Statement of Environmental Effects

1 Villawood Place, Villawood

Amended Report

April 2015

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1. Introduction

1.1 Summary

Site Details	
Address	1 Villawood Place, Villawood
Property Description	Lot 4 DP 1013056
Area	2324.2m2
Local Government Area	Fairfield City Council
Current Use	Part single and part two storey brick commercial building. A previous lapsed DA approval was in place on the site (DA 1198/2007).

General Details	
Applicant	Tony Owen Partners Pty Ltd
Proposal	The subject DA is for the demolition of the existing buildings on site and the construction of an eight (8) level shop-top housing development with three (3) levels of basement parking. Specifically is proposes one-hundred and nineteen (119) residential units above ground level commercial suites.
Application Type	Development Application.
Level of Assessment	Local Application.
Consent Authority	JRPP - Fairfield Municipal Council
Applicable LEP & Codes	Fairfield Local Environmental Plan 2013 Fairfield City Wide Development Control Plan 2012 Villawood Town Centre Concept Structure Plan 2008
Estimated capital cost	$24,658,613 (ex GST) as set out in **Appendix 4**

1. Introduction

1.2 Preamble

This statement of environmental effects has been prepared as part of a development application for Tony Owen Partners Pty Ltd to accompany a Development Application (DA) to Fairfield Council seeking to develop the site for an eight (8) level shop-top housing development comprising one hundred and nineteen (119) residential units above ground level commercial suites with three (3) basement parking levels below.

The purpose of this report is to describe the proposed development and review the relevant planning requirements relating to the proposal. It provides an assessment of the proposed development in terms of the Evaluation Criteria prescribed under Section 79C (1) of the Environmental Planning and Assessment Act, 1979.

In the preparation of this Statement of Environmental Effects the site and the locality has been considered along with the amended plans prepared by Tony Owen Partners dated April 2015.

The merits of the proposal have been considered with reference to the relevant State, Regional and local Council planning instruments, codes and policies.

A pre-DA meeting was also held with Council on 5 August and Council provided direct comments in writing to the applicant. A letter was sent by Council on 24 February 2015 (Ref 674.1/2014) outlining several concerns about the overall design. These comments have underpinned the revised design of this project. Some additional information was not available at the time of writing this report but will make up the application once lodged.

This building has been designed to provide a high quality outcome for this site which is drawing its context from the vision for Villawood as a vibrant centre with many families living around a hub of services and transport nodes. The State Government is clearly seeking to significantly increase densities around railway stations and this site is directly opposite Villawood Station. The 2008 heights shown in the Structure Plan outline the vision for the locality. These controls are also reflected in the LEP height controls for the site.

1.3 Site & Locality Description

The site is situated on the corner of Villawood Road and Villawood Place and is bounded on the western side by Kamira Court.

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The site has a unique curved frontage to the north-eastern corner and is best described visually via the survey in the architectural plans at **Appendix 2.** The site has an area of 2324m2.

The site is currently a small shopping village with a mix of ground level commercial and retail uses with shop top residential dwellings along the eastern boundary. The site survey with the architectural plans at **Appendix 2** illustrates the existing building.

The site is on the main intersection in the locality and significant landscaping works currently exist in the road reserve to the north-east of the site.

An air photo showing the site context is set out below in **Figure 1**.

Figure 1: *Aerial photograph of the site.*

Figure 2 includes several site photos including a panorama on the main front corner of the property. Other photos show the shops along the eastern boundary of the site and also the rear of the property viewed across the adjoining car park.

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1. Introduction

1. Introduction

1.4 Context

The surrounding area has historically been a commercial precinct bounded by Woodville Rd to the east and the railway line to the north. This area is an area which is ripe for redevelopment particularly where commercial uses can be replaced in the ground levels of new buildings.

Housing blocks are located further south of the site and unit development on the eastern side of Woodville Road. A large portion of vacant R4 zoned land (Department of Housing land) is located to the west of the site.

There is no distinct character in the area and it is self-evident that it will emerge as a higher density residential precinct. This is in line with the Sydney Metropolitan Plan's vision for Sydney over the following decades that will see areas around railway stations develop significantly.

All essential services are available to the site.

It is also understood that a covenant exists on the subject site which will require a "community room" which is proposed to have an area of 184.40m2. This has been factored into the overall design on the ground floor at the north-western corner of the building. It is shown in the attached architectural plans at **Appendix 2**.

2. Description of Proposal

2.1 General Description

This Development Application seeks consent from Fairfield Council for the demolition of the existing buildings on site and the construction of a residential building comprising one hundred and nineteen (119) residential units with basement parking. (Refer to the Architectural Plans).

The proposed development is for an eight (8) storey building above three (3) basement levels which comprises the following mix of units:

0 studio units (0%)
12 x 1 bedroom units (10%)
95 x 2 bedroom units (80%)
12 x 3 bedroom units (10%)

The ground level comprises retail/ commercial units, a café and a community facility with an area of 184.40m2. Access to the street corner is provided for this community facility with fire access at the rear of the suite.

One hundred and seventy (170) car parking spaces are proposed over three (3) basement levels.

Common open space is provided at the first floor level above the podium and also on the main roof area.

The total proposed gross floor area for the site is 11,527.97m2 providing a total floor space ratio of 4.96:1. It should be noted that the previously approved DA for the site (1198/2007) did have a floor area of 12,367m^2 and an FSR of 5.32:1.

A café is also proposed at ground level which seeks the following in terms of permissible operating capacity:

- Sixty-five (65) seats;
- 3 staff maximum at any one time;
- Hours of operation: 7am – 7pm Monday – Saturday; 7am – 5pm Sundays
- The seating layout, kitchen facilities and building details are noted on the relevant plans.

2. Description of Proposal

Figure 3 below illustrates a three dimensional impression of the proposed building.

Figure 3: *3D visualisations of the proposed development.*

The Architectural Drawings, photomontages, External Finishes Plan and shadow impact analysis are attached to the application and the SEPP 65 Design Verification Statement and RFDC Compliance submitted with this application are provided at **Appendices 2** and **3**. A key feature of the development is the facade treatment which employs strong horizontal and vertical articulation with angled features that tie these elements together. This is a very contemporary and very attractive building form which is typical of the high quality residential building stock emerging within Sydney.

Another key feature of the building is the zero or minimal setbacks provided. The setbacks proposed generally match those provided in the former approved DA and are appropriate given the multiple street frontages. The internal curved corner on the north-eastern side of the building has also been activated with retail space to strengthen the street presentation.

2.2 Excavation/ Demolition/ Groundwater

The historical uses suggest that the site is suitable for the demolition, excavation and construction required for the proposed development. Any waste soil should be

2. Description of Proposal

appropriately disposed of. Ensuring the appropriate disposal of any possible asbestos from any buildings (if present) can be dealt with via conditions of consent as necessary.

It is understood that the site is affected by some flooding. A Hydraulic Engineering Report and Stormwater Management Plan is provided at **Appendix 5**. At the time of writing this Statement of Effects, this updated report was not available.

2.3 Access, Traffic and Parking

The site currently has access points from the large car park behind the site and it has been suggested by Council (at the pre-DA meeting) that the loading dock be accessed from this car park.

The basement ramp access is provided from Kamira Court, adjacent to the car park entry point.

