

9 February 2024

Our Ref: 11049\_Response to RFI of 1 Dec 2023\_Final

Liam Hawke  
Fairfield City Council  
PO Box 21  
Fairfield NSW 1860

Attention: LHawke@fairfieldcity.nsw.gov.au

Dear Liam,

**RE: Mixed Use Development (Application No 167.1/2023 PAN-333433  
Property: Broomfield Street, Cabramatta**

Thank you for your Request for Information letter (**RFI**) dated 1 December 2023 in respect to the above Development Application (**DA**) lodged on 2 June 2023.

Clause 36 provides the opportunity for Council's to request additional information. *Additional information*, in relation to a development application, means information the consent authority considers necessary to properly consider the development application (**DA**).

The Consultant Team has carefully reviewed Council's letter, which for the most part provides a broad commentary without, in our view, properly applying the DCP, LEP or specific provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended) (EP&A Act) or assessing the proposal as outlined in the documents submitted with the application, which have been informed by not only Pre DAs but specific consultations with Council's technical staff and TfNSW. As a consequence, there are relatively few matters where "additional information" is requested or required. Nonetheless, the consultant team has taken this opportunity to extract or summarise each of Council's issues shown in *bold and italics* and provide a response to properly inform the assessment of this application for consideration by the Panel.

The responses in this letter are also supported by a separate report by Plus Architecture that includes diagrams, illustrations and further discussions that address Council's comments including in some cases simple amendments in plan form that show how Council's issue can be easily addressed. Other consultants have prepared additional technical responses to respond to the Council's comments as set out in this RFI. Council is requested to confirm immediately if there is some matter of significance that has not been addressed in this response.

*Isolated/Excluded Lots within Stage 2*

The SEE submitted with the DA discusses the approach to negotiations with land owners to address the principles of *Karavellas v Sutherland Shire Council [2004] NSWLEC 251* (Karavellas). We note that this issue was further discussed at the Planning Panel Briefing on 17 July 2023 with



a request from the Panel Chairman that the correspondence, including offers to the land owners, and valuations be submitted to ensure that the principles of Karavellas were properly addressed as a “threshold issue” so that the full assessment of the application could progress. The information requested by the Panel Chairman was collated by the Consultant Team and uploaded to the Portal and forwarded to both Council and the Panel on 3 August 2023.

The Council’s key comments from the RFI are repeated and/or summarised and addressed below:

#### *Reasonable Offer*

*The information submitted included negotiations between the Applicant and four (4) landowners of the isolated/excluded lots. It is noted that three (3) of the landowners have not formally responded in writing or verbally. No documentation has been submitted that demonstrates that the isolated/excluded lots have received the offers from the Applicant. It is noted that the details including addresses of two (2) of the isolated/excluded landowners are different to those in Council’s system. Accordingly, it cannot be established at this point in time or reasonably considered that reasonable offers have been made to the isolated/excluded lots.*

Whilst this part of the RFI letter contains no formal request for additional information, this concern could have been easily dealt with back in August 2023 by a simple request to address the above.

By way of background to respond to this matter, the negotiations with owners of the isolated sites on Broomfield Street have occurred in good faith over 7 years and it was explained to Council at the Pre DA meeting that some owners on small sites had not entered into option agreements. The client advised at that meeting that all these owners would be sent a final offer based on a valuation prepared subsequent to the rezoning of the site.

Council will have no doubt noted that the offers made (and uploaded to the Portal) to the extremely small lots of 82.2m<sup>2</sup> (Lots 3 and 4 on Broomfield Street) were valued with the highest and best use as the ‘existing use’. For clarity, the offers made to these owners were at the higher ‘existing use’ rate (plus a premium), rather than the lower valuation derived from being incorporated into the development site. The offer made to Lot 1 which has a larger area of 204.38m<sup>2</sup> but a similar shallow depth, was based on the highest and best use being incorporated into the development site (plus a premium offered by the applicant). Both these offers meet the criteria for being reasonable offers based on the valuation, with additional premium offered by the applicant, but were not accepted by the landowners.

All offers were sent by Registered Post to the parties based on the contact addresses provided by the owners, noting that in some cases other parties had been appointed to represent the landowners and provide a different point of contact for the landowners. This would address Council’s concern that the mailing addresses on some letters is different from Council’s system, as is often the case in these matters.

Council should note that Registered Post provides the benefit of having both proof of mailing and proof of delivery, requiring the receiver to provide a signature that he/she has received the letter, and is often used in legal matters where these details, together with dates received are important and are to be relied upon. Letters to incorrect addresses, for example, would not be signed by a person unconnected with the recipient.

We attached at Appendix A, statutory declaration of Louis Harold Jimmy Castagnet a director of the Applicant dated 9 February 2024, inter alia, attaching copies of the Registered Post envelopes and Post Office receipts confirming that all relevant parties in Broomfield Street and Cabramatta Road East were sent the letters of offer and acknowledged receipt. The letters that were contained in the respective Registered Posts are in the material before the Western Sydney Planning Panel. We note that some parties were also provided with the letter of offer by email in addition to Registered Post. This addresses the inferred RFI matter regarding correct addresses outlined in Council's letter.

Council has noted that two of the landowners did not formally reply to the letter of offer. Basic legal principles underpinning contract law confirm that silence does not constitute acceptance. Acceptance must be communicated to the offeror, see *Felthouse v Bindley (1862) 142 ER 103*. The seller does not have a legal obligation to respond to an offer. The applicant is not responsible for eliciting a formal response to an offer from a landowner, and it would be manifestly unreasonable for Council to hold up assessment or refuse an application on these grounds. Such an action would, in effect, undermine what Karavellas seeks to address where developers may be held at ransom to the demands or inaction of a land owner. This would appear to address the inferred non response to the offer by some isolated land owners outlined in Council's letter.

In addition to the above, we have reviewed the submissions made as a result of public exhibition of the DA which included Council notifying adjoining land owners including the isolated site owners. It is noted that only one of the submissions received by Council raised the Karavellas Principle or concern about being an isolated site. This submission is clearly from one of the owners in the 3 lot strata development on the property known as 43-45 Cabramatta Road East. It follows that none of the other isolated owners made submissions.

The issue raised in the submission from the single unit owner in the strata property known as 43-45 Cabramatta Road cannot be resolved by following the principles of Karavellas and relies entirely on the fact that this owner cannot commit the unit in this strata property for sale without all owners of that strata scheme agreeing to the sale of the property – a matter already highlighted in the SEE. The primary legislation in this regard is the *Strata Schemes Development Act 2015* and, as applied to the current context, as one owner has elected not to sell, there is not the required 75% of lots in that strata scheme whereby the Owners Corporation can force the dissenting Lot Owner to join in a sale of the strata building. No redevelopment under any planning controls can occur unless all owners agree to sell, rendering the provisions of the LEP and application of Karavellas is therefore irrelevant.

#### *Prejudice Development Potential*

*In regard to the ability for the isolated/excluded lots to develop independently, the Applicant has advised that the design includes the ability to allow vehicle access to these lots through the basement. Furthermore, the Applicant has obtained BCA advice for any future development on the isolated lots. It is also noted that in the documentation and the 'Isolation Lot Strategy' the Applicant provides 2 options in developing the isolated/excluded lots. Council officers have reviewed the BCA advice and raise concerns. Furthermore, the proposal seeks to propose balconies and openings on the boundary which would not comply with the setback requirements required under the Apartment Design Guidelines. Accordingly, it is considered that the proposal will likely prejudice the development potential of the isolated/excluded lots given the proposed building setbacks of Tower C.*



Karavellas examined whether approval of an application would prejudice the development potential of the isolated owner, including in that case, potentially preventing that owner from redeveloping that property into a residential flat building because it would not meet the statutory minimum lot size required for that type of development. This context is very different from the redevelopment scenarios for these isolated sites which have the potential to redevelop in accordance with the planning controls that have applied, and continue to apply to those properties, had the Planning Proposal not been gazetted – in other words these properties are not sterilised or otherwise restricted from redeveloping the properties in accordance with the LEP.

The isolated sites along Broomfield Street are three separate very shallow lots described as follows:

- Lot 1 DP 25618, Lot 1 DP 203855 Lot 2 DP 650696, 88 Broomfield Street, Cabramatta (Total area of 204.38m<sup>2</sup>, depth approx. 14.18m)
- Lot 3 DP 25618, 90 Broomfield Street, Cabramatta (Area 82.2m<sup>2</sup>, depth approx. 14.17m)
- Lot 4 DP 438982, 92 Broomfield Street, Cabramatta (Area 82.2m<sup>2</sup>, depth approx. 14.17m)

Despite the above, the consultant team has been mindful to facilitate and accommodate the potential redevelopment of the adjoining isolated sites, no matter how unlikely.

The work by Plus Architecture and submitted with the DA shows various built form options for the isolated sites comprising a wholly commercial development and a mixed use development to canvass the different market options together with heights and floor spaces available under the existing LEP controls.

Given the small size of each site, these options as shown in the Plus Architecture plans could only be achieved if the sites were amalgamated and benefitted directly from access from the basement level of the proposed development and hence represent the maximum development potential that could be achieved. The redevelopment potential if remaining as separate individual sites is significantly less given they could provide little to no car parking. This is because the site dimensions of the isolated sites are too shallow to support an efficient basement for the built form shown in the plans after allowance for ramps grades, accessible parking and manoeuvring.

The allowance for a proposed connection into the basement level included in the proposed development will maximise the car parking achievable on a consolidated site to around 9 spaces, if ever redeveloped, but would still likely require Council to further waive car parking requirements even after carparking credits for existing retail or commercial floorspace. The provision for future access through the development basement in fact increases the development potential of the isolated sites beyond what could have been otherwise achieved given the small size and shape of this parcel.

In addition to the above, of the 9 submissions downloaded from Council's DA Tracker website, none remotely touch on issues relating to the loss of development potential or being disadvantaged by being left out of the project.



The Council letter states that *"Fundamentally, the Applicant's response to not acquiring the isolated/excluded lots is simply to relocate the 19 – storey tower (Building C) away from the corner of Broomfield Street and Cabramatta Road West as well as removing the 7-storey portion of the development."*

It is not by choice that the isolated sites have not been incorporated into the development. However, the principles of Karavellas apply to the extent that developers of a project, after making reasonable approaches to the other landowners in a parcel are not held to ransom, or otherwise hamstrung such that the project can never viably proceed.

The Council has stated that the proposed development *'presents an inadequate and unacceptable response to the issue of prejudicing/sterilising the development potential of the isolated sites.'* This assertion is difficult to contemplate when:

- the owners of the smaller Lots 3 and 4, each of 82.2m<sup>2</sup> in area on Broomfield Street have been offered the higher amount plus a premium based on the highest and best use as the existing use but these owners have not accepted the offer.
- the owner of the larger Lot 1 of 204.38m<sup>2</sup> on Broomfield Street has been offered the higher amount based on the highest and best use to be incorporated in the development site, but that owner has not accepted any terms for sale.
- The property known as 143-145 Cabramatta Road East which is a strata office development sited on lot with an area of 290m<sup>2</sup>. As a strata development of 3 lots, all owners require agreement to dissolve the strata scheme, however, one owner has not accepted any terms for sale (see SEE). That owner (of Lot 3) holding the first level commercial suite with an area of 196m<sup>2</sup> was offered the higher valuation amount based on the highest and best use to be incorporated in the development site, but that owner has not accepted any terms for sale.
- Despite the non participation of these properties, the proposal has actively planned for the incorporation of both the existing and any redevelopment into the site context and, in respect to the shallow lots along Broomfield Street, proposed basement access which will significantly increase the development potential of those properties by benefitting from the access through the proposed development should they decide to redevelopment in future.
- The Planning Proposal over the land does not reduce the development potential on these isolated sites that existed before the Planning Proposal was gazetted, with these same provisions still sitting within the LEP. However, the proposal does substantially benefit the isolated sites along Broomfield Street through providing basement access to maximise the number of car parking space that can be achieved on these sites.

