

**TO:** Sydney Western City Planning Panel

**REPORT:** Supplementary SWCPP Report

**FILE No:** DA 384.1/2021  
PAN-138481  
PPSSWC-221

**SUBJECT:**

<b>Property:</b>	Lot 37 in DP202006, Lot 39 in DP202006, Lot 136 in DP16186, Lot 381 in DP1232437 and Lot 382 in DP1232437 at No. 2 Kamira Court, Villawood (Total of five (5) lots).
<b>Application lodged</b>	21 October 2021
<b>Applicant</b>	Adam Byrnes (Think Planners)
<b>Owner</b>	NSW Land and Housing Corporation
<b>Application No.</b>	DA 384.1/2021
<b>NSW Planning Portal Application No.</b>	PAN-138481
<b>Planning Panel Reference No.</b>	PPSSWC-221
<b>Proposed Development</b>	Stage 1 of the Redevelopment of No. 2 Kamira Court within the Villawood Town Centre, involving Tree Removal, Construction of a 8-10 Storey Mixed Use Development comprising Information and Education facility with ancillary Cafe on the ground floor, 112 Residential Units, Public Open Space, a Podium Car Park comprising 119 Car Parking Spaces, associated Road Works and Landscaping pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.
<b>Cost of Works</b>	CIV = \$29,271,348
<b>Zoning</b>	R4 High Residential under the Fairfield LEP 2013

**Assessing Officer:** Geraldine Pham – Senior Development Planner

**Date of Report:** 24 February 2023

## ATTACHMENTS

**Attachment A** – Additional information submitted by the Applicant

**Attachment B** – Council's response to Applicant's proposed changes to Conditions of Consent

**Attachment C** – Updated draft Conditions of Consent

Reference is made to the abovementioned development application and the Final Briefing Meeting to be held via Microsoft Teams on Monday 27 February 2023. Council received additional information from the Applicant on Monday 13 February 2023 including revised plans, proposed amendments to Council's draft conditions and responses to Council's reasons for refusal. Council has reviewed the additional information submitted and Council's responses are provided in the body of this Supplementary report and the attached documents (Attachment B – Responses to the proposed changes to Conditions of Consent).

## **BACKGROUND**

The proposal is for Stage 1 of the Redevelopment of No. 2 Kamira Court within the Villawood Town Centre, involving Tree Removal, Construction of a 8-10 Storey Mixed Use Development comprising Information and Education facility with ancillary Cafe on the ground floor, 112 Residential Units, Public Open Space, a Podium Car Park comprising 119 Car Parking Spaces, associated Road Works and Landscaping pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.

The last Panel meeting was held on 16 December 2022 where the Panel was briefed on Council's assessment of the amended application. A number of issues were discussed including the development achieving design excellence, the provision of podium parking and the number of social housing units provided. During the meeting, the Panel requested that Council complete its assessment report including draft conditions. On the 21<sup>st</sup> of December 2022 Council provided the assessment report, reasons for refusal as well as draft conditions of consent in the event that the Panel decided to determine the application by way of approval.

The Panel also requested that the Applicant provide its response to the report and conditions in writing by 20 January 2023. On 27 January 2023, Council received a notification from the NSW Planning Panel with a note from the Applicant stating "This matter has been attended to and addressed in submitted amended information that was made to a subsequent RFI received from Council."

Despite the above, on the 13<sup>th</sup> of February 2023 Council received additional information from the Applicant including amended plans, amended landscape plans, amended BASIX certificate, a written response to the reasons for refusal and proposed amendments to the conditions of consent.

Council has been requested by the Panel's secretariat to prepare a supplementary report in response to the information provided by the applicant.

These documents have been assessed by Council Officers and Council's consultant urban designer/architect and a number of issues were still found to be unresolved. These are discussed further in the body of this supplementary report.

## **VILLAWOOD TOWN CENTRE DCP 2020**

The proposal involves the redevelopment of the LAHC site in which the development controls within the Villawood Town Centre Development Control Plan 2020 applies. The Proposed development relies upon a separate Planning Proposal and an amendment to the DCP 2020. On 23 September 2023, Fairfield Local Environmental Plan (LEP) 2013 (Amendment No.43) was gazetted. Council went through the process of updating the Villawood Town Centre 2020.