Pedestrian access is provided from the centre of the building off Villawood Road. It is well separated from the vehicular entry. Separate street access is also provided for the Community Facility and commercial/ retail suites.

Chapter 12 of Fairfield City Wide DCP 2013 deals with parking. The site however currently enjoys parking credits and so the calculations below illustrate how the proposed parking provisions have been allocated:

	DCP	**Required**	**Provided**
Residential:	1 space per unit	119	119
Commercial & Café: 1,130m^2 GFA	1 space per 63m2 #	18	18
Community Room 184.40m2 GFA	1 space per 63m2 #	3	3
Visitor parking	1 space per 4 dw	30	30
TOTAL		**170**	**170**

<u># Note on parking credit calculations:</u>
Current floor area: 1,890m2 (commercial)
Current parking spaces provided: 30
Current rate: 1 per 63m2
Proposed total commercial FS: 1314.4m2 (includes the Community Room)

2. Description of Proposal

As indicated in the Table above, parking has been allocated at a rate of one (1) space per dwelling and at the rate of 1 per 63m2 in line with the parking credit rate.

This is an appropriate allocation for the following reasons:

- Significant initiatives by the State Government are seeking to ensure limited or zero provision for resident and visitor parking in buildings adjoining heavy rail stations (refer to current SEPP 65 review);
- A car park adjoins the site to the south-west which can be used by visitors to the site who don't utilised public transport;
- The allocation of commercial parking where none existed previously will allow for some staff parking which will reduce long term use of public parking spaces;

Council has the power to reallocate spaces via conditions of consent if necessary.

As identified in the Traffic and Parking Assessment Report (**Appendix 9**) the projected increase in traffic activity as a consequence of the development proposal will not have any unacceptable traffic implications in terms of road network capacity. Specifically the report concludes the following:

> *The proposed mixed use development on the site formerly occupied by a supermarket and specialty shops in Villawood Place at Villawood represents an appropriate redevelopment outcome which will be consistent and compatible with the planning for development in the area. The assessment of the potential traffic, transport and parking implications of the development scheme has concluded that:*
>
> - *the proposed vehicle access, internal circulation and servicing arrangements will be suitable and appropriate;*
> - *there will not be any unsatisfactory traffic implications;*
> - *the proposed parking provision will be adequate and appropriate to the circumstances.*

2.4 Landscaping

A communal open space area is provided at Level 1 and on the roof for use by residents. This roof area has an area of 1645.43m2 and the first floor podium terrace has an area of 187.74m2. This represents 79% of the site area and 29% of this area provides for deep soil

planting in raised tubs. Works are also illustrated in the public area as well in front of the site. An appropriate arrangement in relation to these works can be dealt with via conditions surrounding Section 94 of the Act.

The Landscape Plans provided with the Architectural Plans at **Appendix 2** illustrate how these terrace garden areas will be treated including details of the landscaping proposed, plant material, landscape materials and lighting.

In respect to SEPP 65 issues, the following objectives are supported by this proposed landscaped design.

- Improve amenity of open space with landscape design, including shade and screening.
- Contribute to streetscape and public domain.
- Soften the appearance of the building.
- Provide an attractive outdoor area for passive recreation.
- Design landscape with regard to site characteristics.
- Minimise maintenance by robust landscape elements.

2.5 Water Management

Stormwater Drainage Concept Plans are provided at **Appendix 5**. These plans have been prepared under the requirements of Fairfield City Council. Council has advised that the site is flood affected and therefore water management is a key issue of the design. This submission includes an appropriate Flood Impact Study and Flood Management Report.

2.6 Services

The site contains adequate facilities and essential services which will be upgraded where needed to cater for the proposed residential development. All installations will be capable of meeting the requirements under the Australian Standards and the Building Code of Australia.

2. Description of Proposal

2.7 Summary of areas and calculations

Summary of Calculations	
Site area	2324m2
Proposed Gross Floor Area	11,527.97m2
Maximum FSR map (LEP)	Nil
Proposed FSR	4.96:1
Maximum Building Height map (LEP)	26m ("T2")
Proposed Building Height (max)	26m for main building form 28.84m to lift overrun (refer to Cl 4.6 objection)
Required car parking spaces	170 (after parking credit calculation)
Proposed car parking spaces	170
Communal Open Space	187.74m2 (1st floor) and 1645.43m2 (roof)
Communal Open Space - % site area	78.8% (1833.17m2)
Total Deep Soil Area (raised planters)	79.52 (1st floor) and 452.12m2 (roof). Total 531.64m2 or 29% of total area
Land reservation map (LEP)	N/A
Heritage map (LEP)	Nil
Key sites map (LEP)	N/A
Flooding (LEP)	No map
Acid Sulphate Soils (LEP)	N/A
Terrestrial Biodiversity	N/A
Riparian Land & Watercourses	N/A

3. Planning Controls

3.1 Environmental Planning and Assessment Act 1979

The Act is the principle planning and development legislation in New South Wales. In accordance with Section 5, the objectives of the Act are: -

> *"(a) to encourage:*
>
> *(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
>
> *(ii) the promotion and co-ordination of the orderly and economic use and development of land,*
>
> *(iii) the protection, provision and co-ordination of communication and utility services,*
>
> *(iv) the provision of land for public purposes,*
>
> *(v) the provision and co-ordination of community services and facilities, and*
>
> *(vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
>
> *(vii) ecologically sustainable development, and*
>
> *(viii) the provision and maintenance of affordable housing, and..."*

The proposed development does not undermine any of the above objectives. In support of the stated objectives of the Act: -

- The proposed development will promote the social and economic welfare of the local community through the provision of high-quality residential accommodation at a time when significant new densities are proposed around major centres within Sydney;
- Location of appropriate housing within walking distance of employment lands and major transport nodes;
- It will enhance the efficiency and effectiveness of public transport infrastructure;

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- Creation of additional jobs during the construction and operational phases;
- Appropriate utility services are provided; and
- There will be no unreasonable adverse impacts on the environment given it is an island site with three street frontages.

3.2 Provision of relevant Environmental Planning Instruments

Section 79C (1)(a)(i) requires the consideration of all relevant Environmental Planning Instruments at the Development Application Stage.

The proposed development has been prepared having regard to the following EPI's:

- SEPP 55 – Remediation of Land
- SEPP 65 - Design Quality of Residential Flat Development
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Infrastructure) 2007
- Fairfield Local Environmental Plan (LEP) 2012 (Discussed in Section 3.3)

3.2.1 SEPP 55 – Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Contaminated Lands (SEPP 55) establishes State-wide provisions to promote the remediation of contaminated land.

Clause 7 of the SEPP 55 requires that a consent authority must not grant consent to a development if it has considered whether a site is contaminated, and if it is, that it is satisfied that the land is suitable (or will be after undergoing remediation) for the proposed use.

The site is a well-established commercial site and is unlikely to have any contamination. An appropriate condition of consent can be added if Council so desires, however it was not required as part of the previously approved DA which would have considered this issue.