The notion that the proposed development prejudices or sterilises any potential of the isolated sites is demonstrably incorrect. Council has failed to acknowledge that the Karavellas planning principle exists and that in its assessment of the DA including application of the DCP it must consider "alternative solutions" that may otherwise hamstring strict compliance with the DCP through non-participation by one or a small number of land owners. The "alternative solutions" is a term specifically applied through Section 4.15 of the Environmental Planning and Assessment Act and its applicability to the proposal will be discussed further in the next section.



Finally, it is noted that if this DA were refused on this basis, the financial offers to the isolated site owners would have to be reduced to further account for the new Housing and Productivity Contributions of \$10,000 per strata dwelling and \$30/m<sup>2</sup> payable for retail/commercial floor space that will start to flow through and influence new valuations since this was legislated in late 2023. Council's position on the isolated site would stall indefinitely this proposal or the completion of subsequent stages placing the outcomes of the planning proposal for the land in jeopardy.

There are other matters raised in this section of Council's RFI letter including discussion of "concern" with the BCA (although this is not stated) and non-compliance with ADG setbacks and the DCP, but these are better addressed as relevant in the following sections.

### ***Built form Inconsistencies with the Site Specific DCP***

*Council has noted that a site specific DCP was prepared to support a Planning Proposal and there are inconsistencies between this and the proposal.*

As background, Council's evaluation of the application under Section 4.15 of the Environmental Planning and Assessment Act must, in respect to a development that does not comply with a standard in a Development Control Plan (DCP), 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. It is implicit from the Karavellas decision that isolated sites will inevitably cause variation of development standards that may sit in both LEPs and DCPs. Because the applicant cannot secure the whole site, if this project is to proceed at all, a reasonable design alternative needs to be evaluated.

Despite the above, the Consultant Team maintains that the proposed development is not inconsistent with the DCP and that it provides better planning outcomes for the site and improvement to the amenity of adjacent sites as contemplated by the DCP. In this regard, it is clear that Council is not applying the DCP in the way it was intended, drafted or in a way that produces the development outcomes anticipated for this land. The Council RFI in fact focusses on numerous extracts and statements highlighting discrepancies in measurements or changes to the number of storeys and/or siting of buildings as compared to the single diagram shown as Figure 5 of the DCP. This type of comparative assessment focussing on one diagram is irrelevant to the evaluation of a scheme under the DCP and even notwithstanding the provisions of Section 4.15(3A) of the EP&A Act.

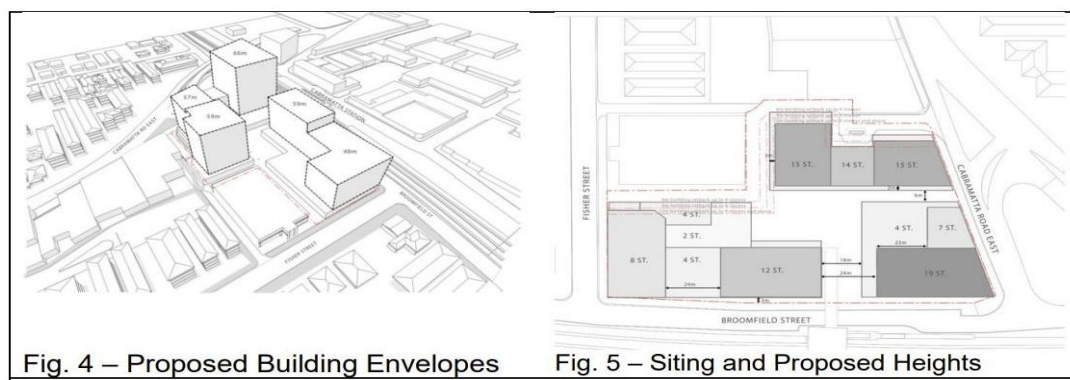
For context, this part of the DCP for the Cabramatta Town Centre including the development site is structured so that each precinct has its own objectives, development incentives, performance criteria and development controls. These terms are referenced in the DCP as meaning:

- *Objectives and Desired Character Statements are provided to clearly state what Council seeks to achieve for development of the urban environment in the Cabramatta Town Centre*
- *Development Incentives are provided in some precincts to encourage certain types of development or activity in the Town Centre.*

- *Performance Criteria are outcomes that should be met if controls are not strictly observed. Performance criteria will generally be met if the objectives and desired character are achieved in a development proposal.*
- *Development Controls are prescriptive means of achieving the desired objectives and character.*

*Development complying with the controls, such as the floor space ratios, will not always be considered to meet the objectives and desired character statements.*

The Council has extracted Figures 4 and 5 of the DCP in its RFI to compare differences in the numbers of storeys and other setback dimensions. These Figures are reproduced below for discussion purposes:



It is noted that the entire discussion in the RFI letter provides an assessment comparing the proposed development only to Figure 5 without reference to the way the plan is intended to work or the clause requirements that reference these figures (both Figure 4 and Figure 5). In this regard, there are two relevant *Development Controls in Section B – Built Form, Siting and Height – Precinct 4A*, being the section from which the diagram above is extracted. The first written Development Control in this section of the DCP that references Figure 4 and is repeated below:

*Towers on top of podiums within the Precinct are to increase in height from north to south, with the tower on the south west corner being the maximum forming a place making gesture of 19 storeys. The heights of buildings, siting and setbacks are to generally accord with Figure 4. (Author's emphasis)*

This means that Figure 4 sets maximum heights and footprints for different parts of the site within which the final heights and siting of the building can occur. The proposal is entirely consistent with the heights and is within the building envelopes as established and depicted in Figure 4.

Figure 5 does not in fact set a height or maximum number of storeys, nor does it set dimensions for separation of buildings or setbacks, although some dimensions are shown on that plan. The clause that prescribes the Development Controls that references Figure 5 in this section of the DCP in fact states:

*The final heights and siting of buildings must ensure that at least 50% of the market square achieves at least 2 hours of sunlight in mid-winter as shown in Figure 5, and that dwellings*

*within the development and in proximity to the Precinct are capable of achieving the required solar access as prescribed in the Apartment Design Guide.*

The diagram in Figure 5 would best be described as a reference configuration to show an outcome of how this could be achieved that also supports subsequent Figures 6 and 7 of the DCP. The clause that references Figure 5 in fact, provides that the final heights and siting within the envelopes established in Figure 4 can and should vary to achieve the outcomes of this part of the DCP. In this regard, it is clear the DCP intended that solar access be further tested at the DA stage, which of course may produce different results to that shown in Figure 5 when finer grained design is undertaken, and where circumstances may have changed, noting the new consideration emanating from Council's fast track Planning Proposal upzoning adjoining sites including opposite on Cabramatta Road East and immediately east on this same street.

The Council's assessment comparing the proposed development to the building siting and storeys indicated in Figure 5 including much of the discussion in this part of the RFI is demonstrably incorrect and not how the DCP is intended to apply.

The key 'inconsistencies' identified in the RFI letter from the DCP are further discussed below:

*Building A is designed as an 18 – storey building (inclusive of the mezzanine) whilst the SSDCP permits only a 15 – storey building and the building is also designed in a way that would not allow for a 14 storey building that connects with Stage 3.*

The Council comments relate to the number of storeys and configurations shown in the Figure 5. However, as discussed above, the buildings proposed are within the Building Envelope established at Figure 4 of the DCP.

Surprisingly, 'concern' has been raised by Council about the deletion of a part of a building that would connect with the future Stage 3 development which would create, if pursued based on Council's comments, a single building extending some 75m back from Cabramatta Road East.

The breaking up of this elongated building form is desirable, and the gap enables a laneway to provide required access to the market square for servicing, cleaning and special events. The gap also has the effect of providing a slightly larger market square area as well as opening outlooks to and from the market square effectively providing borrowed space and more opportunity for landscaping. Finally, the gap enables more dwellings in future stage 3 to access sunlight and cross ventilation on both future buildings.

The practical and correct application of this part of the DCP is that the buildings should be able to alter height and siting within the envelopes established in Figure 4 including not building within parts of that envelope at all. The deletion of this section of building is appropriate and entirely consistent with the DCP.

*Building B is designed as a 16 – storey building whilst the SSDCP permits a 12 storey building. and it is designed in a way that would not allow a connection to a part 2 and 4 storey building in Stage 4. Further it includes openings and units facing the northern boundary of the site with only a 4m setback and therefore would not comply with the building setbacks required by the Apartment Design Guidelines.*



The Council comments again relate to the number of storeys and detailed configurations shown in the Figure 5. However, as discussed above the buildings proposed are within the Building Envelope established at Figure 4 of the DCP. The final building heights on Stage 4 will obviously marry with the blank wall built to boundary of the proposed development (Building B) in Stage 1 and noting that this will cap the maximum height in this part of the Stage 4 as shown in the extract from the Urban Design Report below.



Figure 1 – extract from Plus Architecture Urban Design Report

*Building C Stage 2 - is not consistent with the built form envisaged in the SSDCP. The original master planning sought to create a precinct by creating a significant landmark as a "gateway". The building was comprised of a part 19 and 7 storey tower at the intersection of Broomfield and Cabramatta Road East that sits on a 4 storey podium. As discussed above, given that not all the lots have been included in Stage 2 the 19 storey development has been shifted and now presents as a tall skinny building perched on a low dominant podium. Furthermore Tower C includes openings and balconies up to the boundary which is inconsistent with the Apartment Design Guidelines.*

The 'shifting' of the tower extends the built form only a further 6m to the east of the location shown in Figure 5 and, most importantly, remains within the building envelope established by Figure 4. It does present as a more slender building form than the bulky footprint shown in Figure 5, enabling the overshadowing impacts to move across the sites to the south more quickly. Its setback and different massing is consistent with distinguishing this building as a gateway place marking tower. There is nothing in the DCP that requires a 4 storey podium or any podium expression either externally or internally, noting that only non residential uses are required to be provided at ground level. The podium in Figure 4 is shown a one storey.

The increased setback of the tower (Building C) from Broomfield Street enables 2 hours of sun in mid-winter to fall upon at least half of the northern façade of the development site to the south as required by the ADG. Solar access without this 'shift' would otherwise only be achieved to units on the western façade of the development site opposite on Cabramatta Road East



restricting compliance with 70% of units meeting solar access and sunlight requirements in the ADG. The changes to the tower are both consistent with and show the intended practical application of this clause in the DCP to adjust the siting of buildings to ensure solar access to other development sites within the precinct is achieved.

The 7 storey element shown in Figure 5 to the east of the tower has no height nominated for it in Figure 4, but as discussed above, building to the maximum envelope in this location is not mandated or a proper construction of this section of the DCP. The lower building in this location is a consequence of the isolated site on Cabramatta Road East but provides a nicer outlook and improved opportunity for sunlight into rooms on the northern façade of the future development on the site immediately to the south. It is difficult to contemplate that any of these changes could be argued as producing an inferior urban design outcome or not being consistent with the DCP.

We can find no references in the ADG which would prevent balconies on boundaries to other properties or which prescribe minimum setbacks requirements to the isolated site that are relevant to the assessment of this DA. The ADG under the Topic Area of Visual Privacy includes some separation distances to achieve reasonable levels of external and internal visual privacy (Objective 3F-1).

The ADG, like the Site Specific DCP, provides an objective relating to each Topic Area. The ADG states on page 11 in the section – How to use this Guide, the following:

*Parts 3 and 4 of the Apartment Design Guide provide objectives, design criteria and design guidance for the siting, design and amenity of apartment development. Each topic area is structured to provide the user with:*

1. **a description** of the topic and an explanation of its role and importance
2. **objectives** that describe the desired design outcomes
3. **design criteria** that provide the measurable requirements for how an objective can be achieved.
4. **design guidance** that provides advice on how the objectives and design criteria can be achieved through appropriate design responses, or in cases where design criteria cannot be met.

