comprises new dwellings in the Schofields Precinct. The former road reserve of Pelican Road is located along the northern boundary of the site. A Woolworths supermarket and associated extensive car parking area is also located to the north. Land to the north, east and south comprises residential and business zones, transitioning to development. The location of the site is shown at attachment 1.



- 2.3 The intended structure of this neighbourhood is illustrated in the Alex Avenue Precinct Indicative Layout Plan that is contained within Schedule 1 of the Blacktown City Council Growth Centre Precincts Development Control Plan 2018. On this plan the site is identified as forming part of the Schofields Local Centre consisting of commercial/retail purposes, a town plaza at the north-western corner of the site, associated parking and new roads to service vehicles, including regional bus routes and bus stops. An extract from the Alex Avenue Precinct Plan map and desired layout of the local centre are at attachment 1.
- 2.4 The site and properties directly to the north and east are zoned B2 Local Centre, including the Woolworths shopping centre. Land to the east and north-east is zoned SP2 Infrastructure (Drainage). Land to the west is zoned SP2 Railway and includes the new Schofields railway station. Land to the south is zoned R3 Medium Density Residential. Aerial images of the site and surrounding area are at attachment 2.

### **3 Site description**

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- 3.1 The 2.5104 hectare site is triangular in shape. The majority of the site is Lot 30 DP 1191922, 227 Railway Terrace and is owned by the Applicant. The Applicant has recently purchased part of the former roadway of Pelican Road from Council, which has an area of 3,490 m<sup>2</sup> (being Lot 2 DP 1248598 and referred to as 'Lot 2 Pelican Road'). The proposal also relates to a minor portion of the former roadway of Pelican Road which has an area of 545 m<sup>2</sup> (being Lot 1 DP 1248598 and referred to as 'Lot 1 Minerva Street') and remains in Council's ownership.
- 3.2 The majority of the site is zoned B2 Local Centre, and a very small section of the southern portion is zoned R3 Medium Density Residential under State Environmental Planning Policy (Sydney Region Growth Centres) 2006 ('Growth Centres SEPP'). The site is within the Alex Avenue Precinct under that SEPP.
- 3.3 The site has a street frontage of approximately 180 m to Railway Terrace along its western boundary. The southern boundary has a length of 227.2 m and forms part of the future public road of Jacqui Avenue. The north-eastern boundary has a length of 174.8 m along former Pelican Road. The portion of Pelican Road which is part of this proposal is approximately 18 m wide and 169 m long.
- 3.4 The site slopes down from the north-western and eastern corners of the site to the south-western corner by 2.8 m. The former Pelican Road slopes down to the south-east by 0.9 m.
- 3.5 The site is generally grassed with some existing trees at the south-eastern portion. Aerial images of the site and surrounding area are at attachment 2.

### **4 Background**

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- 4.1 In May 2010 the site was largely rezoned to B2 Local Centre, with a very small section of the southern portion rezoned R3 Medium Density Residential under the Growth Centres SEPP. The zoning map for the site and surrounds is at attachment 3.
- 4.2 On 2 September 2014, JRPP-11-01987 was approved by the Sydney West Joint Regional Planning Panel on Lot 1 DP 26987, 227 Railway Terrace, Schofields (being part of the new DA site). This approved the construction of Stage 1 of a retail development, being a Coles supermarket, liquor store and specialty shops with associated on-site car parking and signage, a 'masterplan' concept for Stage 2 and subdivision into 2 commercial lots, a drainage lot and roads.
- 4.3 This approval is valid until 2 September 2019 and comprises the widening and construction of Railway Terrace and the construction of new roads (Jacqui Avenue and Minerva Street). These new roads are required under the consent to be constructed at full



cost to the Applicant and dedicated to Council free of cost for public use. The intersection of Jacqui Avenue and Minerva Street also includes a roundabout which is included in 'Section 7.11 Contributions Plan (CP) No. 20 - Riverstone and Alex Avenue Precincts' which will be constructed by Council from funds provided by the CP. Therefore, the Applicant's road design and levels are to ensure the required splay corners are dedicated and the intersection can physically accommodate the future roundabout and provide appropriate turning paths. The new intersection at Railway Terrace and Jacqui Avenue is to be designed to allow for future traffic control signals. The approval also comprises an on-site stormwater detention system, and landscaping and street furniture over the portion of the town plaza located on the site which is to remain in private ownership and maintained by the owner. The Applicant has not acted on this consent to date.