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3.2.2 SEPP 65 - Design Quality of Residential Flat Development

The aim of State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (SEPP 65) is to improve the design quality of residential flat development in New South Wales as follows: -

> *"2(3)(a) to ensure that it contributes to the sustainable development of New South Wales.*
>
> *i. by providing sustainable housing in social and environmental terms, and*
>
> *ii. by being a long-term asset to its neighbourhood, and*
>
> *iii. by achieving the urban planning policies for its regional and local contexts, and*
>
> *(b) to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
>
> *(c) to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
>
> *(d) to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
>
> *(e) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions."*

The Policy sets out ten (10) design quality principles which provide a guide to achieving good design and the means of evaluating the merit of proposed solutions. An assessment of the proposed development, against these ten (10) design principles is contained in the SEPP 65 Design Verification Statement and RFDC Assessment prepared by the project architect is provided at **Appendix 3**.

The controls and objectives of SEPP 65 have been adequately met in this proposal. Indeed the project shows compliance with all key requirements of SEPP 65. In terms of solar access, 70% or 83 of the 119 units meet the SEPP requirements. In terms of ventilation 64% or 76 of the 119 units meet the SEPP requirements. Other detailed areas of compliance are also discussed.

In terms of the overall appearance of the building, the architect has submitted the following:

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The massing of the building has influenced the character of the design. The L shaped building has an inherent length. To break down the massing we have divided the building up into vertical sections using 2 distinct facade character types. One types consists of banks of louvre screens in a family of colours. This type projects 600mm and has a more solid appearance. The other type has a higher proportion of glass and is darker and more delicate.

This type is recessed. The juxtaposition of these types moves around the building like a snake, weaving. This breaks up the inherent mass of the building and creates vibrancy. The transition between these 2 types is highlighted using a yellow coloured soffit. This accentuates the massing and adds a playful brightness to the facade.

Accordingly many units have delicate screens are used to activate an add detail to the openings. The different masses are coloured in alternating lighter and darker colours to enhance the rhythm. The building is finished in painted masonry. The solidity of this material is juxtaposed with the lightness of the screens.

At the same time the building is divided up horizontally into 3 layers to reduce the apparent height and lend a human scale. The lowest layer is a 2 storey colonnade expression which reflects the commercial activation zone. This brings a human scale to the facade. On the rear this is a single storey layer where no colonnade is required. The middle layer uses a warm earthy coloration and reflects a solid podium element. The upper layer is lighter and uses cooler silver hues as it disappears into the sky reducing the apparent height.

In addition a grouping of recessed sky garden zones are added. These functions to further break up and articulated the massing and soften the building. The sky gardens also add additional amenity for residents and perform an environmental function. (see resources and energy).

The main north-west corner is the gateway element of the building. Due to its location and the awkward site it is most suited to circulation and inherently difficult to locate units here. The circulation is expressed as a strong vertical element. The facade at the corner are further articulated using a series of

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protruding window boxes containing large areas of glazing and louvres to activate and enliven this critical façade.
The result is a progressive design of a high quality which will enrich the area and provide a bench mark for the community.

3.2.4 SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate for the residential component of the development is provided at **Appendix 7**.

3.2.5 SEPP (Infrastructure) 2007

The proposed development has been assessed against the criteria in Clause 104 of this SEPP to see if Council must refer this application to Roads and Maritime Services (RMS) having regard to the threshold triggers in Column 2 of Schedule 3.

Clause 104(2)(b) states:

(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection-the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.

The schedule includes projects with 75 dwellings and 50 car spaces. It is likely then that a referral to RMS may be required for this proposal, depending on distances to key intersections.

3.3 Fairfield Local Environmental Plan 2012

Section 79C (1)(a)(i) requires the consideration of all relevant Environmental Planning Instruments at the Development Application Stage. This section examines the Local Planning Instrument.

The development of the site is governed by the Fairfield Local Environmental Plan (FLEP) 2012.

3. Planning Controls

3.3.1 Zoning

The site is zoned B2 – Local Centre pursuant to the Fairfield LEP 2012.

The B2 zone objectives are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide for shop top housing that supports local business activity.*
- *To ensure that mixed use developments include an active street frontage by locating business, retail and community uses at ground level.*

'Residential flat buildings' are prohibited in the zone. 'Shop top housing' is permissible with Council consent.

Shop top housing is defined below:

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

The implications here are that commercial or retail space and associated areas must occupy the ground level with units located above.

The proposed development satisfies the above objectives and the use is permissible in the zone.

3.3.2 Height of Buildings

The maximum Height of Building (HOB) for the site is set at 26m ("T2") as per Clause 4.3 of FLEP 2012.

The objectives of the heights of buildings adopted in the LEP are as follows:

> *(a) to establish the maximum height for buildings,*
> *(b) to ensure that the height of buildings complements the streetscape and character of the area in which the buildings are located,*

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(c) to minimise the visual impact, disruption of views, loss of privacy and loss of solar access to existing development.

This essentially provides an eight (8) storey limit for buildings on the site which is what has been previously approved on the site and is in line with the Villawood Structure Plan 2008. The proposed building height is completely within this height except for the lift overrun which is 28.84m.

An objection pursuant to Clause 4.6 of the FLEP 2012 is attached at **Appendix 1**. In this regard, the objectives of the height control must be carefully examined as well as the overall impact. This examination is provided in the Clause 4.6 objection.

This additional height is not easily visible from nearby land and will not result in any greater impact or loss of amenity. The need for the additional height arises from the need to have roof access to the communal open space. This has also given rise to the need for upper level planter boxes, rails and shade structures. These structures are able to be assessed as part of the application as "architectural roof features". Clause 5.6 of the LEP states:

(3) Development consent must not be granted to any such development unless the consent authority is satisfied that:

(a) the architectural roof feature:

(i) comprises a decorative element on the uppermost portion of a building, and

(ii) is not an advertising structure, and

(iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and

(iv) will cause minimal overshadowing, and

(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

The planter boxes and pergola provide a decorative element which also softens the impact of a flat roof and provides a level of visual interest and greenery. It does not include advertising, cannot be converted to floor space and will not cause significant additional overshadowing. The fire stairs and plant are integrated into the design of the roof elements.

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3.3.3 Floor Space Ratio

There is no maximum Floor Space Ratio (FSR) for the site in FLEP 2012.

The proposed Floor Space Ratio for the site is 4.96:1.

3.3.4 General LEP controls

Part 5 of FLEP 2012 includes a range of specific controls. These have no material bearing on the outcome of this development, other than any matter specifically discussed within this section of the report.

3.3.5 Trees

Clause 5.9 of the LEP protects natural vegetation. This site has no vegetation of significance.

3.3.6 Acid Sulfate Soils

Clause 6.1 of FLEP 2012 addresses Acid Sulfate Soils however this site is not affected.

3.3.7 Earthworks

Clause 6.2 of FLEP 2012 requires the following:

> *(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:*
> *(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
> *(b) the effect of the development on the likely future use or redevelopment of the land,*
> *(c) the quality of the fill or the soil to be excavated, or both,*
> *(d) the effect of the development on the existing and likely amenity of adjoining properties,*
> *(e) the source of any fill material and the destination of any excavated material,*
> *(f) the likelihood of disturbing relics,*

(g) *the proximity to, and potential for adverse impacts on, any waterway or riparian land, drinking water catchment or environmentally sensitive area,*
(h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Previous approvals have been issued for the site involving a comparable sized building. It is likely that these issues have been well considered and can be addressed via conditions of consent.