The key to working with Parts 3 and 4 is that a development needs to demonstrate how it meets the objective and design criteria. The design criteria set a clear measurable benchmark for how the objective can be practically achieved. If it is not possible to satisfy the design criteria, applications must demonstrate what other design responses are used to achieve the objective and the design guidance can be used to assist. (Author's underline)

If Council's reference to 'minimum setbacks' is intended to reference the separation distances outlined in Topic Area 'Visual Privacy' where Objective 3F-1 provides for Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy, then the proposal demonstrably achieves this.

The balconies to which Council refers sit above and look over both the existing and the maximum possible future development that could occur on the isolated sites in this location as shown by



Plus Architecture, and hence there is no visual privacy to be addressed and no separation required to address this topic area of the ADG.

It is noted that the approach above achieves the same outcomes contemplated by the much-referenced plan details at Figure 5 of the DCP which Council has exclusively relied upon to inform its comments in the RFI. This includes instances where balconies and openings would have been required to boundaries, for example, for the residential building fronting Broomfield Street in Stage 1 that overlooks a lower building component in Stage 4 and the building on Stage 3 as it interfaces with the lane on Stage 2.

The construction of balconies or openings on or close to boundaries is not uncommon in mixed use developments. Appendix B includes some examples of these developments. Further discussion on the BCA compliance occurs later in this letter.

There is no specific request for information in this part of the RFI, but rather a series of observations of what Council regard as "inconsistencies" between the proposed development and Site Specific DCP, as well as the ADG. The controls in the DCP provide a 2 step process where the heights, siting and setbacks must accord with the building envelopes defined in Figure 4, but enabling the final heights and siting of buildings to be massaged within those envelopes to meet the requirements for solar access to the market square and to the dwellings in proximity to the precinct.

The micro comparison of the proposed development against a single diagram in Figure 5 by Council is not how the DCP is intended or designed to be applied, and in any event, such an approach would also ignore S4.15 of the Act to apply DCPs flexibly and consider alternative solutions that meet the objectives of the control. Similarly, the non compliance with standards referenced in the ADG are not applicable to the Topic Area and objective to be assessed and is irrelevant to the assessment required.

### ***Amendment to Fairfield LEP 2013***

*Council's RFI advised that Fairfield Local Environmental Plan 2013 (LEP) was amended (Map Amendment No 06) on 15 November 2023 (it was actually 17 November 2023) to fix an error on the Minimum Site Area, Town Centre Precinct Map (Sheet 17) This amending LEP is referred to as Fairfield Local Environmental Plan 2013 (Map Amendment No 6) (hereafter called Map Amendment No 6).*

Map Amendment No 6 amends the Minimum Site Area Map solely to introduce a line between what is referred to as Stages 1 and 2 (or alternatively Stages A and B) as referenced in the background planning documents. The amendment introduced a black line into the LEP that separates and divides into two parts a larger area ascribed with the letter "S" and shown pink on the LEP Map. This Map is referenced in Clause 7.3 to set a minimum site area of 2,700m<sup>2</sup>.

The amendment was initiated by Council letter dated 7 August 2023 to the then Department of Planning and Environment as an expedited amendment to an environmental planning instrument to "fix an error" under Section 3.22 of the EP&A Act more than 1 month after lodgement of the DA with Council. From the letter, this appears to be based on Council's belief that the exclusion of the line was an "obvious omission" in the gazetted version of this amendment, although it is noted that the exhibited version of the Planning Proposal does not include this line and that the final version of the Planning Proposal was gazetted without it. There



is now, as a consequence of this amendment, a clear disjoint between the mapping placed on public exhibition and what has now been gazetted.

Section 3.22 can only be used where there is an “obvious error” consisting of *a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error* – this can also apply to maps but none of these apply to this circumstance. Similarly, Section 3.22 cannot be used in circumstances other than to address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature.

Council has stated that as a consequence of this amendment that Stage 2 does not meet the development standards for Maximum Height and Floor Space Ratio in Fairfield LEP 2013 (it is noted that there is no standard in Clause 7.2 – Cabramatta Floor Space Ratio that references the amended Minimum Site Area Map) and clearly the Amendment has a very consequential impact on the development of our client’s land.

This understanding of the impact is plainly spelt out in Council’s letter to the of 7 August 2023 which initiated the Map Amendment wherein it is stated:

*Council is now requesting your urgent assistance in resolving this matter in the hope that any future Development Application or amendment to the current application is required to consider the correct and intended site amalgamations intended under the Planning Proposal and Master Plan for the precinct.*

As known to Council, the applicant has only been able to assemble a site area within Stage 2 of 2,245m<sup>2</sup> because of what are referred to as isolated sites, being owners unwilling to accept reasonable offers or who are unable to commit property for development in a strata scheme. The practical effect of Map Amendment No 6 is that the applicant is unable to assemble a minimum site area on Stage 2 to access the maximum heights in the LEP, jeopardising not only the development in Stage 2, but the entire project.

For total clarity, it is noted that the newly gazetted Map Amendment No 6 applies a Minimum Site Area of 2,700m<sup>2</sup> to a total parcel of land in Stage 2 which is less than 2,800m<sup>2</sup> in area, meaning that the applicant would have to assemble all lots, including a building that has been strata subdivided in a three lot Strata (being one of the isolated sites), except for one lot with an area of less than 100m<sup>2</sup> located within the Stage 2 boundary, to access the maximum height provisions.

The Site Area of the Stage 2 DA equates to 2,255m<sup>2</sup>, 445m<sup>2</sup> short of the 2,700m<sup>2</sup> new site area requirement. It is unknown how the minimum Site Area requirement now applying to Stage 2, that enables one small lot to be excluded and the remainder of the parcel to access the maximum height control presents a good or desirable planning outcome, particularly as it increases the prospect of isolation for that single site.

Conversely, in the adjoining newly defined Stage 1 area under Map Amendment 6, the maximum FSR could be achieved simply by developing only the largest lot in this area of around 2,800m<sup>2</sup>, hypothetically excluding the adjoining lot of 826m<sup>2</sup> also in Stage 1 with the same minimum Site Area requirement. Whilst the applicant has been able to purchase this property, if it had not been purchased for the Stage 1 DA and was incorporated into the scheme at a later time, say as



part of a DA for Stage 4, this same provision would limit the development on this land to only 14m as it would not meet the minimum site area. It is hard to contemplate that either scenarios encourage good planning outcomes, but rather a additional impediment that will make it much more difficult, if not impossible, to redevelop the land to the maximum height controls.

We are unsure what this provision is trying to achieve and how and why the required site area requirement in a stage could meet the controls but still leave sites out. We note it is applied inconsistently across other areas included on the same Site Area Map and never has a line been shown that separates an area where the same development standards apply – which is a requirement of Section 11.4 of the Standard Technical Requirements for Spatial Datasets and Maps. It appears a poor adjunct to the traditional FSR controls which ensures that there is incentive to amalgamate as the final built form is dependent on the ratio of site size assembled.

Unfortunately, our client has had to seek legal advice in respect to Council's claim that this provision would be applied in the manner as described above and in Council's RFI letter. Holding Redlich has reviewed the provision and it has been sent a letter confirming that Clause 7.3(5A)9b) will be satisfied where the total area of land on which the development is proposed under the DA is at least the minimum site area shown by shading and letter for that land on the minimum site area map.

Council has stated that, at present, it remains "comfortable" with its interpretation. If this interpretation remains it is anticipated that there will be legal challenge to any interpretation that seeks to apply this to the development and may include challenging the validity of the Map Amendment itself, for the reasons discussed above.

### ***Pedestrian Bridge***

*Council states that the Site Specific DCP shows Pedestrian Bridge over Broomfield Street but the DA does not propose one, but only includes concepts. The built forms indicated in the SSDCP indicate that there is a 18m wide pedestrian link between Towers B and C to allow for the bridge and maximise the pedestrian linkage. It is noted that the proposed development provides a pedestrian linkage that is 12m wide and not of sufficient width to accommodate the bridge and provide an appropriate entranceway from the Train Station.*

A pedestrian bridge has not been included in the DA as the consent from TfNSW and related agencies to connect to the rail concourse over Cabramatta Station has not been given despite lengthy negotiations by both the applicant and Council. Our last attempt for a Pre DA resulted in the following response from TfNSW on 22 March 2023:

*Apologies for the delay in responding. TfNSW have made a submission and provided feedback to Council regarding this matter. I am not aware of any changes to the proposal or to TfNSW position in this regard.*

The acknowledgement that the pedestrian bridge was unlikely to be supported was formally recognised in the Planning Agreement entered into between Council and the applicant, wherein if TfNSW continued to provide no support that a monetary payment toward community facilities would instead be paid by the applicant tied to the Stage 1 DA.

Despite the above and at the request of Council at the Pre DA meeting, the DA submission included a 'concept' of how the bridge could be retrofitted into the design with access from the



market square. Even if TfNSW changed its position on the delivery of the bridge, we do not know whether they would seek that it be connected directly to Broomfield Street or within the development. It is impossible to further concepts where the party that is required to give owner's consent chooses not to engage with the applicant.

We note that at the Planning Panel briefing that Council was directed to write to TfNSW confirming its position. The Council has not reached out for any other background or provided the results of that consultation.

With regard to the width of the pedestrian link, the previous responses in this RFI gives context to the role of Figure 5 in the DCP. Specifically, its purpose is not to set definitive siting dimensions for elements of the building but to require the building heights and siting to respond within the envelopes shown in Figure 4 to achieve specific solar access objectives. In this regard, the 18m dimension shown on Figure 5 as a separation between the two buildings opposite the entry should not be, nor was ever intended as a strict setback and there are no performance criteria or objectives to show that this was related to "maximising the width of pedestrian linkages" into the site.

The RFI letter from Council claims that the 12m width is not of sufficient to accommodate the bridge and provide an appropriate accessway. There is no evidence to support this claim. By comparison, for example, the main approach to Chatwood Station (which has both Metro and suburban train services) from the substantial high rise western side commercial area adjacent to the Pacific Highway is funnelled through a single 8m wide entry incorporating staircase and escalators accessed at the intersection of Railway St and Victoria Ave. In the case of Cabramatta which will have a much smaller population catchment, there are alternate routes to the site entry around the perimeter of the site and whether or not the pedestrian bridge is built.

The claim in the RFI is without merit or substance.

### ***Apartment Design Guidelines and Design Excellence***

*Council has stated that the Application has been reviewed and considered by Council's Independent External Architect against State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development, the Apartment Design Guidelines and Clause 6.12 Design Excellence of Fairfield LEP 2013. The following issues requiring further attention:*

#### ***Local Character and Context***

*The context analysis has been undertaken in detail however, there are a number of issues concerning neighbouring sites to the north, future development and the existing carpark both of which can be developed to at least 8 storeys. The impact for these future volumes should be considered and responded to within the application.*

See RFI response by Plus Architect and the following sections.

#### ***Precincts and individual sites***

*The development is to occur over 4 stages. The DA however is for Stages 1 and 2 only with Stages 3 and 4 massed only and with limited design input as part of this DA raising the issue about what constitutes an acceptable outcome should the proposed development stall. i.e. Stage 2 not proceed.*



*Should the Stages not develop then each Stage needs to be assessed independently, which includes the impact upon roads and other interfaces. The applicant is to outline any issues and their response should the staging not proceed including where flow on impacts have not been assessed or concessions made - reduced COS in stage 1, reduced setback to north boundary, limited deep soil overall, impact of boundary podium wall on north boundary on neighbour, impact of access to plaza with delay to stage 2, impact on new road access to Tower A should stage 2 and/or 3 not proceed the details of the proposed road in Stage 1.*

The DA submitted includes both Stages 1 and 2 and they will be developed together as they share a combined basement, and the upfront infrastructure including the payment under the Planning Agreement commitment for Stage 1 requires Stage 2 to ensure viable development. Stage 1 cannot and will not occur without Stage 2.

