

DETERMINATION AND STATEMENT OF REASONS

SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	11 June 2025
DATE OF PANEL DECISION	11 June 2025
DATE OF PANEL BRIEFING	23 September 2024
PANEL MEMBERS	Justin Doyle (Chair), David Kitto, Greg Woodhams
APOLOGIES	None
DECLARATIONS OF INTEREST	Louise Camenzuli declared a conflict of interest - her firm is currently acting for Moes NSW. She does not act for Traders in Purple but considers that there may be a reasonably perceived conflict of interest. The Council representatives voted on the VPA for the development and have also declared a conflict of interest.

MATTER DETERMINED

PPSSWC-281 – Fairfield – DA 303.1/2022 – 2 Kamira Avenue, Villawood - Stage 2 of the Redevelopment of No. 2 Kamira Court within the Villawood Town Centre comprising a combination of 8-11 storey Mixed Use buildings containing a total of 228 residential units, a community facility, supermarket, retail premises, medical centre, associated landscaping and road works, car parking located with a basement and above ground (levels 1 and 2) and 2000m² of public open space.

PANEL CONSIDERATION

The Panel considered: the matters listed at item 6, the material listed at item 7, the material presented at briefings and the matters listed at item 8 in Schedule 1.

Actions Since Deferral

On 23 September 2024, the Panel held a briefing to discuss Council's assessment report on the merits of the proposal, which recommended refusal of the development application (DA).

Following the briefing, the Panel decided on 3 October 2024 to defer the determination of the DA to give the Applicant a chance to address its concerns about the DA, including:

- The 3 driveways and 2 loading docks along Villawood Road
- The interface of Building C with Kamira Avenue and the new park, including the unsleeved car parking on levels 1 and 2 of the podium and the ground floor apartments, which were located below the ground level and recessed under the podium
- Privacy issues associated with the non-compliances with the Apartment Design Guide setbacks along the north-south pedestrian laneway.

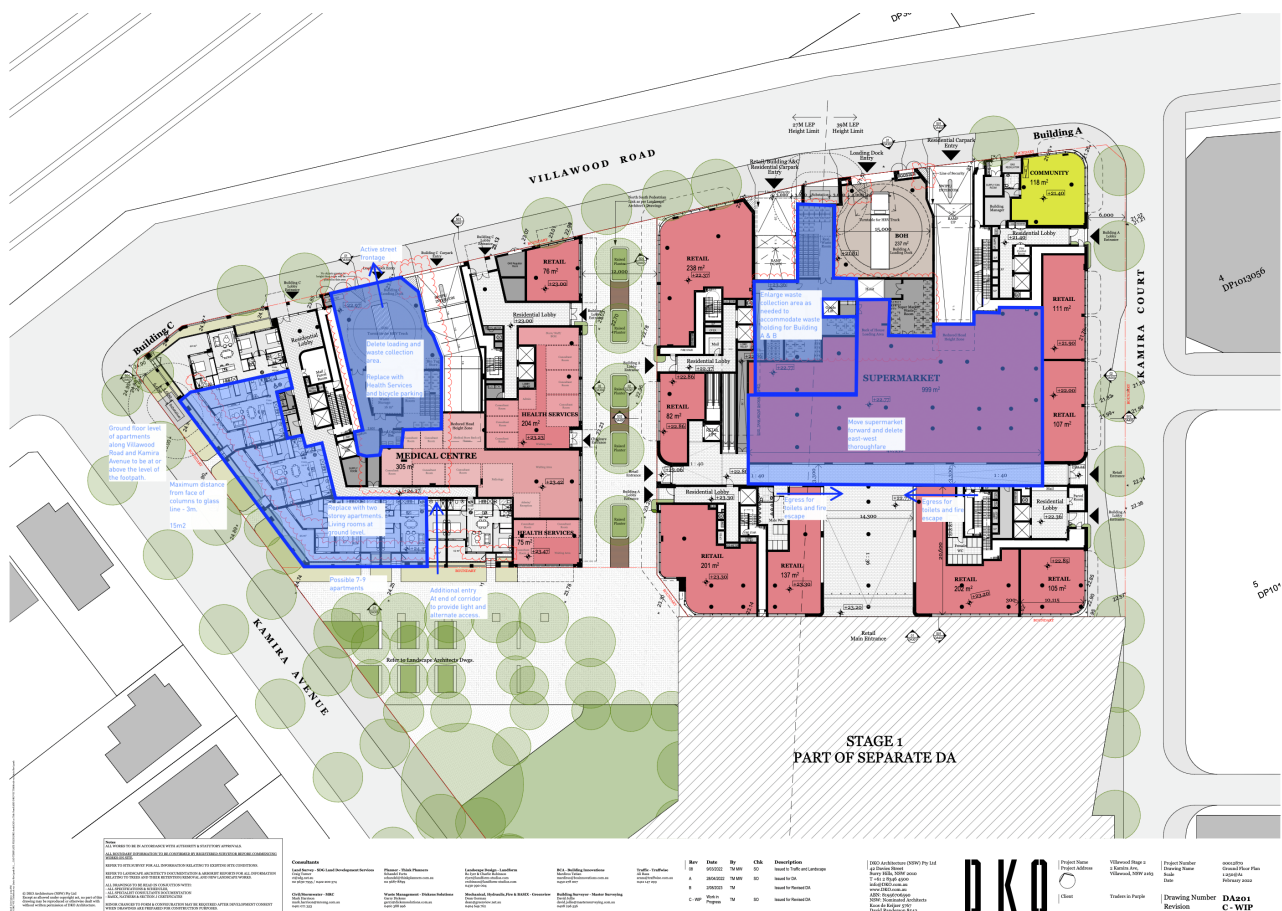
The Panel also commissioned Peter Smith of Smith and Tzannes to carry out an independent review of the design excellence of the proposal. This review concluded that the Panel's concerns about the DA could be addressed with several changes to the design of the proposal (see below) and that these changes would ensure that the proposal exhibits design excellence (see attached report).