3.3.8 Flood Management

Clause 6.3 and 6.4 of FLEP 2012 relate to flood management. Specifically clause 6.3 provides that:

(3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
(a) *is compatible with the flood hazard of the land, and*
(b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
(c) *incorporates appropriate measures to manage risk to life from flood, and*
(d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river banks of waterways, and*
(e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

Clause 6.4 specifically provides the following:

(2) *This clause applies to land between the flood planning level and the level of a probable maximum flood, but does not apply to land subject to the discharge of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.*
(3) *Development consent must not be granted to development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not, in flood*

events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land:

At the time of writing this report, the Flood Impact Study and Flood Management Report being prepared by a qualified consultant in accordance with Chapter 11 of Fairfield City Wide DCP 2013 had not been completed.

No meaningful comments in relation to these Clauses of the LEP have been able to be made and it has not been possible to ascertain the appropriateness of any floor levels within the building. This can be resolved at the appropriate time during the assessment process.

3.4 Provision of relevant Draft Environmental Planning Instruments

Section 79C (1)(a)(ii) requires Council to consider the Provisions of relevant Draft Environmental Planning Instruments. It is understood that no relevant draft instruments apply to this proposal.

3.5 Provisions of relevant Development Control Plans

Section 79C (1)(a)(iii) of the act requires the consideration of Fairfield City Wide Development Control Plan 2013. Council has confirmed that Chapters 7 and 12 are the relevant sections applying to this proposal.

However Section 79C (3A) of the Act further clarifies the way in which Council must consider a DCP. Subclause (b) relates specifically to the way DCP's are applied:

(3A) Development control plans If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with

> *those standards - is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development,*

These changes were introduced in the Environmental Planning and Assessment Bill 2012. They provide for a fundamental shift in the role and importance of DCPs which will be only to provide 'guidance' to implementing the aims of Environmental Planning Instruments (EPIs) and achieving the objectives of the zone. As such, the consent authority will be required to give less weight and significance to provisions of a DCP than those of an EPI and will no longer be permitted to place determinative weight on DCP controls because of their prior consistent application.

Reflecting this, the Bill amended Section 74C(5) of the Act:

> *A provision of a development control plan (whenever made) has no effect to the extent that:*
>
> *(a) it is the same or substantially the same as a provision of an environmental planning instrument applying to the same land, or*
>
> *(b) it is inconsistent or incompatible with a provision of any such instrument.*

The objectives and principles of the DCP have guided the overall proposal. To avoid unnecessary overlapping, any common issue addressed in SEPP 65 or FLEP 2012 have not be addressed again in this section.

3.5.1 DCP Chapter 7 – Residential Flat Buildings

This chapter "*applies to residential flat buildings and shop top housing over two storeys in height*" and so this section is relevant to this application.

Accessible and flexible units (Section 7.2.2)	
Relevant Control	Comment
A statement on how the development will comply with the provisions of the Disability Discrimination Act, and follow the accessibility standard set out in Australian Standard AS 1428	Refer to Appendix 11.
1 accessible unit per 10 units	With 119 units proposed, this would require twelve (12) units to be accessible. These twelve units are provided within the

3. Planning Controls

	development and marked accordingly on the plans.
c) Ramps should have gradients not exceeding 1 in 14, and have an even, non-slip surface,	Complies. Evident in design.
d) Developments must provide barrier free access to at least 20 percent of dwellings in the development,	Complies. Evident in design.
e) Pedestrians must be able to identify the access points from the street or car parking area to the apartment entrance,	Complies. The main entry is adjacent to the curved corner of the building which now has activated retail space at ground level.
f) Pathways and corridors must be well illuminated and directional signs/notices be easily read,	Complies. Evident in design.
g) A mix of one and three-bedroom apartments on the ground level where accessibility is more easily achieved for the disabled, elderly people or families with children is to be provided,	Ground level commercial means all units have lift access.
h) Ground floor apartments must be provided with separate entries and access to private open space, preferably as a terrace or garden, wherever possible.	Ground level suites are all commercial. There are no ground level residential units.
Drainage and Stormwater Detention (7.2.3)	
Relevant Control	Comment
A concept plan demonstrating how the development will be drained must be submitted with the development application.	A stormwater management plan and hydraulic engineering report is attached at Appendix 5.
If drainage involves the installation of a pipeline across adjoining or nearby properties, an "Easement to Drain Water" will be required to be created prior to release of an operational Development Consent.	N/A
a) On-site stormwater detention (OSD) is required for residential flat buildings	Detention is proposed in the basement area. Details attached at Appendix 5.
c) Private open space areas are not to be used for OSD.	Detention is proposed in the basement area.
e) Permissible site discharges (PSD) are as follows: i. The PSD for the 9 hour 1 in 100 year Annual Recurrence Interval (ARI) storm event is to be 140 litre/second/hectare, ii. The PSD for the shorter duration 1 in 5 year ARI storm event is to be the undeveloped site discharge for the corresponding storm event, and	Refer to Appendix 5 reports and plans.

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iii. The PSD for the shorter duration 1 in 100 year ARI storm even is to be the undeveloped site discharge for the corresponding storm event.	
f) In the interest of safety and amenity, ponded water depths are not to exceed: i Parking/paved areas 0.2 metres, ii Landscaping 0.5 metres, iii Covered storage no limit, iv Fenced storage no limit, and v Roof area (as required for structural integrity).	Refer to Appendix 5 reports and plans.
Finished habitable floor levels – 0.3 metres above the maximum 1 in 100 year OSD water surface level.	Refer to Appendix 5 reports and plans.
7.3.3 Building Setbacks	
Relevant Control	Comment
The objectives for building setbacks are: • To establish a desired consistent street setback; • To provide for building separation to promote visual and acoustic privacy between apartments; • To provide for road improvements required at specified intersections and local roads; • To allow for landscaping to the street and between buildings and maximise the opportunity to retain and promote mature vegetation; and • To maintain deep soil zones to maximise natural site drainage and protect the water table.	Setback controls apply to residential development in the R4 zone. This proposal generally mirrors setbacks from a previous approval and are appropriate in the context and having regard to these objectives.
Building Articulation (7.3.4)	
Relevant Control	Comment
a) Building facades shall: i define a base, middle and top related to the overall proportion of the building by using cornices, a change in materials or building setback; ii reflect the orientation of the site using elements such as sun shading, light shelves and bay windows as environmental controls, depending on the facade orientation; iii express the internal layout of the building, for example, vertical bays or its structure, such as party wall-divisions and the variation in floor to floor height, particularly at the lower levels; iv articulate building entries with awnings, porticos, recesses, blade walls and projecting bays v use recessed balconies and deep windows to create articulation and define shadows thereby adding visual depth to the façade;	The design for this site has been designed in accordance with well-established principles of quality residential buildings (as set out in this section of the DCP). Compliance with these principles is evident in design. This design is also a strong expression of the client desires as well as those of the project architect. This reality is important to consider in the integration of client expression within policy guidelines.