The DA does examine and address the requirements for the development in future stages, noting that the final built form, including heights and siting for Stage 4 will need to comply with Figure 4 as adjusted by any compliance with the solar access requirements referenced in the clause to which Figure 5 relates. The massing shown for Stages 3 and 4 have been set and tested by Plus Architecture to ensure that the solar access requirements into the market square and to the future development site to the south on Cabramatta Road East are not compromised. Council will also note that the development provides basement access points to Stage 3 and to isolated sites on Broomfield Road in Stage 2 to efficiently enable the development of these lands in the future.

The DA includes demolition of a building to widen the laneway off Cabramatta Road in Stage 3 enabling the residential entry into the basement under Stage 1. The other entry to the basement is off Broomfield Street to be delivered with the DA. All these access points have been included in the Traffic Assessment discussed in the application. The connection to utility services and stormwater drainage while these stages are awaiting development is covered later in this response.

The interface between Stage 1 and 4 has been considered and is consistent with the ADG where, above podium level, the building has openings and balconies that will overlook the same podium in Stage 4, but maintain separation distances as required by the ADG. This has been a common feature in all the schemes (and is even shown in Figure 5) to avoid a substantial blank wall at the interface between Stage 1 and 4.

It is noted that the Council's Accelerated Planning Proposal includes increasing the development potential of its Fisher Street Car Park from a maximum 14m height to 26m height. The proposed DA for Stages 1 and 2 would have no impact on over shadowing, nor would Stage 3 while Stage 4 might have a minor impact but this site would be capable of achieving solar access given it is location along the northern edge of the site and Council has not rezoned the adjoining properties to the east that consist of 2 storey flat buildings. It would be assumed that the future development of Council's land would similarly take into account the solar access provisions of the ADG and DCP and massage the built form accordingly to ensure solar access into the market square and that this development is not compromised, as is expected of every new application.



### Built form and scale

*Tower A south elevation when viewed from Cabramatta east does present as a long wall as no indent has been included at the upper level to adjust the skyline (this may be a result of distorted perspective view) as has occurred in Tower B and C. COS to Tower C appears the most impacted by the relocation of the Tower C. The proposed development along the north boundary adjacent to Stage 1 Tower B is not ideal. It presents as one solid wall 10 metres tall the full length of the block. The design has proceeded on the basis that stage 4 will infill this neighbouring site however it is unclear as to this occurring. This wall could in effect be inset for a long period and its design should be subject to compliance review independent of Stage 4.*

The view of the elevation of Building A from Cabramatta Road East is a restricted view down the laneway and not of the entire southern elevation both now and once Stage 3 development occurs. It is not a particular "long" elevation and plans show that it has pronounced vertical and horizontal articulation as further discussed and illustrated in the Plus Architecture Response.

### Primary Controls height, FSR, depth, separation, setback

*Tower B façade to north is less than 6 metres from the boundary (appears to be approx. 4.0 metres) this is a non compliance. The setbacks do not meet ADGs and therefore this can compromise the development of Stages 4.*

The Tower B facade is as shown in both Figure 4 and Figure 5 and specifically designed so that substantial blank walls are not left until the next stage of development occurs. This approach delivers the separation distance required by the ADG of 24m between the north facing façade of Tower B over the podium to the next tower arrangement when it occurs in Stage 4. This is further illustrated in the Plus Architecture Response.

### Public domain interface

*Lobby entry to Tower B from Broomfield appears to focus on service /escape doors and be surrounded by service facilities, louvres and doors. These service elements are best slightly recessed and finished in materials and colours that lessen the impact visually and undertaken with due consideration of the signage that is needed for the services so a coordinated design outcome is achieved onto the public domain. Plaza entry from Broomfield appears to have planters centrally located and with seating adjacent as shown on landscape drawings will result in potentially narrow areas for pedestrians which will become more of an issue when the pedestrian bridge is installed. Rail bridge integration is not adequately designed and the rail access bridge design and structure appears heavy and unresolved. The plans indicate certain arrangements for services, entries and planters which are not shown on the elevations.*

Refer to the Plus Architecture RFI response and illustrations

### Public Domain, Wind impacts

*Extract from wind report "The results of the study indicate that wind conditions for the majority of trafficable outdoor locations within and around the development will be suitable for their intended uses. The architect has not confirmed all recommendations have been incorporated into the design.*

Refer to the Plus Architecture RFI response and illustrations.



### Communal and public open space

*The communal open space in this design is distributed across 3 buildings at podium and upper levels of the building which in principal is supported. It is not clear however whether the distribution reflects the different levels of occupation for each building such that the required 25% site area for COS is proportioned to match the buildings occupancies.*

The ADG does not stipulate the provision of communal open space based on the number of apartments in each building but on achieving a percentage of 25% of the site area on which the development is located. The development achieves 25.5% communal open spaces provided on roof tops across buildings.

Of course, the capacity to provide additional communal open space at ground level in the traditional sense, is constrained by Council requiring public access into the market square from all the shown pedestrian links, removing the opportunity to provide more intimate ground level communal open space often found in similar development. Nonetheless, the market square is considered a significant attraction where all residents of the buildings can come together to meet, have a coffee or just chill out around the centre embellishments and public art or in more secluded landscape settings in this area.

Whilst the proposed development complies with the ADG requirements, it is noted that the ADG provides that:

*Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should: • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space*

The compliance with the provisions as required by the ADG was discussed in the SEE also noting the excellent proximity to local parks and recreation facilities and the additional requirement to contribute a substantial sum for the provision of community facilities in the area under the Planning Agreement.

Council's re-interpretation of the communal open space provisions as included in the RFI is inappropriate and not required as an assessment measure by the ADG.

### Deep soil zones

*It is not clear what soil volumes are to be provided in these areas and from inception of the drawings the allowances appear inadequate to sustain the appropriate scale and mix of planting in these areas. The applicant should investigate a number of deep soil areas of up to 2 metres minimum which may mean adjusting basement carpark to accommodate planting at the plaza level (max planter depth appears to be 1000mm). It is not expected that slab top planters will provide an acceptable outcome. Similarly for the podiums a clear strategy to be described for achieving substantial tree plantings and appropriate soil depths/volumes.*

This matter is addressed in the RFI Response prepared by Site Image the Landscape architect.



### Visual privacy

*Many of the units adjacent COS areas share walls with living rooms and bedrooms. Clarification needed as to adequacy of separation for both visual and acoustic privacy.*

This matter is addressed in the RFI Response prepared by Site Image the Landscape architect

### Driveway and acoustic privacy

*Tower B driveway from Broomfield is not clearly described on the elevation. Given its scale and proximity to the main street some treatment of lining may be appropriate. Also the nature of gates and boom control should be clearly understood as this may have an impact on pedestrian safety and general noise levels with gate movements. Given the quantity of vehicles using this entry and exit this warrants special attention.*

See Section 2.2.2 of the RFI response prepared by arc Traffic and Transport.

### Solar and daylight access

*There are a number of solar issues which need clarification. The potential volumes for neighbouring sites to the north do not always appear to be included in the analysis. The modelling should include future stage to the north and discuss/include the potential for the carpark to be developed. These will have impacts upon the claimed solar for Tower A and B lower level apartments and the COS areas. Particularly the COS midwinter for Tower B. Solar claimed for certain apartments is also not clearly described in the models for east facing units Tower A 06 on all levels, Tower C units 08 and 07 on all levels. Both the living and balcony compliance should be clarified at higher detail plans showing solar penetration to ADG. Childcare outdoor space also requires 30% potential solar access.*

Refer to the Plus Architecture RFI response and illustrations.

### Apartment size and layout

*A number of the apartments are slightly undersized in Tower C one beds at 49m<sup>2</sup> should be 50m<sup>2</sup> minimum. There are no dimensions on plans. Typical 2 storey appear narrow at B402, 404 and similarly where this model is used in other Towers. Provide plans that indicate compliance to dimensional controls for apartments including mandatory living and bedroom widths.*

Appendix B Apartment Design Matrix in the SEE shows all one bed apartments in Tower C meet or exceed the minimum apartment size and we would expect that a condition be attached to any consent granted confirming that all apartments are to meet or exceed the minimum area requirements in the ADG.

Refer to the Plus Architecture RFI response and illustrations.

### Private open space and balconies

*The POS areas on podium are not clear as many are 2 level and some appear less than the ADG 15m<sup>2</sup> minimum. It is not clear on some units what the primary balcony size is and i.e. at C807 and similar units two balconies provide 8m<sup>2</sup>+5m<sup>2</sup> =13m<sup>2</sup> however ADG recommends 12m<sup>2</sup> in one location to allow use for the expected size of groups that would occupy a 3 bed unit. Many of the*



*POS/Balconies contain dog leg which will impact on useability. No dimensions are shown nor layouts to indicate capability to provide ADG. AC and clothes drying is not shown and this needs to be clarified as any condensers or other uses on the balcony will impact on their ability to meet ADG minimum requirements.*

Refer to the Plus Architecture RFI response and illustrations.

#### Common circulation and spaces

*A number of the common circulation areas are borderline in meeting the ADG guidance due to excessive length and number of units served and shape of corridors and access to natural light and ventilation. Tower B L2 serves 15 units on one level only, Tower B, L3 to L3, 10 units served with T shaped corridor with window and dead end corridors, Tower C, L2, 9 units and 3 on podium, L3-7 9 units with T shaped corridor, L8-13 similar, Tower A L shaped corridor. Tower B level has a number of units that appear to share access to childcare level amenities. This requires further explanation as the unit lobby appears to separate the childcare reception from the rest of the childcare operations.*

*Clarify childcare and units lobby level 1 and clarify generally the corridor design including shape, colour, materials anticipated to be used to meet ADG guidelines for length and units numbers and confirm windows for natural light and ventilation to all lobbies. It may be appropriate to widen corridors that have an excessive length and have material break or other devices to reduce the narrowness of the linear corridors.*

Refer to the Plus Architecture RFI response and illustrations.

#### Storage

*It appears that storage is provided within the dwellings as well as the basements levels. Notwithstanding insufficient detail is provided on the architectural plans in order to confirm that each proposed unit meets ADG.*

Refer to the Plus Architecture RFI response and illustrations.

#### Facades

*Indicate whether screen devices are operable or fixed. Ideally they are operable to give the owner control for climate adjustment and privacy.*

Refer to the Plus Architecture RFI response and illustrations.

#### Landscape design

*It is expected that landscape design provide a thorough analysis of the units occupants needs and resulting mix of spaces to be provided to meet COS and other requirements. It is not sufficiently clear that this level of detail has been undertaken and informed the design. This comment is in addition to these previously noted in COS and deep soil above. Tower C appears to have a long paved area at Level 2 on the south side which is of questionable use. Access and security issues may arise especially adjacent the undeveloped sites. It is recommended that these areas be re- designed to relate to the units adjacent and include landscape. Tower B COS contains large areas of paving. The extent of paving is questioned, especially given that this building contains the most units and the*



*least lawn area. The communal areas located in the upper levels while a good idea, lack detail as to how they are to be used. Ideally these areas should be planned in more detail and appropriate services included. Are these areas envisaged to be used for dining areas, BBQ areas or just passive seating.*

*Provide detailed analysis of type of uses considered appropriate design and distribution across the 3 buildings and the plazas together with detail area calculations supporting the outcome. Provide more deep soil and volume with larger trees in plaza on street edges and on select podium locations.*

This matter is addressed in the RFI Response prepared by Site Image the Landscape architect

#### Universal design

*Extract from accessibility report "consideration of waiting spaces within fire-stairs should be strongly considered for people with mobility impairment. The current configuration of stairs suggests the spatial requirements would not be incorporated without layout amendments, but if provided with future design development these would generally require. Further work will be required during design development stage to ensure appropriate outcomes are achieved for a number of issues". The applicant shall confirm if this has been incorporated in the design.*

Refer to the Plus Architecture RFI response and illustrations.

#### BCA compliance

*The issue of adjacent non developed sites and impact upon the new building location, setback, façade and fire protection Tower C is described briefly within the architectural documents. However the BCA report does not appear to cover this item. It would be expected that given the importance of this issue relative to size and location of Tower C that a detailed assessment be included.*

Refer to the Plus Architecture RFI response and illustrations and advice from McKenzie Group and Fire Engineering Consultant, E-LAB Consulting

#### Ventilation and air exhaust

*No kitchen ventilation or HWU indicated. The applicant shall describe location and design detail for HWU and kitchen/bathroom exhaust.*

This requirement is appropriately addressed by attaching an appropriate condition to any consent granted.