On 17 April 2025, the Panel deferred the determination of the development application again to give Council and the Applicant time to consult on revised conditions of consent for the development, incorporating several changes required by the Panel (see below) including the changes recommended in the design excellence review.

Council provided the revised conditions of consent to the Panel on 29 May 2025.

The design excellence review (see attached report) agreed with both Council and the Panel that the Applicant's plans for the development did not exhibit design excellence in accordance with Clause 6.12 of the Fairfield LEP.

- Removing the loading dock from Building C
- Rationalising and integrating the waste storage facilities in Building C with those in Building A and updating the waste management plan for both buildings
- Redesigning the Villawood Road frontage to include additional commercial development where the loading dock was proposed in Building C
- Moving the proposed substation from Kamira Avenue and integrating it into the redesigned frontage along Villawood Road
- Increasing the street planting along Villawood Road
- Sleeving the car park in Building C by making the ground floor units along Kamira Avenue and the park two storey units
- Lifting the recessed units in Building C along Kamira Avenue and the park to at - or ideally above - the ground level and minimising the recession of the glazing of the units under the podium
- Redesigning the parking to accommodate the above changes so the proposal complies with the revised parking requirements
- Replacing the units on Level 2 in Building C facing Villawood Road with unsleeved car parking if there is a shortfall in parking
- Ensuring the design treatment of any unsleeved car parking is like the treatments in the Stage 1 DA for the adjoining site (see figure below)
- Providing additional secure bicycle parking for residents and employees in both buildings.





The Applicant has agreed to make these changes, and Council has prepared revised conditions of consent for the development.

These conditions include deferred commencement conditions requiring the Applicant to do the following to the satisfaction of Council before it can act on the consent:

- Prepare amended plans for the development
- Update the Operational Waste Management Plan for the development

With the implementation of these conditions, the Panel is satisfied that the development will exhibit design excellence in accordance with the requirements in Clause 6.12 of the Fairfield LEP.

Social housing

Council noted there were previously 111 social housing units on the site and recommended that the Applicant be required to comply with the 70:30 private to social housing target set out in the *Future Directions for Social Housing in NSW Policy* (Future Directions) and provide 69 social housing units on the site.

Homes NSW – the owner of the site - objected to the imposition of this condition saying Future Directions is a strategy document associated with the allocation of its housing resources (rather than a planning instrument or policy). It retains to Homes NSW the discretion to set the amount of social housing provided on any redevelopment site based on the priorities of its broader property portfolio. Presumably moneys generated by property sales or housing development on one site which is not social housing is applied to the pursuance of housing policy on other sites.