- 4.4 On 19 November 2015, DA-11-01988 was approved for the construction of a McDonald's restaurant with drive-thru facilities and associated landscaping, car parking and signage. The McDonald's restaurant is located at the south-western portion of the subject site.
- 4.5 This current application was lodged on 21 December 2017.
- 4.6 The application included the **Applicant's offer to enter into a Voluntary Planning Agreement** with Council to:
  - provide a mechanism for it to make a Works-In-Kind contribution, being the construction of parts of Jacqui Avenue and Minerva Street, and for the cost of that contribution (design, approval and construction) to be offset against the monetary contributions payable for traffic and transport management facilities under CP No. 20
  - provide a mechanism for the dedication of land:
    - in connection with the Works-In-Kind contribution
    - along the site's frontage with Railway Terrace in connection with roadworks to be carried out by Council
    - and for the value of that land contribution to be offset against monetary contributions otherwise payable for the proposed development
  - make provision for its monetary contribution under CP No. 20 towards traffic and transport management facilities for the construction of part of Railway Terrace. That contribution to be applied by Council towards the cost of constructing the part of Railway Terrace adjacent to the site.
- 4.7 On 3 April 2018, we advised the Applicant that its offer of a Voluntary Planning Agreement was not acceptable. To facilitate orderly development objectives under the Act, supporting infrastructure must be delivered with the proposed development where it is not a component of an IPART approved Contributions Plan. This infrastructure forms part of the development activity and must be delivered by the Applicant. Land dedication as public roads is part of that requirement and this is facilitated through the Subdivision Certificate process.
- 4.8 On 8 May 2018, we requested further information, including the deletion of 2 median strips on the road reservation to separate the 2 driveways off Minerva Street, amendments to the design for Jacqui Avenue to provide 4 lanes for the full length of this road, a response to the letter from the Local Police dated 8 May 2018, a response to the issues raised in the 2 public submissions and a detailed design and outcome for the town plaza.
- 4.9 On 28 May 2018, section 4.55(2) Modification Application MOD-18-00229 to DA-11-01988 was lodged to increase the gross floor area of the approved McDonald's restaurant from 476 m<sup>2</sup> to 489 m<sup>2</sup>, reconfiguration of the drive-thru element, modifications to building and signage design, and the inclusion of a 9 m high pylon sign. The modification will result in a reduction of on-site seating from 110 to 104 seats, and a reduction in parking from 29 to



26 spaces. This Modification Application is still under assessment and is required to be updated to reflect this subject application, as amended.