#### Future air conditioning/clothes drying

*AC shown on wall visible for street. No clothes drying indicated. Indicate AC, condenser locations sizes and any screens for both AC and clothes drying.*

Refer to the Plus Architecture RFI response and illustrations.

#### **Access and Laneway Acquisition**

*Access to the entire development precinct is via 3 key entry points. Access via Cabramatta Road East however is dependent on the Applicant purchasing the existing public laneway from Council.*



The access to the proposed development is not reliant or dependent on the applicant purchasing the existing public laneway as access via the public laneway to the carpark entry under Building A is already available.

The proposed closure of a small part of the existing cul de sac of 187m<sup>2</sup> has been proposed in the DA to regularise the site to streamline basement construction and it is noted that if this land was excluded the proposed development would still be under the maximum FSR for this part of the site.

The applicant has meet with Council to progress the acquisition and provided market valuations to determine its value. Council has stated that it will not rely on the valuation submitted and has set its own commercial value approximately 4 times the market valuation. Negotiations are progressing but it may be that the application will be amended to remove this area and not purchase the land, and adjust the basement area to suit.

Under any of the scenarios above, there is no impact on the lane, the way it is used or its role in providing access to any garaging from it to the rear of existing premises within Stage 3, noting the width of the lane opposite existing garages does not and is not proposed to change. It will remain open. Further documentation demonstrating that the road closure proposal will not impact on servicing of lots in Stage 3 is not required as it is patently obvious.

The demolition of the building to provide 2 way access to Cabramatta Road East, although located in Stage 3, is proposed as part of this DA and no development could occur without it. It is not unusual in a scheme like this for these works to occur within other stages and requires no further comment or justification, nor should it cause 'concern'.

### ***Servicing and Loading Arrangements***

*Council raises concern that based on the information submitted, there is insufficient servicing arrangements provided for Stages 1 and 2. No Servicing and Access Plan has been submitted that demonstrates that there is sufficient loading area for all commercial and residential uses and that they have safe and easy access to this area. It is also noted that vehicle access to Tower A is restricted to cars only and therefore the residents and commercial tenancies would not have access to a loading bay.*

See response and Waste Management Plan by MRA Consulting and responses by arc Traffic and Transport to access, loading and servicing.

### ***Overshadowing Impacts***

*Overshadowing diagrams have been provided, however, the impact from the future redevelopment of Stage 3 is not shown. It is anticipated that this tower under Stage 3 will have the greatest impact on adjoining properties and it is unclear if the location and or bulk/scale of this tower has been changed due to the redesign of Stage 2 (Building C).*

Stage 3 is not part of the current DA. However, it is subject to the DCP and the specific provisions contained in *Built Form, Siting and Heights in Precinct 4A* as extracted below:

*that dwellings within the development and in proximity to the Precinct are capable of achieving the required solar access as prescribed in the Apartment Design Guide.*



This will occur as Part of the Stage 3 DA. However, it is noted that the Building immediately south of the site on Cabramatta Road East is only made compliant because of the shifting of Tower C to account for the isolated sites on Broomfield Street.

Refer to the Plus Architecture RFI response and illustrations.

## **2-Storey Apartments**

*The proposal incorporates numerous 2 – storey apartments as part of the proposed development. It is noted that many of these units have been proposed in this configuration in order to meet the natural ventilation requirements as required by the Apartment Design Guidelines. Concern is raised that some of the apartments particularly the units within Tower B could be converted into dual key apartments. This would reduce natural ventilation and would increase the car parking demand. Accordingly, Council raises concerns regarding the use of 2-storey apartments through the development.*

Refer to the Plus Architecture RFI response and illustrations.

## **Environmentally Sustainable Design**

*There does not appear to be a sustainability report as part of the submission. Given the scale of this development it is considered appropriate that the development respond to the environmental sustainability principles. The applicant shall provide details of how the design meets the principles of Sustainability.*

Refer to the ESD Report prepared by Northrop.

## **Cabramatta Town Centre DCP 5/2000 and Site Specific DCP**

*An assessment of Cabramatta Town Centre DCP 5/2000 and the Site Specific DCP contained within Precinct 4A of this DCP has revealed the following:*

### Part C Active Street Frontages, Awnings & Materials

*Concern is raised regarding providing an active frontage along Broomfield Street from Tower B and the Tavern facing the Market Square. Furthermore, more detail is required to ensure that the awnings that are part of the proposed development are consistent with the controls and Figure 12.*

This is a vague comment that does not provide sufficient detail as to what is required or expected as the DA provides appropriate detail to assess the outcomes.

Council is requested to better articulate the "concern" or propose an appropriate condition that will address the matter.

Refer also to the Plus Architecture RFI response and illustrations.

### Part D Safety and Security

*An external lighting strategy/plan has not been provided in support of the proposed development. A Light Spill impact assessment prepared by a qualified consultant also has not been submitted demonstrating that the proposed, adjoining or nearby dwellings would not be impacted by light*



*spill. A CCTV plan also has not been provided showing the locations of all CCTV around the development.*

This requirement is appropriately addressed by attaching an appropriate condition to any consent granted.

#### Part F Loading, Waste, Vehicular Access and Car Parking

*The DCP requires that specialty uses such as Childcare Centres and medical centres are to have parking and drop off areas located in close proximity to the lifts, stairs or entry. Drop off zones have not been identified on the documentation.*

See Section 2.2.2 of the response prepared by arc Traffic and Transport noting that the DA plans nominates the 20 child care drop off spaces in proximity to a child care dedicated lift in the basement.

#### Part H Signage

*Details are limited regarding any proposed signage in order to accurately assess if any signage complies with the SSDCP.*

Signage is not proposed as part of this application as the future end occupiers have not been identified. Future signage shall be submitted consistent with the relevant legislation and DCP for Council assessment as is typically and practically the case.

#### Part I Staging

*The proposal is for Stages 1 and 2 within a 4 Stage redevelopment of the precinct. It is considered that insufficient documentation has been submitted to ensure that the proposed development in Stages 1 and 2 can operate independently and ensure there is no impact to Stages 3 and 4. Based on the proposal in its current form, it appears the proposal would impact the operation of the existing lots within Stages 3 and 4.*

If "impact the operation of existing lots in Stages 3 and 4" in the comment above is meant to address connection to stormwater, utilities and access, then these matters have already been addressed in various sections of this RFI.

#### **Roads and Maritime Services**

*The assessment has indicated an increase in Level of Service (LoS) and the SIDRA model indicates the base case at the intersection of Cabramatta Road (East) major and Cumberland Street has a LoS F, right turning lanes from all approaches. This proposal is expected to compound additional delays unless additional capacity is provided.*

See Section 4.2.2 of the response prepared by arc Traffic and Transport.

*The SIDRA model also indicates that the gap and follow-up parameters have been adjusted without any supporting information/justification.*

See Section 4.3.2 of the response prepared by arc Traffic and Transport.



*The base model needs to replicate existing site conditions. For example, the queue lengths and delays observed on site are to be compared with that computed by SIDRA and presented in a tabular format and the observed queue length should be within 10%.*

See Section 4.6.2 of the response prepared by arc Traffic and Transport.

*Additionally, the length of the right turn bay from Cabramatta Road (East) major to minor, in the model, does not reflect existing site conditions and should be modelled with adjacent Cabramatta Road and Cumberland Street traffic signals.*

See Section 4.2.2 and 4.5.2 of the response prepared by arc Traffic and Transport.

*TfNSW notes there is a long queue (approximately 250m) on the Cumberland Street South approach to the CRE major intersection during peak hours and weekends. Also, there is a long queue of approximately 260m on Broomfield Street approaching the roundabout of Bareena Street.*

See Section 4.7.2 of the response prepared by arc Traffic and Transport.

*The setup parameters in the Base Model for traffic signals are not in accordance with the SCATS data for traffic signals. TfNSW notes the model is predominantly using defaults, where some examples do not use actual lane widths, grades, pedestrian walk and clearance times, red arrow protection for pedestrians, nor consideration of the Peak Flow Factor. Please include the existing site parameters in the base and future SIDRA model.*

See Section 4.8.2 of the response prepared by arc Traffic and Transport.

*The calibration of the base network model must be undertaken, and the methodology and difference between observed and calculated data is to be tabulated in a supplementary report, please, to ensure all intersections are being modelled accurately. The calibration method is to follow that described in the SIDRA User Guide Section 2.6.2 – 2.6.4 in conjunction with TfNSW's Guide to Traffic Modelling.*

See Section 4.9.2 of the response prepared by arc Traffic and Transport.

*In terms of the traffic generation, the adopted trip rates are very low, in comparison to the TfNSW Guidelines. TfNSW notes this is based on the survey and TA Report dated 2017, which should be considered outdated noting the importance of maintaining the efficiency and safety of road network a "worse case" scenario should be adopted using the higher generations rates.*

See Section 3.1.3 of the response prepared by arc Traffic and Transport.

*Please also note, any direct vehicular access to the site from Cabramatta Road East, a State Road, is not supported. The existing "One Way" exit arrangement from the site onto Cabramatta Road East (local road) should not be changed and should be retained as exit only, as per its current format. The modification to the island/median at this junction, as Figure 16 on the architectural plan is not supported.*

See Section 2.3.2 of the response prepared by arc Traffic and Transport, noting no direct access to Cabramatta Road East Major is proposed.



## **Traffic and Parking Implications**

### *Trip Generation (General retail, slow retail and commercial)*

*The report provides estimated trip generation rates for existing land uses across Precinct 4, based on traffic surveys and site observations.*

See Section 2.4.2 of the response prepared by arc Traffic and Transport.

*It has been assumed that majority of the retail space within Cabramatta East will generate a high proportion of walking and public transport trips rather than private vehicle trips. In particular, the following trip generation rates were estimated:*

- *For General Retail, 1.0 trips per 100m<sup>2</sup> in the AM peak and 3.0 trips per 100m<sup>2</sup> in the PM peak*
- *For Slow Retail, 0.25 trips per 100m<sup>2</sup> in the AM peak and 0.75 trips per 100m<sup>2</sup> in the PM peak*
- *For Commercial, 1.5 trips per 100m<sup>2</sup> in the AM peak and 1.2 trips per 100m<sup>2</sup> in the PM peak*

*It is noted within the report that these trip generation rates remains unchanged from previous assessments and agreed for use by Transport for New South Wales (TfNSW) and Council. Given that the majority of the assumptions used throughout the assessment have been agreed by TfNSW and Council, it is recommended to provide evidence of such agreement for trip generation rates for Precinct 4 as well as other proposed land uses as listed below.*

See Section 3.1.3 of the response prepared by arc Traffic and Transport.

### *Trip Generation (Medical centre)*

*The assessment estimated a provision of 10 consulting rooms and adopted the following rates based on updated surveys for Medical Centres (2015):*

- *2.2 trips per consulting room in the AM peak hour*
- *2.3 trips per consulting room in the PM peak hour*

*These rates are generally lower than the peak hour rates (vehicle trips per room) identified from the 2015 surveys which has an average of 3.8 peak hour vehicle trips per room across the Sydney sites.*

See Section 3.2.2 of the response prepared by arc Traffic and Transport.

### *GFAs of existing land uses*

*Section 3.1.3 of the report provides estimated trip generation rates for different land uses across Precinct 4, based on traffic surveys and site observations. It is recommended that the GFAs for existing land uses to be provided for comparison/review purposes.*

See Section 2.4.2 of the response prepared by arc Traffic and Transport.



#### Trip distribution (Arrival and Departure)

*The Arrival and Departure profile provided in Table 6 only include profiles for Residential, Retail and Commercial and uses. It is unclear what the profiles for the other land uses proposed for the site, i.e. Child Care, are in this assessment.*

See Section 3.3.2 of the response prepared by arc Traffic and Transport.