It also emphasised the 70:30 mix in Future Directions was “a target” for Homes NSW not a mandatory statutory obligation. While the Panel supports the provision of social housing in general, the Council did not identify any specific controls in Council’s LEP or DCP requiring social housing to be provided on the site and accepts Homes NSW’s explanation that it has discretion about how best to use its land to provide social housing in the region. The Panel accepted that the allocation of resources within Homes NSW is ultimately

a decision under its governing legislation rather than a matter to be considered under s 4.15 of the Environmental Planning & Assessment Act 1979 (**EP&A Act**), and consequently there was no legal basis for the condition.

Consequently, the Panel determined that the policy basis for imposing council's recommended condition is weak and that the condition should be deleted.

Revised conditions

In its deferral report, dated 17 April 2025, the Panel asked Council to provide revised conditions for the development that, at a minimum:

- Included the changes previously agreed to by Applicant
- Considered the Applicant's proposed changes to Conditions 8 and 67
- Deleted Condition 15 - interpretation strategy Villawood Station
- Deleted Condition 88 - social housing
- Added a condition requiring the high-quality materials and finishes proposed in the plans to be carried through to the actual construction of the building
- Added a condition requiring "localised median, kerbing and line marking changes" to the Villawood Road, Woodville Road and Llewellyn Road intersection prior to the issue of an occupation certificate
- Added Council's standard condition requiring basic EV charging infrastructure to be provided to the parking on site so charging stations can be installed easily in the future
- Amended any conditions affected by the required changes to the plans (see above).

Council provided the revised conditions to the Panel on 29 May 2025.

The Panel asked the Applicant to comment on the revised conditions.

On 6 June 2025, the Applicant advised the Panel that both it and Homes NSW are satisfied with the revised conditions, except for the conditions in Schedule A that require the consent to lapse after 12 months if the Applicant fails to comply with the deferred commencement conditions.

Given the range of matters that must be resolved under the deferred commencement conditions, the Panel agrees this period is too short and has determined to extend this to 36 months instead. The Panel did not expect there to be a sufficient likelihood that the planning context of the grant of consent would change within that period to impose a shorter time.

Subject to that change the Panel accepts the conditions as agreed to by the Applicant, noting that it was unlikely to have granted consent to the DA without the improvements to the design accepted following the review by Peter Smith aimed at achieving design excellence.

PANEL DECISION

The panel determined to uphold the request made under Clause 4.6 (3) of *Fairfield Local Environmental Plan 2013* (Fairfield LEP) and approve the development application pursuant to section 4.16 of the *EP&A Act* subject to the conditions imposed, for the reasons set out below.

The decision was unanimous.

Application to vary a development standard

Following consideration of a written request from the Applicant made under Clause 4.6 (3) of Fairfield LEP, that has demonstrated that:

- a) compliance with Clause 4.3 – Height of Building is unreasonable or unnecessary in the circumstances
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the Applicant's written request adequately addresses the matters required to be addressed under Clause 4.6 (3) of the LEP
- b) the exceedances are minor (see figures below) and will not adversely affect the amenity of the surrounding area
- c) development is in the public interest because it is consistent with the objectives of Clause 4.3 – Height of Building of the LEP and the objectives for development in the R4 High Density Residential zone
- d) the concurrence of the Secretary has been assumed/provided.



The Panel determined to uphold the Clause 4.6 variation to building height and approve the application for the reasons outlined in Council's assessment report, as amended by this report, and the revised conditions of consent.

In particular, the Panel concluded that:

- The development is consistent with the provisions of the relevant environmental planning instruments, including *State Environmental Planning Policy (Resilience and Hazards) 2021*, *State Environmental Planning Policy (Transport and Infrastructure) 2021*, *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, *State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development*, and Fairfield LEP
- The amendments to the plans required under Condition 1 of Schedule A of the revised conditions will ensure the development exhibits design excellence in accordance with the requirements in Clause 6.12 of the Fairfield LEP
- The development is generally consistent with the requirements in the *Villawood Town Centre Development Control Plan 2020*
- The exceedances of the height development standard in Clause 4.3 of the Fairfield LEP are minor and will not adversely affect the amenity of the surrounding area
- The impacts of the development are acceptable and can be suitably controlled with the revised conditions
- Developer contributions will be paid in accordance with the requirements in the *Fairfield City Local Infrastructure Contributions Plan 2023*
- The site can be made suitable for the development with the implementation of the proposed Remedial Action Plan
- The traffic impacts of the development on the Villawood Road, Woodville Road and Llewellyn Road intersection will be adequately mitigated by the upgrades required under Condition 55 of Schedule B of the revised conditions
- There will be no adverse impacts on the Georges River catchment
- The development will significantly improve the Villawood Town Centre by providing a new supermarket, 228 dwellings, various commercial uses, pedestrian walkways and a new park close to the Villawood train station, consistent with the strategic planning objectives for the area
- The development is in the public interest.