The amended Villawood Town Centre DCP was endorsed at Council's Outcomes Committee meeting on 6 December 2022 and was placed on public exhibition commencing from the 15<sup>th</sup> December 2022. The built form envisaged on the site in the Draft DCP is depicted below:



The proposed development has the following built form for Stage 1:



When Council was requested to provide an Assessment Report to the Panel, the assessment of the applicant's proposal against the building height controls within the draft DCP that was exhibited revealed a non-compliant building height within the 10 storey component on the south western corner of the building (as marked in blue).

Since the assessment report, the exhibition of the Draft Villawood DCP 2020 was adopted at Council's Outcomes Committee on 14 February 2023. The adopted DCP has further altered the build heights and forms and area as follows:





The applicant's proposal is consistent with the building height controls in the adopted DCP.

### **ASSESSMENT OF AMENDED APPLICATION**

Council in its Assessment Report dated 21 December 2022, identified a number of concerns and non-compliances which is as follows:

- Non-compliance with the Draft Villawood DCP 2020 noting that the number of stories exceeds the maximum permitted storeys as identified within the DCP
- Design Excellence has not been achieved as required by Clause 6.12 within Fairfield LEP 2013
- Above ground parking in the form of a 3-storey podium arrangement has not been appropriately sleeved, as required in the Draft DCP.
- Non-compliance with the number of social housing units provided
- Non-compliant building setback

- Pocket Park and Active uses
- Air-conditioning units located within balconies resulting in non-compliance with balcony sizes
- Tree Retention
- Podium planting
- Traffic matters
- Waste matters

In response to these matters the applicant has submitted further additional/amended documentation on 13 February 2023 in order to address the matters raised. The Applicant's amended documentation within attachment A of this report, includes the following;

- Amended Architectural Plans which include further façade articulation, RL level changes, changes to the size of the waste room, amendments to the Road alignment, updates to the Landscaping, addition of window hoods for visual privacy, new louvres, amendments to window locations, changes to internal seating arrangement, additions to skylights, changes to face material, introduction of new balconies and change to the composition of several units to a 2 bedroom and 1 bathroom unit.
- Amended Landscape Plans
- A Response from the Applicant to each of the Reasons for Refusal
- Revised BASIX certificate
- Response to the Draft Conditions of Consent

Council technical officers including the Independent Architect have assessed the amended documentation and responses submitted by the Applicant, and the key planning considerations with the application are identified below.

### Non-compliance with the Draft Villawood DCP 2020

As discussed above in this report, the Draft DCP was on public exhibition when Council's Assessment report was requested by the Sydney Western City Planning Panel to be prepared and submitted to the Panel for determination. Since the exhibition of the Draft DCP, further changes to the built form and heights have been made and the final DCP has since been adopted on 14 February 2023. The proposed built form and heights are now consistent with the recently adopted DCP 2020 and therefore this matter is considered addressed.

### Design Excellence

Council's Independent Architect has reviewed the amended information and the following is considered not to have been adequately addressed.

- ***Selection of preferred facade approach for upper building***

*The bricks proposed look to provide good contrast/ mix and I would expect the normal design /documentation/sampling process during construction to be managed by the*

*current architects to provide an acceptable outcome with conditions as proposed expanded to ensure this sampling/mock-up and approval process.*

- **Further detail of the podium carparking**

*There is a in principle acceptance of solid to void and materials massing of the podium however more detail on the actual metal screen detail is requested. Ideally it is of some depth 100 to 150 mm folded perforated or louvre not plate/ perforated flat sheet. The drawings are still not clear as the perspectives indicate louvre of folded element but sections show flush flat sheet. In addition a baffle needs to be designed and included on ceiling(or other effective area) to exclude lighting and reduce impact on neighbours and public domain when viewed from exterior.*

*The applicants recent letter included the description as EF-04: FC Sheeting Ribbed Profile. James Hardie – Axon Cladding with Dulux TeaHouse paint finish. This will similarly be detailed and final selected during design is not adequate.*

*There does need to be a detail that shows the construction outcome and illustrates the % of open area and depth of any ribbed metal so a full understanding of the sight and light impacts can be understood by council. This can be resolved potentially with condition (subject to council agreement) as proposed however it does need to include a detailed drawing and accurate description of what is proposed and lighting solution.*

- **Inclusion of artwork/lighting/signage on upper building facade at entry to laneway**

*While some signage appears at lower level walkway it does not incorporate artwork or is it at a height which would be effective as focal point when viewed across the carpark. This was discussed in some detail at the workshop however does not seem to have been included within the updated plans. It is recommended that an artwork be included as part of the DA and a process for design and installation as well as budget be included. It would also be wise to allow structure and power/digital connection point at high level for some future installation.*