#### Peak periods for Traffic Analysis

*The report only considers peak periods from typical weekdays (Tuesday and Wednesday) and does not include analysis for a weekend. Given that the proposed development consists of land uses that are also expected to have high activity levels and generate trips during the weekend peak period, an analysis of the weekend peak period trip generation should be considered to determine the worst case scenarios amongst the peak periods.*

See Section 3.4.2 of the response prepared by arc Traffic and Transport.

#### Vehicular site access (Cabramatta Road East Minor)

*Vehicular access for residential parking has been proposed via Cabramatta Road East Minor, with a left in / left out priority control. Largest vehicle expected to utilise this intersection is a B99 passenger vehicle. Swept paths should be undertaken to demonstrate that the largest design vehicle can enter and exit in a relatively safe and comfortable manner, with details of sight distance assessment (other than the mention in section 9.1) to be provided.*

See Section 2.5.2 of the response prepared by arc Traffic and Transport.

#### Vehicular site access (Broomfield Street)

*Vehicular access to retail, commercial and visitor parking, and to on-site servicing area has been proposed via Broomfield Street, and will operate under priority control.*

*Waste collection has been proposed to be undertaken by a private waste contractor. Largest vehicle expected to utilise this intersection is a Medium Rigid Vehicle (MRV) sized waste truck. Use of the MRV for waste collection is expected to be detailed within the waste management plan and subject to Council's approval. It is to be noted that the DCP requires to consider a 10.5-metre waste collection truck with 4.5-metre height clearance. As shown in Figure 31 of the assessment, swept paths of the MRV entering and exiting the site access has been undertaken. Details of a sight distance assessment should be shown to demonstrate that sufficient sight distances have been provided at the site access driveway.*

See Section 2.6.2 of the response prepared by arc Traffic and Transport.

#### Driveway Category (CRE Minor)

*The development has proposed the use of Category 2 Driveway for CRE Minor. Based on Table 3.1 of AS/NZS 2890.1:2004, a provision of 301 car parking spaces for the carpark with CRE Minor access driveway would result in the requirement of a Category 3 Driveway. It is recommended to undertake*



*a queuing analysis at this access to understand if the use of Category 2 Driveway is appropriate for the proposed 301 car parking spaces.*

See Section 2.7.2 of the response prepared by arc Traffic and Transport.

#### Connectivity and accessibility for cyclists

*Details of how the proposed active transport paths from the development tie-in with the existing/future active transport network should be provided.*

See Section 2.8.2 of the response prepared by arc Traffic and Transport.

#### Anticipated peak demands periods of Shared Parking

*It has not been indicated if the anticipated percentage of peak demand for each land use, in Table 21, Table 22 and Table 26, is for weekday or weekend. Different peak periods are expected for retail during a weekday and a weekend. This would result in different overall peak periods and peak parking demands.*

See Section 2.9.2 of the response prepared by arc Traffic and Transport.

#### Car parking design

*The report only mentions compliance with Australian standards (Section 8.5). Swept paths at critical locations should be provided, in particular at access driveways, manoeuvring in and out of ramps, blind aisle, etc.*

See Section 5.4.2 of the response prepared by arc Traffic and Transport.

#### Passenger Car Unit (PCU) factors.

*The SIDRA model is shown to use the default PCU factor for Heavy Vehicles (1.65). It is recommended this PCU value be changed to 2.0 to be in accordance with the TfNSW transport modelling guidelines.*

See Section 4.10.2 of the response prepared by arc Traffic and Transport.

#### Pedestrian Volumes

*It is detailed in the Transport Assessment report that the traffic surveys contained pedestrian counts at the signalised intersections. It is observed that only the south approach pedestrian crossings at Hume Highway/ Lansdowne Road and Hume Highway/Cabramatta Road East have been changed from the default value of 50 pedestrians per hour. If pedestrian volumes are available it is recommended that these volumes are updated on all other approaches.*

See Section 4.11.2 of the response prepared by arc Traffic and Transport.

#### Signals

*For each site the 'Phase Transitions' have not been applied in the signal phasing. It is recommended these be updated per the following:*



- *Hume Highway & Lansdowne Avenue: B Phase – Lansdowne Avenue approach left turn*
- *Hume Highway & Hollywood Drive & Chadderton Street: B Phase – Hollywood Drive and Chadderton Street approach left turns*
- *Hume & Cabramatta Road East: B Phase – Cabramatta Road East approach left turn*

*Failure to include the phase transition results in more green time being provided for the left turn movements which can overstate the capacity and reduce queues and delays.*

See Section 4.12.2 of the response prepared by arc Traffic and Transport.

*For each site the 'Undetected' movements have not been defined in the signal phasing. It is recommended these be updated per the following:*

- *Hume Highway & Lansdowne Avenue: C Phase – Lansdowne Avenue approach left turn*
- *Hume Highway & Hollywood Drive & Chadderton Street: C Phase – Hollywood Drive and Chadderton Street approach left turns*
- *Hume & Cabramatta Road East: C Phase – Cabramatta Road East approach left turn*

See Section 4.13.2 of the response prepared by arc Traffic and Transport.

#### Volumes

*Some minor discrepancies are shown in the volumes presented in Figure 14 within the report and the volumes within the SIDRA models. For the Hume Highway / Hollywood Drive / Chadderton Street intersection the AM peak north approach volumes presented in the report show 67 and 65 vehicles for the left and right turns respectively. Within the model 62 and 61 vehicles are entered respectively. It is recommended this be amended for consistency, although it is noted that the change will likely have a negligible impact on the outcomes of the assessment.*

See Section 4.14.2 of the response prepared by arc Traffic and Transport.

#### Intersection Geometry

*It is observed that the Chadderton Street approach is coded with the short lane for the through and left turn movements. A review of Nearmap aerial imagery shows that the short lane is designated for the right turn. Furthermore, the short right turn lane is observed to be approximately 20m compared to the 40m coded in the SIDRA models. It is recommended the Chadderton Street approach be reviewed and updated.*

See Section 4.15.2 of the response prepared by arc Traffic and Transport.

#### Intersection Geometry

*It is noted that the Lansdowne Road departure lanes are modelled as a full length lane and a short 80m long lane due to parking. A review of Google Streetview shows that parking is prohibited between 7:30am-9:30am and 3:30pm-5:30pm. Although the reviewer does not know the area well, consideration could be given to reviewing the parking restrictions applicable in the peak hours to see if Lane 3 on the north approach right turn could operate better.*



See Section 4.16.2 of the response prepared by arc Traffic and Transport.

#### Advanced Parameter Settings

*It is noted that the advanced parameter setting for Exit (Downstream) short lane model: Distance for Full Lane Utilisation has been changed from the default 200m length. This parameter differs between the AM and PM peak hour models with lengths of 115m and 100m respectively. It is recommended that this is reviewed and applied consistently between models.*

See Section 4.17.2 of the response prepared by arc Traffic and Transport.

#### **Stormwater and Flooding**

*To ensure proper management of stormwater runoff presenting generated by the laneway, it is necessary to relocate Council's stormwater asset currently situated within the lot that will be created upon completion of the proposed Subdivision/Road Closure. A qualified engineer shall prepare Civil Engineering Plans outlining the relocation of Council's stormwater assets outside the proposed lot boundaries. These plans should also include the extension of the kerb and gutter along the proposed boundary to effectively capture the stormwater runoff from the laneway, considering that the existing pit is the lowest point within the laneway.*

The relocation of Council's stormwater assets has been addressed in the report and Civil Engineering Package by Northrop that accompanied the DA. Northrop are qualified engineers and it is noted that significant consultation occurred with Council's engineers in detailing the solutions to ensure they met Council's requirements. Some of the matters raised in this part of the RFI as somewhat surprising.

With specific regards to the above, the Siteworks and Stormwater Management Plan – Sheet 2 of the Engineering Package shows the of the kerb line to define the reinstated cul de sac head as well as new pit at the cul de sac head. The replacement pit will remain as the lowest point in the lane. The privately owned pit is to collect stormwater runoff from Council land to minimise the likelihood of inundation of other properties (the developer/contractor/building maintenance will maintain this pit). We anticipate an easement may be required over this asset. It is noted that due to the overland flow diversion works at the laneway adjacent to Cabramatta Road East, the catchment of this road and role in funnelling overland flow through the site is reduced.

The proposal includes diverting the water from the pit at the end of the cul de sac into an onsite detention tank and then diverting flows into the easement adjacent to the Council's Fisher Street Car Park for discharge into Fisher Street, noting that it is the intention for this entire laneway be held in private ownership in the future as part of the overall redevelopment.

The proposal above, together with the overland flow diversion works within the laneway, was subject to flood modelling showing a reduction in flood depths in Fisher St immediately after the surcharge pit, and minor increase of 20mm in adjacent areas.

*Once the excavation of the basement levels takes place, all of Council's stormwater assets within Lot 10 DP 255023, including the stormwater pit located at the north-western corner, will be removed. Provide details on how the stormwater runoff from the laneway will be directed and managed during the construction stage.*



The initial works would be to construct the diversion culvert and raised pavement in the public laneway adjacent to Cabramatta Road East for owners in Stage 3 could continue to access the private lane to Broomfield St under management as well as the possibility of temporary access into the Cumberland Street car park. The culvert along the eastern boundary will need to be support during construction works.

The grated drain will be removed when excavation starts in this area. It is not uncommon when building basements adjacent to existing stormwater assets that will be disconnected that a dewatering plan is prepared at the construction stage to deal with rainfall events while the excavation is open.

*The proposed Civil Engineering Plans, prepared by Northrop (Revision 02, Dated 11.05.23), outline a box culvert line that begins at Cabramatta Road East and connects to Council's stormwater asset downstream on Fisher Street. The following details are required to be submitted for further assessment:*

- a. *The box culverts will connect to Council's stormwater asset which will discharge into two, 300 Diameter pipes across the street, which do not provide sufficient capacity to handle the flows. Consequently, this situation leads to surcharging in Fisher Street and the pits located upstream. In accordance with section 3.5.3 of Council's Stormwater Management Policy 2017, the development shall accommodate the passage of overland flow over the site.*

The purpose of this culvert is to redirect overland flow around the site, and as such, adequately addresses the Council Stormwater Management Policy. This approach was discussed thoroughly with Council in pre-DA discussions.

As noted above, this surcharge pit was designed in coordination with the flood engineer for the site. The flood modelling shows a reduction in flood depths in Fisher Street immediately after the surcharge pit, and an increase of maximum 20mm in adjacent areas.

The intent of the culverts is to remove overland flow from the subject site and to discharge it away from the site with similar behaviour in the water levels as per the pre-development case. This was modelled with TUFLOW results provided in the Northrop Stormwater Management plan provided by Catchment Simulation Solutions. The stormwater is meant to discharge at the pit to simulate the existing scenario.

- b. *The proposed 1200x600 Box Culvert line is intended to run along the perimeter of the existing lot boundaries and in some sections will be located within the basement level, which is considered unacceptable. To ensure clear access for future maintenance purposes, the box culverts should be located outside of the basement level.*

The box culvert is to be located adjacent to the eastern boundary above a fold in the basement slab for easy access without entering the basement this will then connect to the Council easement on the eastern side of the Fisher Street car park.

The stormwater into the pit adjacent to the public lane will be conveyed through the market square (or under the basement) into a detention tank prior to discharge into the easement on the western side of the Fisher Street car park that then connects to Fisher Street. Ultimately it is intended for the entire laneway to be incorporate in the development site.

- c. *The proposed Civil Engineering Plans include a Kerb Inlet Pit at the cul- de-sac's end; however, there are no specific details regarding its connection to Council's stormwater system. Provide information on how this pit will be connected to Council's stormwater system. Please note that stormwater pipes should not be underpinned to the ceiling of the basement level.*
- d. Localised site stormwater was not shown as part of the civil DA documentation. This will be shown for CC.
- e. *Council does not accept the proposed construction of an 8000mm x1200mm grated drain (Pit 01/01) within the laneway facing Cabramatta Road East. Present an alternative solution for capturing stormwater runoff in this location.*

This grated drain was discussed in length with Council at Pre-DA meetings. If this inlet is not accepted then we cannot capture the flows and discharge them into the culvert, and the culvert becomes redundant.