CONDITIONS

The DA was approved subject to the revised conditions of consent, provided to the Panel on 29 May 2025, with the following amendments:

- In the second paragraph of Schedule "A", replace the two references to "12 months" with "36 months"
- In the second paragraph of Condition 2 of Schedule A, replace the two references to "12 months" with "36 months"
- In Condition 11, replace the reference to "Condition 56" with "Condition 50".

CONSIDERATION OF COMMUNITY VIEWS

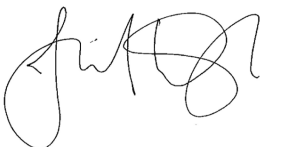


Council exhibited the DA in October/November 2022 and received 4 public submissions, all objecting to the proposal.

These submissions raised concerns about:

- Car Parking Impacts during construction and operation
- Lack of Parking for all the residential uses and commercial uses
- The lack of detail provided on the proposed community facility
- The embellishment of the park
- The provision of security cameras
- The lack of suitable drop off and pick up areas for the proposed childcare centre
- Traffic impacts on the local road network.

Council exhibited the amended plans for the development in August 2023 and received no public submissions.

The Panel is satisfied that the issues raised by the community have been adequately addressed in Council’s assessment report and the revised conditions of consent for the development.

PANEL MEMBERS	
 Justin Doyle (Chair)	 David Kitto
 Greg Woodhams	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-281 – Fairfield – DA 303.1/2022
2	PROPOSED DEVELOPMENT	Stage 2 of the Redevelopment of No. 2 Kamira Court within the Villawood Town Centre comprising a combination of 8-11 storey Mixed Use buildings containing a total of 228 residential units, a community facility, supermarket, retail premises, medical centre, associated landscaping and road works, car parking located with a basement and above ground (levels 1 and 2) and 2000m2 of public open space.
3	STREET ADDRESS	2 Kamira Avenue, Villawood (Lot 1 DP 1302529)
4	APPLICANT/OWNER	Applicant: Traders In Purple Co Pty Ltd Owner: NSW Land and Housing Corporation
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy No. 65 – Design of Quality Residential Apartment Development State Environmental Planning Policy (Planning Systems) 2021 Fairfield Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Villawood Development Control Plan 2020 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 18 September 2024 Design Excellence Review completed by Peter Smith: 17 April 2025 Amended Draft Conditions of Consent: 29 May 2025 Clause 4.6 variation requests: Height of Buildings Written submissions during public exhibition: Four (4) Total number of unique submissions received by way of objection: Four (4)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 13 March 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Greg Woodhams, Clr. Hugo Morvillo, Clr. Kevin Lam <u>Council assessment staff</u>: Geraldine Pham, Sunnee Cullen, Liam Hawke

		<ul style="list-style-type: none"> ○ <u>Applicant representatives</u>: Ryan Duff, Adam Byrnes, Charlie Daoud, Thomas Zdun, Weixi Ji, Fouad Habbouche ○ <u>Planning Panels Team</u>: Kate McKinnon, Sharon Edwards <ul style="list-style-type: none"> • Applicant Briefing: 11 December 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Greg Woodhams, Clr. Hugo Morvillo, Clr. Kevin Lam ○ <u>Council assessment staff</u>: Liam Hawke ○ <u>Planning Panels Team</u>: Kate McKinnon, Sharon Edwards, Tim Mahoney • Final briefing to discuss council's recommendation: 23 September 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Greg Woodhams, Clr. Hugo Morvillo, Clr. Kevin Lam ○ <u>Council assessment staff</u>: Liam Hawke, Sunnee Cullen ○ <u>Applicant representatives</u>: Were invited, but did not attend ○ <u>Planning Panels Team</u>: Renah Givney, Kim Holt
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Amended Draft Conditions of Consent Received from Council via email from Liam Hawke on 29 May 2025