- 4.10 On 4 June 2018, the Applicant provided its response, comprising a request for Council to reconsider its position and to support a Voluntary Planning Agreement (VPA) to enable the dedication of land to Council for a public road with appropriate offset against section 7.11 contributions for the site. It included a request for the construction and dedication of Jacqui Avenue to be wholly within the site (being a variation to the Indicative Layout Plan) and to be included in the VPA, and a request for the land acquisition and dedication of the upgraded Railway Terrace to be embodied in the VPA. It also includes a request to be exempt from regional stormwater facility contributions as water can be permanently managed on the site and therefore there is no demand for this category of contribution generated by the development. The Applicant's response also included a response to the Local Police, a request for the traffic concerns (median strip and zebra crossing) to be managed by conditions of consent, a response to the concerns raised in the public submissions and amended site plans.
- 4.11 On 26 June 2018, the Applicant commenced Class 1 proceedings in the Land and Environment Court of NSW.
- 4.12 On 28 June 2018, an objection was received from Roads and Maritime Services (RMS) were received and further comments from Council's Access and Transport Management Branch were forwarded to the Applicant (to provide additional information regarding temporary access, access to loading docks and traffic modelling of Railway Terrace and Jacqui Avenue).
- 4.13 On 31 October 2018, we met with the Applicant to discuss our contentions with a view to narrow the issues in preparation for a Section 34 Conciliation Conference.
- 4.14 On 15 February 2019, the Section 34 Conciliation Conference was held. The conference was terminated as an agreement could not be reached between the parties.
- 4.15 On 22 February 2019, the proceedings were listed for hearing for 21 to 25 October 2019.
- 4.16 On 20 March 2019, the Applicant's Notice of Motion was heard and the Court granted leave to the Applicant to rely on amended plans and material. The amended proposal does not comprise an offer to enter into a VPA. This report is based on these amended plans.
- 4.17 On 26 March 2019, we referred the amended application to surrounding property owners and occupiers and RMS for comment. We received a further objection from the adjoining property to the south, 239 Railway Terrace, Schofields. The submission raised concern with regard to how the infrastructure is being funded and provided, for the further orderly development of the area. This is discussed in Section 8 below.
- 4.18 The Court hearing is scheduled for 21 to 25 October 2019, subject to no prior resolution being achieved.

## **5 The proposal**

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- 5.1 The Development Application was lodged by Coles Group Property Developments Ltd for land at Lot 30 DP 1191922, 227 Railway Terrace, Schofields, Lot 2 DP 1248598 (referred to as 'Lot 2 Pelican Road') and Lot 1 DP 1248598 (referred to as 'Lot 1 Minerva Street' and owned by Council).
- 5.2 In its current form, the proposal is for a 'Concept Development Application' lodged under section 4.22 of the Act. It sets out a concept proposal for development of the site in 2 stages and proposes the construction and use of the Stage 1 component.
- 5.3 Stage 1 comprises a supermarket and specialty retail shops, a 67 place child care centre, 356 at-grade and basement car parking spaces, signage, associated stormwater works,



construction of new private driveways (referred to as the southern access road and the eastern access road) and landscaping.

- 5.4 Stage 2, which will be the subject of a separate Development Application, will comprise 'speciality' shops.
- 5.5 The proposal also includes the consolidation of the lots and re-subdivision to create 1 lot for a fast food restaurant at the south-western portion of the site and 1 lot for the remainder of the site.
- 5.6 Details about the proposal are at attachment 4. A copy of the development plans is at attachment 5.

## **6 Assessment against planning controls**

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- 6.1 An assessment of the Development Application against the section 4.15(1)(a) matters and relevant planning controls is at attachment 6.

## **7 Key issues**

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### **7.1 The proposal is deficient and should be amended to ensure that the development and the Precinct are serviced by appropriate road access at the intersection of Railway Terrace and Jacqui Avenue**

- 7.1.1 In its current form, the design of the proposal is inadequate and unacceptable in relation to traffic safety and traffic management. Furthermore, approval of the proposal in this form would be premature in circumstances where the RMS has raised concerns about the adequacy of road access proposed by the Applicant.
- 7.1.2 Concurrence is required from the RMS (in relation to any development consent issued by the consent authority) under the requirements of the *Roads Act 1993* and *State Environmental Planning Policy (Infrastructure) 2007*.
- 7.1.3 RMS has provided the following response in relation to the amended proposal:  