In accordance with flood modelling completed for the project, the grated drain improves safety for the community as it reduces the flood depth and velocity in relation to the existing conditions as per the flood modelling results.

*The basements shall be protected from overland flooding by providing a minimum of 300mm freeboard from the 100 Year ARI flooding. A Proposed freeboard of 100mm is not considered acceptable for a three level basement carpark.*

This comment relates only to the Broomfield Street entry noting that the entry off Cabramatta Road east will have works to ensure that flood waters are diverted around the entry (discussed further is a separate response to Council).

Chapter 11 – Flood Risk Management of Fairfield City Wide DCP sets the requirements for development that may be subject to flood events including overland flow flooding as may occur on and adjacent to the site in major flood events.

The DCP provides advice for the provision Car Parking and Driveway Access in the Georges River, Cabramatta and other Floodplains (including areas affected by Local Overland Flooding). Of relevance to this DA enclosed car parking is defined in the DCP as meaning

*Enclosed car parking means car parking which is potentially subject to rapid inundation, which consequently increases risk to human life and property (such as basement of bunded car parking areas). The following criteria apply for the purposes of determining what is enclosed car parking:*

*(a) Flooding of surrounding areas may raise water levels above the perimeter which encloses the car park (normally the entrance), resulting in rapid inundation of the car park to depths greater than 0.8m, and*

*(b) drainage of accumulated water in the car park has an outflow discharge capacity significantly less than the potential inflow capacity*

The DCP states the same provision applies to enclosed car parking under the Heading of *Car Parking and Driveway Access* in all the floodplains as follows:

*3. Garages capable of accommodating 3 or more motor vehicles on land zoned for urban purposes, or enclosed car parking, must be protected from inundation by flood equal to or greater than the 100 year flood.*

The proposal includes inundation to the required 100 year plus level plus an additional 100mm. There is no requirement in the DCP to be any level above the 100 year flood, but it simply states it can be more if designed to be so.

Section 4.15 (3A) of the EP&A Act provides the matters for consideration in the evaluation of an DA and states that if *a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority—*

*(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development,*

The Council request to provide additional freeboard to the Broomfield Street basement entry is not required by the DCP and is contrary to Section 4.15(3A) of the EP&A Act.

*Proposing freeboard to habitable areas by installing flood gates is not supported by Council since it will be difficult to guarantee proper working of this device in the long run.*

For context, flood gates were proposed to only 2 retail premises entries. Whilst flood gates are an effective means of protecting property from inundation in flood events, Council's rejection of this measure means the floor levels of retail premises need to be set above the flood level plus freeboard and that consideration of disabled access to these spaces.

With regard to access, it is noted that one of the premises has alternate and main entry from the within the development adjacent to the market square so can comply with accessibility provisions by internal ramping. The other will require ramping to the new floor level. Both changes have been shown in amended plans- refer to RFI Response by Plus Architecture.

*It is required that the Drains model used in the determination of OSD volumes and orifice sizing be submitted to Council for review. It appears that the OSD storage will be below the 100 Year ARI flooding within easement at the connection point and not likely to function hydraulically.*

The design intent is for the OSD system to be empty prior to the culverts being at full capacity.

Northrop have prepared a DRAINS model reflective of the Northrop drawings and provided with the OSD being emptied prior to the culverts being at full capacity.

### ***Site Access, Parking and Manoeuvring***

*The ramp and manoeuvring areas intended for service trucks shall have 4.5m vertical clearance. The architectural plans at basement B1 do not demonstrate adequate clearance.*

See Section 5.1.2 of the response prepared by arc Traffic and Transport.

*The intersection of retail entry and ramp intersection at basement B1 level is designed for three way traffic and likely to create conflict.*



See Section 5.2.2 of the response prepared by arc Traffic and Transport.

*At basement levels B1, B2 and B3 the residential ramp is located next to the isle on the eastern side. The vehicle from the ramp onto the eastern isle is not feasible due to inadequate manoeuvring space for a u- turn.*

See Section 5.3.2 of the response prepared by arc Traffic and Transport.

*The report only mentions compliance with Australian standards (Section 8.5). Swept paths at critical locations should be provided, in particular at access driveways, manoeuvring in and out of ramps, blind aisle, etc.*

See Section 5.4.2 of the response prepared by arc Traffic and Transport.

*A turning bay shall be provided close to residential parking No 29 at basement levels B1 and B2.*

See Section 5.5.2 of the response prepared by arc Traffic and Transport.

*The retail ramp is located adjacent to driveway isles on the eastern and western sides at basement level B2. Vehicles manoeuvrability from the ramp onto these isles will not be feasible due to inadequate manoeuvring space.*

See Section 5.6.2 of the response prepared by arc Traffic and Transport.

*Provide dimensions of parking spaces at all levels to demonstrate compliance with AS2890.1:2004 requirements.*

See Section 5.7.2 of the response prepared by arc Traffic and Transport.

*Accessible Spaces in the residential sections of the basement do not comply with AS2890.1:2004.*

See Section 5.8.2 of the response prepared by arc Traffic and Transport.

### ***Detailed Acoustic Assessment***

*A review by Council's Senior Environmental Officer has advised that the submitted acoustic brief is lacking critical information associated with the proposed development. As a result, the applicant is requested to submit a detailed noise impact assessment for further assessment.*

Refer to the revised Acoustic Report addressing the RFI matters prepared by Northrop including the specific matters as follows:

- (1) *Noise monitoring data used by the acoustic consultant is more than 4 years old. Recent noise monitoring data is required as older data is not reliable.*

Additional noise monitoring was undertaken in January/ February 2024. Criteria and assessments were updated based on the 2024 noise monitoring in the updated acoustic report.



- (2) *All nearest sensitive receivers within the proposed development and surrounding must be labelled and identified correctly. The report should include elevations of the proposed development and elevations of the nearest sensitive receivers.*

Section 2.2 of the Acoustic Report has been updated to clearly separate internal receivers (receivers within the site) and external receivers (receivers outside the site). Both internal and external receivers have been identified correctly in Table 3. The surrounding receivers have been marked in green in Figure 1. The receivers within the proposed development are marked in green in Figure 2.

- (3) *The proposed Childcare centre's operating hours are 7:00 am to 6:00 pm, it is likely that staff would arrive potentially up to 30 minutes prior to opening. An assessment of maximum noise events associated with cars arriving and doorclosing/slamming and other activities during the morning shoulder period, should be conducted to ensure sleep disturbance is assessed.*

The possibility that staff may arrive 30 minutes prior to 7:00am is not known as the childcare operator is not known at this stage and therefore the exact operational activities cannot be confirmed. Nevertheless, the possibility of sleep disturbance is considered very unlikely for the following reasons:

The childcare staff parking is located within the car park basement. Maximum noise level events like door closing/ slamming would occur within the underground basement. The noise breakout through the underground basement is considered negligible as the basement will provide significant acoustic shielding to the nearby sensitive receivers.

Typically, there will only be a small number of staff arriving before 7:00am and therefore the number of door closing/ slamming would be minimal.

The site is surrounded by public car parks/ car parking including a multi storey commuter car park to the north. Therefore, maximum noise level events associated with cars are typical for the site and its surrounding area. Any car maximum noise level events associated with the childcare centre would not significantly change the existing acoustic amenity within the area.

Further investigation into sleep disturbance can be undertaken by the childcare operator if required.

- (4) *When assessing the outdoor play area (childcare centre), the consultant shall use all age groups of the children when determining the sound power levels of children playing.*

Given that a childcare operator has not been appointed, the exact age groups for the childcare is not known. For a conservative assessment, it was assumed that all the children are of age 3-5 years old as this is considered the loudest age group. The sound power levels of children playing were determined using the sound data provided in the AAAC Childcare Guideline. See the table below.

**Table 1 – Effective Sound Power Levels ( $L_{Aeq, 15min}$ ) for Groups of 10 Children Playing**

Number and Age of Children	Sound Power Levels [dB] at Octave Band Centre Frequencies [Hz]								
	dB(A)	63	125	250	500	1k	2k	4k	8k
10 Children - 0 to 2 years	78	54	60	66	72	74	71	67	64
10 Children - 2 to 3 years	85	61	67	73	79	81	78	74	70
10 Children - 3 to 5 years	87	64	70	75	81	83	80	76	72

- (5) *The consultant shall provide information about location of children distributed within the outdoor play area.*

For the purpose of this assessment, it was assumed that the children are equally distributed along the outdoor play area. This is detailed in Section 6.3.2. This method is commonly adopted in Childcare Noise Assessments.

- (6) *The detailed acoustic report shall be clearly structured and easy to read. In saying this the report shall include an executive summary, in-depth discussion of chosen noise assessment methodology, conclusion, and recommendations.*

The report has been updated to improve clarity by adding the following:

- i. - Executive summary (Page 3)
  - ii. - A section detailing all the acoustic considerations (see Section 1.2)
  - iii. - Table 1 breaks down the different acoustic assessments and which guidelines were adopted to undertake each assessment
  - iv. - Conclusion now includes a summary of recommendations for each assessment
- (7) *The tavern is proposed to operate 24/7 with a maximum capacity of 300 patrons. It is noted that the premises will not have an outdoor area. However, it is likely that patrons will gather outside for smoking or queuing to enter the premises. The consultant shall demonstrate that outdoor noise associated with patrons has also been acoustically assessed and included within the assessment.*

The Tavern operators will be able to manage this through a noise management plan. The following management measures can be incorporated into the noise management plan:

- Utilise the internal layout to ensure that queuing occurs within the building
  - Have security at the doors to avoid patrons from loitering
  - Have designated smoking rooms for patrons and restrict smoking to these areas
- (8) *The consultant did not provide NSW EPA NPfl intrusive noise criteria, project amenity criteria, and noise emission criteria for plant and equipment noise. The detailed noise impact assessment shall include tables that clearly identify intrusive noise criteria, project amenity criteria and noise emission criteria for plant and equipment.*

The intrusive noise criteria are determined in Section 5.1.2.1, while the project amenity criteria is determined in Section 5.1.2.2. Table 9 identifies the noise intrusion criteria, Table

10 identifies the amenity criteria, Table 11 identifies the Project Noise Trigger Levels (ie. noise emission criteria for plant and equipment).

- (8) *The gymnasium (gym) is occupying 507 sqm of GFA in Building C. However, a noise impact assessment for the gym is not provided by the acoustic consultant. The Gym will likely pose an adverse acoustic impact on nearby sensitive noise receivers. Therefore, a detailed noise impact assessment is required for the gym.*

The occupation of this commercial space has been deleted from the proposal as the operator of a gym is unknown and essential to prepare a robust assessment. Therefore references to a gym have been removed from the acoustic report. In the instance where an acoustic report is required, a separate DA/ acoustic assessment should be prepared to assess the noise and vibration impacts associated with the gym.

### **Land Contamination**

*Council has stated that based on the potential contamination sources identified and the potential for contamination, a detailed Site Investigation (DSI) is required to be undertaken by a qualified contaminated land environmental consultant. Council's Building in Saline Environments applies to this land. It was also recommended by the JKE that salinity investigations occur for the proposed development. Therefore, applicant is to conduct a salinity investigation and submit report to Council.*

A Detailed Site Investigation and Remediation Action Plan was uploaded to the Portal and a separate email was also sent to Council's assessing officer on 14 July 2023. It appears despite both these measures, this information has been overlooked by Council.

The salinity investigations are appropriate investigation to be completed prior to construction of the Construction Certificate and this requirement can be addressed by attaching an appropriate condition to any consent granted.