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vi express important corners by giving visual prominence to parts of the facade, for example, a change in building articulation, material or colour, roof expression or increased height; vii co-ordinate and integrate building services and utility items, such as drainage pipes; and security grills/screens, ventilation louvers and car park entry doors with overall facade and balcony design.	This project performs admirably in this regard. A key feature of the site is the curved corner of the building with the ground level retail activation. All facades present well to the public domain.
Visual Amenity and Acoustic Privacy (7.4.2)	
Relevant Control	Comment
Privacy: a) Design building layouts to minimise direct overlooking of rooms and private open spaces adjacent to apartments.	These issued underpin the overall design of the building as required by SEPP 65. The site has three street frontages and so very little overlooking is possible to other sites. This also creates a building with three street presentations which is also attractive.
b) Use detailed site and building design to increase privacy without compromising access to light and air which may include offset windows, recessed balconies and louvers or screen panels to windows and balconies.	
Acoustic controls: a) Noise transmission BCA requirements - development must comply with the noise transmission requirements of the Building Code of Australia 2004. Noise transmission must be minimised through the design of internal layouts of apartments and the location of courtyards, terraces/ balconies, and openings.	This is comprehensively addressed in the Acoustic Report attached at Appendix 10. The building complies in this regard. The site is not located on a main designated road.
e) Land use conflicts between existing and new development – Noise attenuation measures must be incorporated into all new residential development proposed near an existing retail/commercial property that generates noise at times or levels not compatible with residential living. An acoustic assessment and proposed acoustic attenuation measures are to be detailed in an Acoustic Report prepared by an Acoustic Engineer or suitably qualified individual. f) Air conditioning units proposed are to be detailed in the acoustic assessment.	These matters are addressed in the Acoustic Report (Appendix 10). This site is located over the road from some employment uses and this has been considered in the overall assessment. Recommendations are made in the report.
Private Open Space (7.4.4)	

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Relevant Control	Comment
(a) Each dwelling shall have the following minimum primary private open space area in the form of a balcony/ terrace or courtyard and horizontal dimensions: Dwelling area < 85m2 = 10m2 with min horizontal dimension of 2m Dwelling area > 85m2 = 15m2 with min horizontal dimension of 2.4m	Complies in all regards.
(c) All primary balconies shall be no deeper than 4m to ensure sunlight penetration into all dwellings.	Complies.
(d) Balconies shall be recessed and partially enclosed. All balconies must be entirely contained within the building envelopes as shown in Section 4 except, balconies on elevations directly fronting a primary street where the balcony may extend a maximum of 1 metre outside the envelope.	Complies. Evident in design.
(e) Balcony design should take into consideration the issues identified in the site analysis and be located, oriented and designed to address the following issues:- i. take advantage of views and any natural features; ii. minimise overlooking of adjoining dwellings; iii. maximise solar access;	Evident in design.
(f) The use of balconies for storage and clothes drying uses often impacts on views from the public domain and other units. Where balconies are clearly visible from the street or other properties the design of the balcony must address the following issues: i. A screened drying cupboard area should be provided as part of the balcony, ideally with good access to natural light, ii. The balustrade design and materials should be a mix of solid and opaque elements. The more prominent the balcony is in views from the public domain and adjoining resident the greater the proportion of solid materials in the balustrade to filter views of anything stored on the balcony. Council will require any balcony located on the first five floors of a building to be made from a mix of materials so that 75% of the balustrade is solid (not opaque), iii. Where the balcony is on an elevation facing a primary street frontage this requirement will be applied to all balcony balustrades on all levels unless the	Evident in design. Not provided. Storage is within each unit and the basement. Yes.

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designer can demonstrate that the impact has been addressed using alternate means. iv. The underside of balconies must provide an attractive appearance to the street and to the dwelling underneath.	
7.4.5 Common open space	
Relevant Control	Comment
The area of open space should generally be between 25 – 30% of the site.	Complies. The area of common open space almost 79% of the site area.
Common open space: a) should incorporate a minimum 25% of deep soil zone. b) be located within a north, north-east orientation. c) must be accessible from all dwellings within the development. d) should only be accessible from within the site. e) should be overlooked by living areas. f) should ideally be centrally located rather than at the rear or front of a development site g) should include features such as seating, shade structures, child play equipment or barbeques to satisfy the recreation needs of all residents. h) Is not to include in its area calculation clothes drying areas, driveways and parking areas. i) may only be used for detention basins if the height difference between natural ground level and the lowest level of the basin is not more than 0.5 metres.	This site does not have any true deep soil planting which is common for most B2 zoned land. In this regard then raised planter boxes have been included which provide a typical soil depth that mirrors deep soil areas. The open space is primarily provided on the roof top and is in excess of requirements. 79% of the site area is provided and 29% of the landscaped area is deep soil area. Podium open space is also provided. The open space is accessible to all dwellings and is only accessible from within the site. A landscaped plan is attached with the architectural plans and shows the treatment of this area.
Safety and Security (7.4.6)	
Relevant Control	Comment
a) All areas in a development should be clearly recognisable as either private, common or public space. b) A dwelling with street frontage should have a clear view of the footpath. c) Wall mounted night lighting in internal and external common area including along all driveways and	Evident in design. There are no ground level residential units. Common entries are well communicated and access-ways within the site are clearly identifiable.

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footpaths must be provided throughout the site. As part of the Development Application a lighting plan may be required to be submitted that incorporates the following elements: i Use of energy efficient diffused lights and/or movement sensitive lights; ii Lights directed towards access/egress routes to illuminate potential offenders, rather than towards buildings or resident observation points; iii Lighting with a wide beam of illumination reaching the beam of the next light, or the perimeter of the site or area being traversed d) Barriers to prevent movement between roof spaces of adjoining dwellings will be required. e) Dwellings must have a child-proof storage place for poisons or other dangerous substances.	The first floor terrace area has been carefully treated given that first floor units have direct access. In this instance courtyard walls with gates are provided as a barrier between the private and public area. Provision exists within all units for safe storage areas as required.
Car parking (7.5.1)	
Relevant Control	Comment
Off-street parking spaces must be provided as set out below: i 1 space per dwelling, and ii 1 visitor space per 4 dwellings where a development has more than 2 proposed dwellings.	The proposal incorporates 119 residential units. This requires 119 spaces for units and 30 spaces for visitors. The proposal meets this requirement for residential units. 21 spaces are also provided for the commercial floor area resulting in a total of 170 spaces. This complies with the controls once parking credits have been considered.
b) Dimensions for parking spaces and turning areas must be in accordance with AS/NZS 2890.1;2004 Parking Facilities – Off-Street Car Parking and the Car Parking Chapter of the City Wide DCP.	Evident in design.
Vehicle Access Controls (7.5.2)	
Relevant Control	Comment
a) Driveway design must be in accordance with AS/NZS 2890.1;2004 Parking Facilities – Off-Street Car Parking and the Car Parking Chapter of the City Wide DCP, noting the need to accommodate regular garbage truck movements and delivery/removalist vans.	Evident in design. The proposed loading dock is access via the public car park at the western side of the site. This was in line with Council's suggestion at the pre-DA meeting.