'The road within 20 m from the stop line of the intersection of Railway Terrace and Southern Access Road (Jacqui Avenue) needs to be dedicated as a public road. This is necessary so that RMS can give approval to the signals and ultimately maintain the signals in the future.'
- 7.1.4 The Applicant has not demonstrated that the southern access road can meet the requirements of RMS and remain functional. Therefore, conditions of consent are recommended in the draft consent requiring the Applicant to construct Jacqui Avenue free of cost to Council as a 4 lane local road, to permit 1 travelling lane in each direction with parking permitted on both sides, and dedicate it to Council free of cost. This arrangement will ensure that public road access is available to pedestrians and vehicles, including buses, in a safe and permanent manner in the Local Centre.
- 7.1.5 Traffic signals cannot be installed without approval from the RMS at the Railway Terrace and Jacqui Avenue intersection until 'traffic signal warrants' are met. Conditions of consent have been included in the draft consent to ensure that the applicant designs and constructs an alternate interim control, such as a roundabout, to Council's satisfaction, until such time as RMS installs the traffic signals which are funded from section 7.11 contributions.

### **7.2 The proposal is deficient and should be amended to ensure that compliant vehicular access to the site is achieved**

- 7.2.1 In its current form, the proposed traffic circulation arrangements are unacceptable. The development incorporates 2 entry / exit driveways onto the eastern access



road and these are located immediately adjacent to each other; near a tight bend which has poor sight distance. This will result in a confusing and unsafe site access arrangement for motorists, pedestrians and cyclists, particularly when Minerva Street is constructed (further to the north).

- 7.2.2 The Year 2021 traffic modelling results included in the Applicant's Transport Impact Assessment (prepared by PeopleTrans and submitted with the amended application in March 2019) show that vehicle queues on Railway Terrace and Jacqui Avenue will extend past the site access driveways onto Railway Terrace and Jacqui Avenue. This will lead to unacceptable delays for motorists seeking to exit the development and is exacerbated due to the fact that Jacqui Avenue and Railway Terrace have not been provided with additional traffic lanes as is required under Figure 3.14 of the GCDP and Figure 3.7 of Schedule 1 of the GCDP respectively.
- 7.2.3 The required turn movements by a heavy rigid vehicle for access to the McDonald's loading dock are non-compliant with Australian Standard (AS) 2890.2 and will result in an unsafe outcome for pedestrians, cyclists and motorists.
- 7.2.4 Conditions of consent are included in the draft consent to ensure that appropriate traffic circulation and safety is achieved which complies with the relevant Australian Standards.

### **7.3 Railway Terrace should be constructed in accordance with the DCP**

- 7.3.1 The widening of Railway Terrace is to be undertaken in association with the development of this site for the purpose of creating part of the Local Centre. The Growth Centres SEPP and GCDP facilitated the rezoning of this site and set the foundations for the responsibility of the applicant to provide new public roads and infrastructure that are essential to make the Local Centre function effectively as designed in the Indicative Layout Plan.
- 7.3.2 This is evident in Development Application JRPP-11-01987 which approved the development of the site for a shopping centre in 2014, as discussed in Section 4 above. Of note, this approval comprises the widening and construction of Railway Terrace and the construction of new roads (Jacqui Avenue and Minerva Street). The new roads were conditioned, and intended by the Applicant and that time, to be constructed at full cost to the Applicant and dedicated to Council for public use. It is an acknowledged and accepted convention that a developer constructs the public roads that service their developments, both within their land and as part of the public road fronting their land. Without this fully constructed road infrastructure, safe public access to development sites cannot be achieved and inadequate road access will result. If appropriate road infrastructure fronting a development site is not provided, then that development should NOT be granted an approval.
- 7.3.3 The new intersection at Railway Terrace and Jacqui Avenue is to be designed to allow for future traffic control signals.
- 7.3.4 This proposal fails to widen Railway Terrace to 24.9 m to provide a road which is capable of operating as a higher order Local Centre road (as required by Figure 3-7 of Schedule 1 Alex Avenue Precinct of the GCDP). This includes appropriate footpaths and carriageways which can accommodate truck and bus swept turning paths and a central median strip for pedestrian safety.
- 7.3.5 Conditions of consent are included in the draft consent to ensure that Railway Terrace is appropriately designed with a width of 24.9 m, and that the eastern portion is constructed by the Applicant and dedicated to Council, to ensure that the Local Centre is serviced by appropriately constructed public roads prior to the issue of any Occupation Certificate for the shopping centre.