- **POS and air conditioning**

*The Location of air conditioners on minimal balconies is not ideal as it will reduce the minimum POS m2. The drawings are also not clear as to where AC units and clothes lines will be located. The plans included show AC on balconies at level 3 only (DA203C), yet correspondence suggests there could be more locations. This level 3 is also an atypical level with larger balconies than the levels above. DKO design report page 65 also indicates clothes lines over AC units and pot plants which does have practical implications. While the applicant has stated that no ACs will be required for the social housing element, there have been instances within FCC jurisdictions where this has been requested later in the development phases leading to issues as*

*described here. Experience indicates that AC will be desirable.*

*The key issues are that of amenity and an issue of NCC safety when positioning any item on a balcony so as not to constitute a climbable object. The ADG requires minimum 2000mm width for 1 bed and the ability to comfortably fit an outdoor setting. (refer ADG 4E)*

*It is recommended that all balconies where AC is proposed to be indicated on plans together with clothes drying and where the balconies challenge the minimum requirements for amenity and safety, at the very least demonstrate the ADG amenity capability and meet NCC requirements through detailed furniture layouts.*

Given the above, it is not considered that sufficient information has been submitted to demonstrate that the proposal in its current form meets the requirements of Clause 6.12 Design Excellence given the above.

### **Above Ground Car Parking**

In Council's Assessment report, it was stated the following:

*The application in its current form involves the provision of car parking in a podium arrangement, which is considered an inappropriate arrangement. This arrangement results in design issues such as excessive bulk and scale, elongated corridors, car park façade, extensive distances to lifts and lost opportunities to provide high quality ground floor apartments and position back house areas in inconspicuous areas. If a basement car parking was provided (and it would appear even 1 level of basement car parking) then further GFA could be provided. In the redevelopment of Villawood Town Centre, there has been three (3) recent large Mixed Use Developments that have been approved all with basement car parking and no above ground car parking. No 1 Villawood that is adjacent to the site to the immediate east has been constructed with 4 levels of basement car parking and it is within the building envelopes envisaged in the DCP.*

It also noted that on Level 1 and 2 the podium car parking will face the Internal East/West pedestrian link and the Stage 2 development as well as face Howatt Street and Kamira Court.

The amended Application still maintains the podium car parking and therefore it is not considered that this matter has been resolved satisfactorily.

### **Social Housing Apartments**

The subject site contained 111 social housing units prior to them being demolished in 2006. The subject application involves the provision of 112 apartments including 32 social housing units. This represents a 28.6% of social housing apartments within the housing stock of



## Stage 1.

Council has recently received the development application for Stage 2 which involves the provision of 222 private units and no social housing units. Accordingly, the completed development will comprise of 32 social housing units and 302 private units. The amount of social housing units provided within the overall site once both stages are completed represents 9.6% of the housing stock. The redeveloped LAHC site will increase the dwelling yield on the site by 223 dwellings, however, will reduce the amount of social housing units by 79.

No changes have been made to the number of social units provided within Stage 1. Council has completed the assessment of the Stage 2 Application (No. 303.1/2022) which does not propose any social housing units within this application. Accordingly, Council's concerns remain in relation to this matter.

Furthermore, in the applicant's response letter dated 13 February 2023, the applicant advised that "In the coming days Council will also receive a letter from our clients lawyers addressing the social housing on the site." During the time of writing this report, no further information was received from the applicant regarding the social housing units. Accordingly, it is considered appropriate that if the Panel is of a mind to approve the Application, it is considered essential that a condition be imposed that requires the development provide a 30:70 ratio of social to private housing.

## Setback to Future Development (Stage 2)

It is noted that the northern setback on Level 4 does not comply with the setback requirements in the ADG. The proposed setback is 15.2m, the ADG requires 18m. The applicant has responded that "It is requested that the Stage 1 building be assessed on the merits as it currently stands and provide assessment to the Level 4 setback when it becomes relevant in the Stage 2 development assessment."

The Stage 2 application has been submitted to Council for assessment. Council has issued a letter to the Applicant which raises the non - compliance as a concern. Given that the site is an undeveloped Greenfield site located over a large parcel of land and is capable of complying with these standards, variations to building separation controls as proposed are considered unnecessary and therefore unacceptable in this circumstance.