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b) Driveway location and vehicle access to properties should be at least 30 metres or as far as possible from an intersection with a State or regional road. c) Vehicle entries must be located away from main pedestrian entries and on secondary frontages and not be obstructed by power/telephone poles, meter boxes etc. d) Driveway width is generally limited to a maximum of six metres and should be minimised to increase landscaped area while providing adequate space for vehicles to manoeuvre and pass at slow speeds. e) Driveway length should be minimised where possible by being broken into bays through the use of landscape nodes.	The driveway entry is from Kamira Court next to the public car parking entry. This is well away from the pedestrian entry point. Driveway widths and lengths are appropriate and compliant with these controls.
Waste Collection (7.6.1)	
Relevant Control	Comment
All residential flat buildings four storeys and higher shall be provided with a comprehensive waste management system. (a) A Waste Management Plan must be submitted as part of the approval process and shall incorporate the following: *Several items listed in DCP*	A waste management plan (WMP) has been prepared and is attached at Appendix 6. The building comprises three central lift core areas and this area also includes garbage chutes. This is all collected in common garbage rooms within the basement. This arrangement adequately meets the DCP requirements noted for this issue. Refer to WMP.
Services	
Relevant Control	Comment
Electricity, water, sewerage, satellite dishes, TV, telephone, mail	All required services will meet or are capable of meeting provider requirements.
Landscape Design (7.7.1)	
Relevant Control	Comment
a) Landscaping is to: i. be prepared for the site by a landscape architect or other accredited professional with demonstrated experience. Refer to Landscape Planning Appendix for Landscaping Principles when seeking to prepare a landscape plan.	The plans have been prepared by an appropriate designer. The site is already fully built upon however deep soil is provided through raised

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ii. provide a deep soil zone of no less than 25% of the required open space area which adjoins deep soil zones of neighbouring properties where possible.	planter tubs and well exceed 25% of the required area. Refer to landscape plan within the plans at Appendix 2.
Fences and walls should be designed to define the boundaries between the development; provide privacy and security and contribute positively to the public domain.	No fences are proposed or required for this development given the overall site coverage. The ground level retail requires activation not separation.
Car parking requirements (12.1.1)	
Relevant Control	Comment
Table 1 requirements: Retail/ commercial/ office: 1 space per 40m2 Café: 1 space per 7m2 GFA Shop Top housing: 1 space per dwelling 1 visitor parking space per four (4) dwellings 12.1.2 – Parking Credits A parking credit is available when you are developing a site already occupied by a building.	This results in a requirement of: • 21 Commercial spaces (based on 1 per 63m2 after parking credits are considered.) • 119 residential spaces • 30 visitor spaces • **170 Total Spaces** Refer to Section 2.3 of this Statement for detailed breakdowns.
Dimension of Spaces and Aisles (12.2.1 – 12.2.2)	
Relevant Control	Comment
a) This DCP adopts the provisions contained in the following Australian Standard: i. Australian Standard 2890.1:2004 – Parking facilities - Off-street car parking	Complies. Evident in design.
Dead End Aisles a) Dead end aisles are generally not accepted for the following reasons: - they do not allow through-flow of traffic - they pose difficulties for vehicles exiting the rear bays b) Council may consider an exception to the above rule if the car park: - has a capacity not exceeding 7 vehicles - has a capacity of 14 vehicles in an opposing layout - is reserved for a low turnover use (such as for employees)	Non-compliance. Site dimensions are such that dead end isles are required at the southern end of the basement. This design is efficient and meets Australian Standards for bay and isle widths. This provision over-rides any DCP requirement. This area will be confined to lower volumes of movement and allocated to residential units.
Headroom (12.2.3)	

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Relevant Control	Comment
Headroom is defined as the vertical distance between the surface level of the car park and the lowest point of any roof or structure above it. a) In order to ensure satisfactory access for a reasonable range of cars, vans and four wheel drive vehicles, the minimum clear headroom required in an undercover parking area is 2.5 metres. b) The above requirement may be reduced to 2.2 metres provided that all relevant aspects of Australian Standard 2890.1:2004 – Parking facilities - Off-street car parking are addressed.	Complies. Evident in design.
Streetscape and Car Parking (12.2.4) and general controls (12.2.5 – 12.2.16)	
Relevant Control	Comment
a) In commercial centres priority should be given to the needs of pedestrians. In this regard vehicles should gain access from rear lanes or side streets rather than from main streets which have greater pedestrian traffic; b) Parking/loading bays will not be permitted in the front setback areas of commercial centres because this creates an undesirable streetscape character and disrupts pedestrian movement; c) In those areas where a number of sites have redevelopment potential, joint or shared access should be considered in order to minimize conflict points between pedestrians and vehicles; d) The design and location of vehicular access points should not interrupt the continuity of a streetscape. Footpath re-direction to allow vehicular access will not be permitted; e) Entry/exit points should be clearly identified. Larger sites or those with a high vehicle turnover (such as shopping centres) should provide separate entry/exit points to minimize potential vehicle conflict. f) On-street queuing of vehicles should be minimized through the creation of adequate on-site "waiting areas". The depth of the queuing bays required will depend on the traffic expected to be generated by the development.	The proposed parking arrangement is accessed from the rear of the building via the car parking area south-west of the site. At the request of Council the loading bay is also at the rear of the building and centrally located. The intent of these provisions are met.

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Detailed controls are provided for ramp widths, aisle directions, manoeuvring, layouts, landscaping, line marking, materials, boom gates, signage and lighting	The proposal generally complies with these controls – many of which repeat Australian Standards. No landscaping is relevant to the basement for obvious reasons. A security gate will be proposed and lighting will be installed appropriate to the laneway and adjoining car parking area.
12.3.1 - Drivers with a disability Specific controls are provided. A minimum of 2 spaces in every 100 spaces provided is to be designated for use by drivers with a disability.	All car spaces for drivers with a disability are clearly marked and have appropriate widths and shared zones. 4 spaces are provided to meet this requirement. They are located near the main lift well. The Accessibility Report at Appendix 11 deals with this matter.
12.3.3 - Bicycles To encourage the use of bicycles, new developments should incorporate appropriate bicycle parking/ storage facilities. Bicycle parking/storage facilities should be provided in accordance with the provisions of Australian Standard 2890:3:1993 – Parking facilities - Bicycle parking facilities.	Forty (40) bicycle spaces are proposed with thirty-two (32) at Basement Level 1 and four (4) each on Basement Levels 2 and 3.

Council did specifically request an "awning maintenance plan" in their pre-DA advice. This can be appropriately conditioned into any approved issued and then provided to council, however a plan has been provided to Council.

3.6 Agreements & Provisions of Regulations etc.

- Section 79(c)(1)(a)(iiia) requires consideration of any planning agreement entered into under Section 93F.
- Section 79(c)(1)(a)(iv) requires consideration of the EPA Regulation.
- Section 79(c)(1)(a)(v) requires consideration of any coastal zone management plan (within the meaning of the Coastal Protection Act 1979).

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3.6.1 Planning Agreements:

There is no planning agreement or draft agreements included in this proposal.

3.6.2 EPA Regulations:

It is understood that the Regulations have no direct relevance on this application and that no planning agreement has been entered into in respect of this site.

All demolition work will be undertaken in accordance with Clause 92 of the EPA Regulations 2000 requiring the consent authority to consider AS 2601 - 1991: The Demolition of Structures.

All building work will be carried out in accordance with Clause 98 of the EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia.

3.6.3 Coastal Zone Management Plan:

There is no CZM plan applicable to the site.

4. Impacts & Site Suitability

4.1 Likely Impact of Development

Section 79(c)(1)(b) requires consideration of the likely impact of the development. Details of the overall impact analysis have also been carried out in consideration of the LEP and DCP as noted above. An analysis of the potential impacts is summarised below.