**7.4 Jacqui Avenue and Minerva Street should be constructed generally in accordance with the ILP and must have sufficient width to enable bus services to operate**

- 7.4.1 The Applicant is required to construct and dedicate to Council, free of cost, the road reserve associated with Jacqui Avenue along the southern part of its site, and Minerva Street along the eastern part of its site, in accordance with the ILP.
- 7.4.2 This includes the construction of Minerva Street over 'Lot 1 Minerva Street' which remains in Council's ownership. As required by the correspondence from RMS, dated November 2015 and provided at attachment 7, medium-high density local roads such as Jacqui Avenue have the potential to act more like collector roads. This is because they accommodate the operation of buses along densely populated local streets en-route to centres and interchanges.
- 7.4.3 Jacqui Avenue and Minerva Street are identified in Figure 3-2 'Traffic circulation and parking within the centre' of Schedule 1 Alex Avenue Precinct of the GCDGP as servicing local and regional bus routes. To accommodate bus services, RMS requires the carriageway width of Jacqui Avenue to be a minimum 13 m (comprising 2 x 3.5 m travelling lanes and 2 x 3 m parking lanes). The provision of a 3.5 m width verge on both sides of Jacqui Avenue results in a minimum total road reserve width of 20 m.
- 7.4.4 This minimum width of 20 m for Jacqui Avenue is reinforced in Section 4.1 of Transport for NSW's *'Guidelines for Public Transport Capable Infrastructure in Greenfield Sites'*, July 2018, provided at attachment 9.
- 7.4.5 The Applicant's proposal to treat Jacqui Avenue and Minerva Street as private access roads means that these access roads will not be public roads and so will be incapable of providing a standard road width which caters for the free movement of vehicles, buses, pedestrians and cyclists. Also, if Jacqui Avenue has a width of only 18 m it results in a carriageway and lane width which does not enable safe bus operation. As advised by RMS, there are instances where bus services cannot use newly built roads within greenfield release areas due to their inadequate carriageway and lane widths, preventing the operation of any bus services for new residents. Bus operation within and around the town centre is vital for the community.
- 7.4.6 Minerva Street is designed with a width of 21.65 m and is satisfactory as it is consistent with the road width provided for the part of Minerva Street at the rear of the Woolworths site to the north. We are of the opinion that a carriageway width of 13 m and total road reserve width of 20 m for Jacqui Avenue will support safe and sustainable public transport service and access to the Local Centre and broader Precinct. This requirement has been included as a condition of consent.

**7.5 The proposal does not adequately or appropriately respond to the site and its context, in accordance with the relevant controls**

- 7.5.1 The proposal does not adequately or appropriately respond to the site and its context, in accordance with the requirements of the Growth Centres SEPP and Schedule 1 'Alex Avenue Precinct' of the GCDGP. The proposal in its current form provides a development in isolation from its future surrounding land uses. It also does not provide direct access and connection to the surrounding future road network for the residents and the general public.
- 7.5.2 In its current form, the proposal is contrary to what is intended for the Alex Avenue Precinct and the Local Centre within which the site is located. Conditions of consent are required and have been included in the draft consent, to ensure that the proposal provides appropriate access to service the needs of the locality and provide links which relate well to its immediate context, deliver infrastructure and



meet the needs of the local community. Also refer to the assessment of the proposal against the relevant planning controls at attachment 6.