## Pocket Park and Active Uses

The Amended Urban Design Study refers to the creation of a pocket park at the corner of Kamira Avenue and Howett Street. As outlined above, the peer review that was undertaken supported the introduction of this and recommended that non residential uses address the park given the commercial uses that would face this park from the adjoining approved Mixed Use development at No. 47 Pedestrian Mall. In support of this recommendation the DCP acknowledges this and therefore seeks an active street frontage to this park. This is depicted

in the figure below:



The amended application has not satisfactorily addressed this as the proposed development has been designed with limited active uses facing the Pocket park with most of the Back of House and services addressing it. Furthermore, the proposal still seeks to construct a substation within the park instead of within the built form which is inconsistent with all the other recent Mixed use Developments within Villawood Town Centre.

### **Air conditioning Units on Balconies**

Council raised concerns that the documentation does not clearly demonstrate that the dimensions and areas of the private open spaces (balconies) is compliant with the ADG development standards as a result of the exclusion of the area used to store the air conditioning units. It is not considered that an air-conditioning unit can be considered as an overall balcony furniture, and provide a useful addition to the balcony space. It appears that the air-conditioning unit is an obstruction to usable private open space.

The Applicant has responded to this matter and it is noted that air conditioning is not proposed for the social housing units. In the event that the developer does not wish to provide air conditioning units, ceiling fans should be provided and this will be recommended as a condition of consent.

In relation to the private apartments, the updated plans indicate AC units on the balconies of the apartments. Furthermore, there are clothes lines located over the AC units which may have practical implications.

In the applicant's response, the applicant stated "It is considered that the condenser units will not be a hinderance to private open space but serve as utility in the back corner of a balcony area which otherwise has minimal use. The condenser units will be placed on the slab and not "wall hung" so they cannot be seen by a person on the ground plane when looking up to the building." Council's concern relates to the loss of usable area within the private open spaces (balconies). As shown in the image below, Units 304 and 305 on Level 3 are provided with A/C units which reduce the total area of usable private open space within the minimum area of 15m<sup>2</sup>. This effectively results in a non-compliant POS, and is a matter that has also been raised by Council's urban Designer/Architect.



This matter is therefore considered not to be resolved satisfactorily.

### Tree Retention

At the time of writing this report Council's Tree Preservation Officer is still in the process of reviewing the amended application including the response provided by the Applicant. Once this is completed, their comments will be forwarded to the Panel.

### Podium Planting

At the time of writing this report Council's Tree Preservation Officer is still in the process of reviewing the amended application including the response provided by the Applicant. Once this is completed, their comments will be forwarded to the Panel.

### Traffic Engineering

At the time of writing this report Council's Traffic Engineering Officer is still in the process of

reviewing the amended application including the response provided by the Applicant. Once this is completed, their comments will be forwarded to the Panel.

## Waste Engineering

The amended application was referred to Council's Waste Officer. Council's Waste Branch does not raise any further concerns to the Application and has provided the following condition which will be included in the draft consent:

### **Waste Room Door**

*An alternative door arrangement for the door blocking the vehicle path on the ground floor shall be implemented into the plans prior to the issue of the Construction Certificate.*

Some of the matters raised in Council's Assessment report have been addressed however, there are still concerns that remain and have not been satisfactorily addressed.

## RESPONSE TO DRAFT CONDITIONS OF CONSENT

In the Applicant's submission on the 13<sup>th</sup> February, a response to the Draft Conditions of Consent were provided. A response to this is provided within Attachment B of this report.

## RECOMMENDATION

Council's reassessment of the amended documentation has determined that not all the concerns raised in Council's original assessment have been satisfactorily addressed. Council's concerns raised in the assessment report dated 21 December 2022 remain unresolved and considered relevant. Accordingly, Council is not in a position to support the proposal and it is considered that the following options identified below would be available to the Panel as part of its deliberation and/or determination of the application as follows;

- I. Provide a further opportunity to the Applicant to amend the Application to ensure the development exhibits design excellence, appropriately sleeve the 3-storey podium car parking spaces and provide further social housing units.
- II. Refuse the Application as submitted in accordance with the reasons within Attachment T of the assessment report dated 21 December 2022.
- III. If the Panel forms an alternate view regarding the assessment of the Application, then the application be approved. Should the Panel decide to approve the Application, it is considered appropriate that a Deferred Commencement be issued subject to the VPA presently under consideration being executed with respect to the subject site and in accordance with the updated draft conditions in Attachment C of this supplementary report.