4.1.1 Context & Setting; Potential impacts on adjoining properties

Context and Setting:

Villawood is a small centre located around heavy rail transport. It is going to emerge as an area capable of significant density increases. Nearby land-uses are generally residential, commercial and industrial and these are all compatible with the proposed development subject to appropriate mitigation.

The vision for the main road however is for buildings within the 26m height limit of eight storeys at this location, as set out in the Villawood Structure Plan.

In terms of overall context, the proposed development is suitable and appropriate having regard to the overall context.

Potential impacts:

As demonstrated in the Shadow Analysis, the built form and site orientation generally avoids major overshadowing to other properties. This is made easier by the location of the roads around the site's perimeter. This also negate significant overlooking to other properties. A zero setback is provided along the southern boundary which will enable another building to butt up against this wall in the future.

The site is an established commercial site and no significant natural environmental assets exist on the site.

Importantly the additional height of the lift overruns does not create any significant new impact than what would otherwise exist. The southern sites are within the B2 zone however do have a lower height than the subject site.

4. Impacts & Site Suitability

The site to the south is smaller than the subject site however remains feasible to be developed in its own right. There is Court precedent for managing sites like this and others which have been unable to complete what may be considered an 'appropriate' amalgamation. In summary:

1. The consideration of materially relevant objects of the legislation is important for good decision-making, and thus good town planning (Minister for Planning v Walker (2008) 161 LGERA 423 at [55]). Thus the objects of the Act and in particular Section 5(a)(ii), being to encourage the promotion and co-ordination of the orderly and economic use and development of land, can be relevant in considering these planning merit issues including as a matter relevant to the public interest under s 79C(1)(e).

2. Provided the design is sound, Council can reasonably form the opinion that the development proposal is consistent with the objects of the Act and in particular Section 5(a)(ii), noting that ultimately, the weight to be given to the matters for consideration under Section 79C, including the public interest, is a matter for the decision-maker (Minister for Aboriginal Affairs v Peko-Wallsend Ltd (1986) 162 CLR 24). That a site may become isolated is relevant to the planning merits of a proposal, but is far from determinative. So much may be seen from such cases as Karavellas v Sutherland Shire Council [2004] NSWLEC 251, Cornerstone Property Group Pty Limited v Warringah Council [2004] NSWLEC 189 and Ben Boyd Constructions Pty Limited v Willoughby City Council [2006] NSWLEC 794. Those cases applied the well-known planning principle in Grech v Auburn Council [2004] NSWLEC 40, and each concluded that site isolation should not preclude approval of the application.

3. In Karavellas, the Court considered a development application for the construction of two residential flat buildings with basement car parking. The Council's development control plan identified the subject site together with a neighbouring site as a minimum amalgamated development site. The proposed development did not include the neighbouring site and thus did not comply with the minimum allotment size. The Court found that although amalgamation of the sites was likely to achieve a better planning outcome, the non-compliance was reasonable given that sufficient attempts had been made to amalgamate the sites without success, and that reasonable development of the neighbouring site was likely to be achieved as an isolated site

4. In Cornerstone Property Group, the Court considered a development application for a mixed commercial and residential flat building. Adjoining the subject site to the north was a commercial building which, it was contended, and indeed accepted by the Council, would become isolated between the proposed development and a cinema on a corner site. The evidence from all the parties was that attempts to amalgamate the properties had proved to be unsuccessful and that an appropriate redevelopment of the commercial building site would not be unreasonably restricted by the subject proposal.

This situation is similar in context. It is understood that no significant attempts have been made to acquire this site but its size is sufficient for an appropriate-scaled mixed use development and therefore is not isolate to any detrimental degree.

It then remains to examine the planning merits of this proposal.

4.1.2 Access, transport and traffic

The Traffic Report provided at **Appendix 9** has considered the existing and proposed traffic conditions as well as the appropriateness of the proposed number of car parking spaces and traffic generation of the proposal. The street systems in the area are adequate. Specifically the report concludes:

> *The assessment of the potential traffic, transport and parking implications of the development scheme has concluded that:*
> - *the proposed vehicle arrangements will be suitable and appropriate*
> - *there will not be any unsatisfactory traffic implications*
> - *the proposed parking provision will be adequate and appropriate*

Council has requested that access is provided from Kamira Lane in order to preserve the main facades to the north and east. This has been achieved. Compliance with Australian Standards is evident in the Architectural Plans.

The site is well serviced by public transport and the mix of housing suited to higher density residential areas. This project is appropriate in this respect.

The site is readily able to achieve compliance with respect to Accessibility issues as well. A specialist report on this matter is attached at **Appendix 11** and concludes:

4. Impacts & Site Suitability

This report identifies the compliance status of the design with the relevant accessibility related DtS requirements of the Building Code of Australia 2014 (BCA) and AS4299-1995 adaptable housing.

The outcome of the report highlights that the current design contains some compliance departures with the DtS provisions of the BCA, however, such can be readily resolved by BCA Alternative Solution(s) or minor design changes, as nominated at Part 2.0 of this report.

The outcome of the report highlights that the current design contains no significant compliance departures with the provisions of AS4299 – Class C adaptable housing units and confirms the design is readily capable of complying by virtue of the provision of adaptation details as outlined within Part 3.0 of this report at the Construction Certificate stage. This report identifies the compliance status of the design with the relevant accessibility related DtS requirements of the Building Code of Australia 2014 (BCA) and AS4299-1995 adaptable housing.

4.1.3 Public domain

The proposal is a positive contribution to the public domain and helps define a very strong corner element towards the railway station to the north-east.

The facade of the building has been designed to provide a strong street presence whilst creating a well-articulated and modulated building form which responds to the unique shape of the site. The retail activation of the ground level assists greatly in this regard.

It is a significant building and one which is attractive within its context. The height of the lift overrun does not diminish the public domain. This site is capable of accommodating the height proposed notwithstanding the LEP controls currently do not allow for the lift overrun to breach the height limit.

As discussed in the SEPP 65 Design Verification Statement prepared by the project architect (**Appendix 3**), the proposal provides a contemporary built form which is appropriate in terms of bulk, density and scale in the local context. This is achieved by providing a quality mixed use development with a high level of privacy.

4. Impacts & Site Suitability

An activate roof top allows for a significant area of open space areas and vegetation. This will provide a far more attractive outlook for residents than the current situation. Passive surveillance will also be dramatically improved while privacy to adjoining dwellings maintained.

4.1.4 Heritage

The site is not a heritage item and nor is it within a heritage conservation area or near any item of significance.

4.1.5 Utilities; Other land resources; Water; Soils; Air and Microclimate; Flora & Fauna; Waste; Energy; Noise & vibration; Natural Hazards; Technological Hazards

The site contains adequate facilities which will be retained, reused and upgraded where needed to cater for the proposed residential development. All installations will be capable of meeting the requirements under the Australian Standards and the Building Code of Australia.

The proposal represents orderly and appropriate use of land resources and is a compliant building in the area in terms of sustainability.

Existing drainage conditions, proposed design and relevant impacts associated with development are contained in the Hydraulic and Stormwater Drainage Plans prepared at **Appendix 5**.