## **7.6 The subdivision pattern is inconsistent with the desired future layout of the local centre and provides inadequate roads**

- 7.6.1 The proposed subdivision into 1 lot for a fast food restaurant and 1 lot for the remainder of the site omits the creation of 'public streets' and will create lots intended to facilitate development that is contrary to Schedule 1 of the GCDCP because it is inconsistent with the development principles that require the provision of an adequate public road and pedestrian network. The new Local Centre should comprise public streets that will enable unrestricted, continual public access for pedestrians and vehicles on both sides of the street. As public streets they will also enable 2 travel lanes and public parking on both sides of the street. As tree-lined streets they will be open to the air and sky, and be places with trees. The proposal does not propose roads that comply with these requirements.
- 7.6.2 The Applicant proposes to provide private access driveways until such time as these are purchased by Council, closed and reformed as permanent roads. During this time access to the site will be limited and unfettered access will not be available to pedestrians, cyclists and vehicles. Access to the development's waste collection and loading area will also not be available. The development also comprises a public town plaza with spaces intended for unimpeded public access and use. These spaces should be embellished, be freely available and provided for the public's benefit.
- 7.6.3 To enable delivery trucks to service the needs of the McDonald's site in proposed Lot 7, the application relies on truck turning paths which obstruct both the ingress and egress access lanes to the carpark via the southern access road (Jacqui Avenue). This creates an unsafe arrangement for vehicles and pedestrians and demonstrates that the proposed temporary access roads are inadequate.
- 7.6.4 The proposed subdivision is unsatisfactory because it does not provide an adequate road network to service this major development prior to its occupation and commencement. The subdivision would also create lots that obstruct the orderly development of the Precinct. The subdivision as proposed is incomplete, premature and is not in the public interest. Therefore, conditions of consent have been provided in the draft consent to ensure the site is subdivided in a manner which is consistent with the GCDCP.

## **7.7 The proposed infrastructure is insufficient**

- 7.7.1 The proposal does not provide sufficient road infrastructure and that the public is free to use at all times, and is considered to generate an adverse impact on the surrounding area in terms of potential traffic safety, road congestion and lack of parking. Therefore, the proposal is not consistent with Clause 104 of SEPP Infrastructure.
- 7.7.2 The provision of temporary and private roads to service this proposal is entirely inconsistent with the requirements of Schedule 1 of the GCDCP, and is inadequate and unacceptable. The Applicant's intention for the private roads to be acquired by Council and reconstructed by Council into new public roads which connect to the surrounding road network, and that provide pedestrian access, parking and street trees to both sides of the road, is entirely unacceptable for an operating Coles supermarket, specialty retail shops, child care centre and fast food restaurant, being a significant commercial and income-generating development, in terms of accessibility to the site, traffic safety and implications for road congestion.



- 7.7.3 The proposed development is not compatible with the following future regional traffic and transport infrastructure in Section 7.11 Contributions Plan No. 20:
- Item R1.2 Half-width collector road along the eastern side of Railway Terrace
  - Item R1.2 Traffic signals at the intersection of Railway Terrace and Jacqui Avenue
  - Item R2.1 Roundabout at Jacqui Avenue and Minerva Street, and extension of Jacqui Avenue (21.6 m wide) further to the east, including traffic signals at the Pelican Road intersection.
- 7.7.4 The proposal in its current form does not provide certainty and timely delivery of dedicated public road infrastructure and provision of services to facilitate good design outcomes. Conditions of consent have been included in the draft consent to ensure that these matters are addressed.
- 7.7.5 Public road infrastructure is required as a direct consequence of the development of land by development companies for financial gain. Public roads are required by new communities so that full and free access can be obtained by the public to access commercial developments and safely traverse such a new residential precinct. It is completely unacceptable that the Applicant proposes to transfer their responsibilities in this respect onto Council. Council willingly bears the ongoing maintenance responsibility for these roads in perpetuity, but they must be built by the developers who will gain a direct benefit from their provision. If the roads are not provided to their designated configuration in the ILP and dedicated as public roads, then the development should not be approved.