The site is generally flat and not subject to soil slip. No significant flora or fauna exist on the site. It is understood that the site in not contaminated.

Dust is anticipated during the construction period, particularly given demolition and excavation is involved. This impact can be managed through measures such as wetting down work areas/stockpiles, stabilising exposed areas, preventing material tracking out onto public roadways, covering loads on all departing trucks and working to weather conditions. The proposal is otherwise not expected to give rise to any long term or adverse impacts on local or regional air quality.

Noise from nearby main roads and industrial areas has been considered in the Acoustic and Vibration Assessment at **Appendix 10**. This report set out to:

- Conduct an external noise impact assessment (primarily rail and traffic noise) and recommend acoustic treatments to ensure that a reasonable level of amenity is achieved for future occupants.
- Conduct a rail vibration impact assessment and if necessary provide recommendations regarding vibration isolation.

Railway noise and vibration levels at the site have been measured and assessed in accordance with Council requirements, the NSW Department of Planning SEPP Infrastructure 2007 and Australian Standard AS2107:2000.

The report concludes that specific glazing and sealing methods be adopted during the construction phase for the building. These recommendations are all achievable and can be addressed at the Construction Certificate stage.

An integrated and accessible garbage collection and management system is provided as per Council's DCP. A Waste Management Report prepared at **Appendix 6** and discusses the waste storage situation and the waste chutes from upper levels. This report also includes several recommendations for construction and function of the various aspects of the facility.

4.1.6 Safety, Security & Crime Prevention; Social impact in the locality; Economic impact in the locality

The proposed development of the site seeks to provide a high level of amenity, casual surveillance and ultimately public safety within the building and surrounding area. Properly designed, residential buildings generally perform well in this respect. This site enjoys three (3) street frontages and performs well in this regard. Given its location to the railway station this is desirable.

The proposal will make a positive contribution to revitalising this area and activating a very unique building located on a significant site in Villawood. This will be highly beneficial to this locality.

High quality new buildings in a precinct serve to enhance the entire area and also stimulate new business which in turn makes an area better serviced by good businesses. This is a social and economic advantage that will result from this proposal.

Crime Prevention through Environmental Design (CPTED) is a recognised model which provides that if development is appropriately designed it can reduce the

likelihood of crimes being committed. By introducing CPTED measures within the design of the development, it is anticipated that this will assist in minimising the incidence of crime and contribute to perceptions of increased public safety. The proposal has been designed to take into consideration these principles as follows:-

Surveillance: This principle provides effective passive surveillance to public areas, particularly the surrounding streets in this instance. In this regard, the development has been designed to directly front Villawood Road and Villawood Lane with upper level balconies. Ground level retail uses assist greatly as well.

Territorial Reinforcement: This principle provides that well-used places reduce opportunities for crime and increase risk to criminals. There is a clear delineation between the street and footpath verge and the point of entry is very clearly defined through building form, retail spaces and the main entry to the building.

Space Management: This principle provides that space which is appropriately utilised and well cared for reduces the risk of crime and antisocial behaviour. The ground level retail space works towards this outcome.

Accessible units are provided in the building as required.

4.1.7 Site Design and internal design

The proposed development has been designed with particular attention to the amenity of its future occupants, neighbouring properties and the public domain. As discussed in the SEPP 65 Design Verification Statement provided at **Appendix 3**, the development is responsive to the opportunities and constraints of the site and its surrounds with regard to the one neighbouring building, noise and physical impacts of street traffic, solar access and views.

A previous approval for this site, generally adopted zero or small setbacks and these have been repeated in this application.

Careful consideration has been undertaken to mitigate potential aspects of the design which could degrade the quality and liveability of the units both individually and for the development as a whole. We consider the amenity of the development to be of high quality and a desirable outcome. The long northern and eastern walls of the building also provides much opportunity for maximising natural light and the building performs well in this regard.

4. Impacts & Site Suitability

The common open space area is located on the roof top and the first floor terrace which is suitable for a B2 zone.

4.1.8 Construction; Cumulative Impacts

Cumulative impacts of the proposal will generally be positive as the development will activate the street improving pedestrian safety and security, enhance the public domain through an improvement in the architectural quality of the built environment. This is a unique design and represents an exciting opportunity for an emerging local centres to achieve greater levels of design excellence and greater number of people living in proximity to transport nodes and employment lands.

Accompanying the application is a BCA Compliance Report (**Appendix 8**). This report provides a BCA compliance review of the proposal and recommendations to ensure that the proposed building is capable of achieving compliance with the requirements of the BCA and relevant adopted standards without undue modification to the design or appearance of the building.

Compliance with the BCA will be demonstrated with the Construction Certificate documentation.

4.2 Suitability of the Site

Section 79(c)(1)(c) requires consideration of the suitability of the site.

4.2.1 Proposal fits in the locality

The area is zoned for medium density mixed use development as part of the broader town centre vision. This proposal is appropriate for the precinct around the railway station where maximum height should be encouraged. The minor breach in height should not compromise a key site like this one from providing as much density as possible, particularly given the housing initiatives adopted in the NSW Government's A Plan for Growing Sydney.

4. Impacts & Site Suitability

4.2.2 Site attributes conducive to development

The block and topography provide for a unique building with a strong street presence. The depth of the site and three street frontages provides significant building separation distances and also allows for three active facades.

The site attributes are very suitable for the building proposed.

There are no natural features of the site that preclude development. The site is flood affected however, and appropriate basement levels and detention have been utilised in this respect and expert advice obtained.

4.3 Submissions

Section 79(c)(1)(d) requires assessment by Council following exhibition.

4.4 The Public Interest

s79C (1)(e) requires the public interest to be considered. At this stage there are no known issues of public interest relevant to this application at this stage.

Pursuant to case law of Ex Gratia P/L v Dungog Council (NSWLEC 148), the question that needs to be answered is "*Whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development*".

The proposal has been designed in the interest of transforming the site into an attractive higher density mixed use environment within an area identified area for significant growth. The physical appearance of the built form will contribute to the streetscape and complement the adjoining residential and commercial developments setting a strong architectural standard that would be a precedent for future development around Villawood Station.

There are no unreasonable impacts that will result from the proposed development and it is therefore the benefits outweigh any disadvantages.

5. Conclusion

This application seeks approval for an eight (8) storey mixed use development with a total of one hundred and nineteen (119) residential apartments above ground level commercial suites.

The proposed development is an appropriate response to the characteristics of the site, its immediate surroundings and locality, particularly having regard to the site's unique L-shape and splayed corner at the north-eastern corner. This will be an iconic building and one that assists in creating an interesting, high-quality streetscape with a strong 'green element' built into the façade design. The facade treatment and balcony design clearly illustrates this.

The proposal complies with most policy controls however does exceed the height control at the lift overruns only. A Clause 4.6 objection has been prepared in this regard.

The site conditions and the absence of major impacts other any other site make this a precinct where medium-rise residential towers are appropriate and desirable.

Given the previous approval on the site and compliance with number of storeys in the Villawood Structure Plan, this proposal has merit and is worthy of approval.

Good planning is largely about 'appropriate outcomes' and consider this proposal represents an appropriate outcome for the site and indeed will provide for sustainable housing in a very attractive building. This project supports the direction of the State Government in meeting housing demand and assisting with affordability issues.

Tim Stewart
Town Planner