**7.8 There is no public access available to the proposed shopping centre via a private access road over Lot 1 DP 1248598 at the rear of the site**

- 7.8.1 Lot 1 DP 1248598 'Minerva Street' is owned by Council and is classified as operational land for the purposes of the *Local Government Act 1993*. It is not a public road. Therefore, public access may not be made available by Council over its land to retail tenants and their staff, private contractors, deliveries and customers.
- 7.8.2 The DA proposes the construction of an access driveway on Lot 1 'Minerva Street', connecting the proposed eastern access road to the site in circumstances where we have not agreed to the use of Lot 1 'Minerva Street' for the private purpose of the proposed development or for a private access road to service the waste area and loading dock of the proposed development. The public has no legal right to use Lot 1 'Minerva Street' as proposed, unless separately agreed by Council. We will not so agree unless the Applicant fulfils its responsibilities to provide road infrastructure as outlined in this report.
- 7.8.3 It has not been demonstrated that appropriate traffic circulation is provided at the south-east end of the site in the vicinity of the driveway access to the basement at Lot 1 'Minerva Street', such as a turning head. Sufficient turning area is required to be provided on the roads to enable vehicles to manoeuvre should they incorrectly enter the eastern access road (Minerva Street).
- 7.8.4 The proposed development is contrary to and incompatible with the requirements of Schedule 1 'Alex Avenue Precinct' of the GCDP and proposes the private use of operational land owned by Council which would not be in the public interest. This is because Council owns this land and will be required in the future to undertake further works to provide permanent formal vehicular and pedestrian access to the site to give effect to the planned outcome provided for in Schedule 1 'Alex Avenue Precinct' of the GCDP.



- 7.8.5 On this basis, conditions of consent are required and included in the draft consent requiring the 2 new public roads to be constructed and dedicated to Council free of cost (Jacqui Avenue and Minerva Street) to provide public road access to Lot 1 DP 1248598 'Minerva Street'.

**7.9 The proposed development requires permanent on lot stormwater quality control and temporary on-site stormwater detention**

- 7.9.1 The proposed development requires permanent 'on lot' stormwater quality control and temporary on-site detention under Blacktown Development Control Plan 2015 (BDCP 2015) Part J – Water Sensitive Urban Design and Integrated Water Cycle Management. This includes temporary treatment for the provision of future public roads. Amended plans and modelling have been received which do not satisfy Part J of BDCP 2015.
- 7.9.2 It has not been demonstrated that the change in levels and interface between the site (in particular the Pelican Road part of the site and potential negative impacts to upstream land) and the adjoining site to the south is appropriately designed.
- 7.9.3 The Concept Drainage Plan does not satisfy Part J of BDCP 2015 regarding 'tail out' works along Railway Terrace for item E2.1 in Contributions Plan No. 20 and the capacity of the existing culvert under the rail line, details of pipe sizing and upgrading.
- 7.9.4 The water quality targets and the requirements under the GCDGP have not been achieved. The Applicant has not demonstrated that the Water Sensitive Urban Design Stream Erosion Index is met. The Applicant's catchment plans for water quality and detention do not match their drainage plans.
- 7.9.5 The 100 year ultimate unrestricted drainage design is to be directed to the future regional pipe (referred to in Contributions Plan No. 20) which starts in Railway Terrace at the southern side of Jacqui Avenue and discharges south to the future regional basin. Until that pipeline is complete, the drainage design is to connect temporarily to the existing westerly pipe crossing of Railway Terrace. These matters have been managed by conditions of consent in the draft consent.

**7.10 The development generates a requirement to pay contributions under Contributions Plan No. 20**

- 7.10.1 Part 5.3 of the Applicant's amended Statement of Environmental Effects contends that the Applicant should not be required to pay monetary contributions under Contributions Plan No. 20 in relation to:
- water cycle management infrastructure
  - traffic and transport management infrastructure
  - open space and recreation facilities
  - community facilities and combined precinct facilities.
- 7.10.2 The precinct planning stormwater management strategies and our adopted Section 7.11 (formerly Section 94) Contributions Plan stipulate that stormwater detention is required to be provided in regional detention basins, not within the development site. Therefore, conditions of consent have been included in the draft consent levying contributions in accordance with Contributions Plan No. 20 for water cycle management facilities. We have also conditioned the payment of a monetary contribution with respect to traffic and transport management facilities as required under Contributions Plan No. 20.



## 8 Issues raised by the public

- 8.1 The proposed development was notified to property owners and occupiers in the locality between 7 and 21 March 2018. The Development Application was also advertised in the local newspapers and a sign was erected on the site.
- 8.2 We received 2 submissions concerning:
- insufficient parking due to proximity of the railway station
  - an existing supermarket and child care centre close to this site
  - the half road construction of Jacqui Avenue being insufficient to service the traffic generated by this development and does not facilitate orderly development.
- 8.3 Following the Section 34 Conciliation Conference, the Applicant submitted amended plans as discussed above in Section 5. The amended plans were re-notified to surrounding property owners and occupants, including the submitters, from 26 March to 9 April 2019.
- 8.4 A further submission was received from 1 of the original submitters raising concern as to how the infrastructure is being funded and whether it provides for the further orderly development of the area.
- 8.5 A summary of each issue and our response is provided in attachment 7. The objections are considered to not warrant refusal of the Development Application, subject to conditions of consent.

## 9 External referrals

- 9.1 The Development Application was referred to the following external authorities for comment:

Authority	Comments
Roads and Maritime Services (RMS)	<p>RMS raised concerns about traffic signals, pedestrian access to the site, the requirement for further traffic engineering modelling, and traffic safety concerns with respect to temporary access, access to loading docks, the Applicant's Traffic Study, and parking. RMS has not provided its concurrence in relation to approval of the development in its current form.</p> <p>On 8 May 2019, RMS provided the following response in relation to the amended proposal:</p> <p>'The road within 20 m from the stop line of the intersection of Railway Terrace and southern access road (Jacqui Avenue) needs to be dedicated as a public road. This is necessary so that RMS can give approval to the signals and ultimately maintain the signals in the future.'</p> <p>Subject to this issue being resolved by imposing conditions of consent requiring RMS's in principle agreement for signalised intersections, Jacqui Avenue to be constructed by the Applicant and dedicated to Council for public use, and requiring Jacqui Avenue to have a minimum width of 20 m as discussed in Section 7, the concerns raised by RMS are capable of being resolved.</p>
Sydney Trains	Acceptable, subject to conditions
NSW Local Police (Local Area Command)	Acceptable, subject to conditions

## 10 Internal referrals

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- 10.1 The Development Application was referred to the internal sections of Council and is not considered acceptable in its current form. Conditions of consent are required to address a range of matters and have been included in the draft consent to:
- ensure the development is consistent with the relevant controls
  - provide a positive development outcome which is serviced by appropriate roads and infrastructure and serves the public interest.

## 11 Conclusion

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- 11.1 The proposed development has been assessed against all relevant matters and is not considered to be satisfactory in its current form.
- 11.2 However, we support the timely redevelopment of land in the Growth Centre precincts in a manner which is supported by public roads and infrastructure as originally planned for by the NSW Government and which supports the foundations for growing communities.
- 11.3 Therefore, we consider that conditions of consent are capable of being imposed to ensure the development is in a form which addresses the likely impacts of the development and is in the public interest.
- 11.4 The site is considered suitable for this form of development, subject to extensive conditions.

## 12 Recommendation

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- 1 Approve Development Application SPP-17-00047 for the reasons listed below and subject to the conditions listed in attachment 10:
  - a The proposal is in the public interest provided the matters raised in this report are satisfied.
  - b The site is considered suitable for the proposed development as modified by conditions of consent.
- 2 Council officers notify the Applicant and submitters of the Panel's decision.

  
\_\_\_\_\_  
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Judith Portelli  
Manager Development Assessment

  
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Glennys James PSM  
Director Planning and Development