### **Landscape Comments**

*Council's landscape architect has reviewed the proposal and raises the following matters:*

- 1. As discussed above, the development should include deep soil zones throughout the site in order to allow an appropriate scale and mix of planting in these areas.*
- 2. The paving and planting proposed shall align with Councils Public Domain Plan– Cabramatta, section Public Domain guidelines materials framework.*
- 3. The development shall further contribute to the public domain by extending the landscape interventions into the adjacent space of the traffic islands. This extension would allow an overall uplift to the public domain in this area. This potential improvement is also listed as an objective for public domain improvement in Councils Public Domain Plan for Cabramatta.*
- 4. Seating in line with Fairfield City Councils public domain manual shall be provided in the streetscape to assist in public amenity.*
- 5. The trees located along the street frontage and especially in the parking bay of the roadway, should use methods to help provide a higher level of soil volume in order to ensure*

*their sustainable and long-term success in this urban environment. One such solution is the use and integration of 'tree cells/strata vault systems' into the ground surface to allow for a greater soil volume availability for the trees planted and growing in urban conditions. This is particularly important in areas where trees are being shown proposed to be grown in narrow garden beds within road reserved.*

This matter is addressed in the RFI Response prepared by Site Image the Landscape architect

### ***Waste Management***

Refer also updated Waste Management Plan prepared by MRA Consulting and to the comments below:

#### *Collection Vehicle size*

At Pre DA meetings it was consistently indicated that the development would need to rely on a private waste collection service, although unfortunately this is not captured in Council's Pre DA Minutes. The DA as submitted proposes a private waste service for this development which was best outlined in the extract from the Traffic Assessment submitted at that time as follows:

*Based on our discussions with Council, the waste collection vehicle currently used across the LGA is a 12.5m Heavy Rigid Vehicle (HRV). While there is the potential for Council to use smaller waste collection vehicles in the future – for example an 8.8m Medium Rigid Vehicle (MRV) as used by many metropolitan Councils – it was determined at an early stage in the design process that providing for a HRV would be difficult given Site constraints, including manoeuvring and headroom.*

*As such, the DA Proposal provides for waste collection to be undertaken by a private waste contractor using MRVs; further details in regard to the waste collection proposal are provided in the Waste Management Plan that accompanies the DA. All general servicing (deliveries etc) will also be restricted to a MRV, which is generally standard practice for infill sites within urban centres.*

This appears to have also been acknowledged in the Traffic Section of Council's RFI letter noting the ramp design for MRVs but requesting checking of site distances which has been reviewed elsewhere in this response.

Regardless of the above, it is emphasized that the use of the Council's larger garbage truck is not a practicable waste collection vehicle for this site with steep ramps, and with turning and head height limitations when circulating in a constrained basement, even one as large as is proposed on the site. The development will rely on private waste collection service and the use of MRVs that the basement has been designed to accommodate. The private waste service has the added advantage being able to schedule service more frequently than Council's scheduled services and more flexibility for on site storage.

The DA provides for vehicles up to a Medium Rigid Vehicle (MRV) which is consistent with vehicle fleets common to the private waste collection industry. Page 19, subheading 'Vehicular site access (Broomfield Street)' of Council's RFI acknowledges and assess the proposal for use of MRV sized vehicles for the purpose of waste collection.



The proposed use of a private waste collection contractor is in line with other residential development of similar scope and scale across the Sydney Metropolitan Area. Changes to accommodate a HRV according to Council's request would result in a severe impact on the overall viability and design of the proposed development.

### Collection Frequency

As the development proposes a private waste contractor to service this development it can seek more frequent collection and hence does not need to design for FCC frequencies

### Bulk Bin Storage

1,100L bins represent the most efficient use of space and management output for waste generated at the site. The use of 1,100L bins for general waste and recycling will be effectively managed with a bin tug/trailer to reduce the manual handling requirement of these large bins (compared to 660L bins).

According to Appendix G of the NSW EPA Better Practice Guide for Resource Recovery in Residential Developments (2019), the average size of bulk MGBs is as follows:

**Table G1.2: Average dimension ranges for four-wheel bulk bins**



Bin capacity	660L	770L	1100L	1300L	1700L
Height (mm)	1250	1425	1470	1480	1470
Depth (mm)	850	1100	1245	1250	1250
Width (mm)	1370	1370	1370	1770	1770
Approx footprint (m <sup>2</sup> )	0.86–1.16	1.51	1.33–1.74	2.21	2.21
Approx weight (kg)	45	Not known	65	Not known	Not known
Approx maximum load (kg)	310	Not known	440	Not known	Not known

**Dome or flat lid container**

Sources include Sulo, Signal Waste, Cleanaway, SUEZ, Just Wheelie Bins and Perth Waste

On the basis of the above, the largest edge of an 1,100L or 660L bin is 1,370mm. Overall the site provides minimum corridors of 1,500mm to accommodate movements of bins and otherwise across the site. 2,500mm corridors is an excessive requirement and is not representative of actual access requirements.

### Chute Rooms

Chute rooms are sufficiently sized to accommodate proposed bins and linear track systems. The proposed linear track in Block A is oriented east to west which is shown on site plans with clear markings of loading space. Use of 1,100L bins under chutes represents a more efficient storage approach to use of 660L bins.

The specifications proposed can be achieved as recommended, however linear track and/or carousel systems accommodating 4 x 660L bins represents minimal volume gain over 2 x 1,100L bins per current proposed strategy and would uniformly compromise the design of waste storage areas unnecessarily.

Additional/spare bins can be retained in the central storage area when not in use (1,100L bins).



#### Bulk Bin Movement

A bin tug/trailer space has been designated in the main bin hold for residential waste. This area would be reserved for parking of a bin tug/trailer to permit efficient manoeuvring of bins around the site. See revised plans.

#### Access to Bulky Waste Rooms

Bulky waste storage areas are sited adjacent to the loading dock which are accessible by all residents as a central location for the disposal of bulky waste items.

#### Use of roller shutter doors

Double outward opening doors have been shown on all waste storage areas that would be required to be accessed by residents where possible. Where double doors are not feasible, automatic roller doors with keycard access would be employed to ensure residents and personnel have easy and safe access to waste management areas.

#### Retail/commercial waste collection

Retail tenancies would use services lifts from the ground floor to the Basement Level 1 for the disposal of waste in the retail bin room. The WMP has been updated to show travel paths from service lifts on B1 to the retail waste room.

#### Waste collection infrastructure/storage rooms

Site plans and the WMP have been updated to reflect these requirements.

#### *Building Code of Australia*

*Council has significant concerns regarding the balconies of Tower C proposed along the boundary of the isolated lots. The following is not addressed within the submitted BCA Report:*

- a. Detailed information on the number and location of openings on levels 5 to 19 of Tower C that are required to be protected in accordance with Part C4D5 of the BCA.*
- b. Details on how compliance with Part C4D5 of the BCA can be achieved considering the openings are within sole occupancy units, that may be reliant on natural ventilation. (Part F6D7 of the BCA)*
- c. Details on how compliance with Part F6D2 and F6D3 can be achieved given the minimal setback of the balconies on Tower C to the property boundary.*

Refer to response to the RFI prepared by the McKenzie Group and E-LAB Consulting.

#### **Right of Way and Access**

*It appears that there is a Right of Way located within Stage 2 of the precinct that runs along the boundary of Nos. 94-96 Broomfield St, which access the isolated sites fronting Broomfield Street.*



*No details of have been submitted regarding the Right of Way and how the proposal including the construction of the podium over this Right of Way does not impact the terms of the Right of Way.*

There is a right of way located to the rear of the isolated lots on Broomfield Street within Stage 2 and which extends onto the development site which is shown on the survey plans submitted with the DA and referenced in the SEE.

The DA plans show that the proposed development maintains the easement on the development site so that the isolated sites will continue to benefit from the easement to Cabramatta Road East. These plans clearly show that the right of way has been incorporated in a way that does not impede or restrict its use.

Refer to advice from Holding Redlich on the Terms of the Easement and plans.

### **Construction Impacts**

*The proposal includes the excavation of three levels of basement car parking up to the boundaries. Concern is raised regarding the potential construction impacts to the isolated lots and the other properties within Stage 3 and 4. It is considered appropriate that documentation be submitted to address any construction impacts to these sites and mitigation measures that are to be employed to ensure that these lots can continue to operate during the construction of Stages 1 and 2.*

Refer advice from Adams Structural and Civil Engineering.

### **Sewer and other Services**

*The proposed development seeks to excavate nearly the entirety of the site. The submitted Statement of Environmental Effects indicates that the proposal will include the relocation of a sewer that is located within the premises. No information has been provided if there are other services within the premises that may be impacted by the proposed development.*

The diversion of stormwater around the site was addressed in the report by Northrop and has been further addressed previously in this RFI response.

To determine the location of services within and surrounding the site, the applicant had prepared a detailed survey including noting all manhole locations for the different services and further engaged Ausflow to identify the location and depth of water and sewer services to assist in developing options for the diversion of sewer services around the excavation for discussion with Sydney Water, noting that this typically occurs when seeking a S73 Certificate to comply with a condition of consent. Refer package comprising detailed survey and key pit invert levels.

The work undertaken as outlined above confirms that the water mains serving the site are located within the Cabramatta Road East and Broomfield Street verges and the survey also identifies gas and telecommunication services along these street frontages. These will not be impacted by the excavation.

With regard to sewer, the survey identifies that the site slopes gently from the southern eastern corner downward toward the Broomfield Street and Fisher Road boundaries in the north east. The sewer network and depth of pits have been reviewed over this area to identify the existing drainage lines that would be disturbed by construction of the basement excavation and options



for diversion of these to ensure no service to adjoining properties is disconnected. The survey confirms in the development of future options for consideration and approval of Sydney Water that:

- The sewer services serving existing development on Stage 4 (ie Lot 100 DP 1141040 and Lot 10 Sec E DP 4420) are not interrupted by the proposed development and lines will continue to link with the sewer low point in Fisher St.
- The isolated sites fronting Broomfield St will be able to continue to drain toward the Broomfield St frontage and all available evidence is that they will be unaffected by the development.
- There is a sewer main entering the site from the Cumberland Street carpark that can be diverted along land adjacent to the Fisher Street car park to connect with services in this street.
- Diversions will be required to continue services to adjoining development in two locations with options to include:
  - The sewer line from the manhole at the rear of 135 Cabramatta Road East located within Stage 3 will be disrupted by the proposed excavation. However, the preferred option is to divert the sewer line along land adjacent (immediately west) of this lot where a small setback has been allowed for adjacent to the basement slab (and excavation) and then into unexcavated land under the future pedestrian connection to then extend into Cabramatta Road to connect to existing sewer mains in this street.
  - The manhole at the rear of 147-149 Cabramatta Road East is a manhole that also extends to service the rear of the "isolated site" in Stage 2 (ie 143-145 Cabramatta Road East). The sewer line from this manhole can be diverted eastward along its rear boundary and back within or adjacent to the east along its eastern boundary to connect to same sewer infrastructure in Cabramatta Road East.

Refer to Survey and sewer package for the detailed survey and extracts of the sewer plans and concept options for diversion of impacted lines. These options are typically developed further and fully designed post consent to meet the requirements of consent conditions.

## Notification

*Council advises in the RFI that there are eleven (11) submission were received during the notification period be viewed on Council's online DA Tracker System, available on the Fairfield City Council website. However, only 9 were available on Council's DA tracker website and it is assumed the others were from government agencies so not made available.*

Whilst it is typically Council's role in the assessment process to address submissions, it has asked the applicant to do so and summarised the submissions which are responded to below:

- *The land size has been reduced since the site specific planning proposal and now it's an irregular shape to accommodate the density proposed.*



This submission is concerned that the proposal doesn't include all four stages at once as shown in the Planning Proposal. The Planning Proposal showed 4 indicative stages of development. It is typical is a large project such as this to include staging in order to secure construction finance and the long build times before the next stage is ready to commence.

- *Parking impact on the local streets*

Parking has been thoroughly addressed in the arc Traffic Assessment.

- *Increase in traffic and road congestion*

Traffic has been thoroughly addressed in the arc Traffic Assessment.

- *Negatively affect the uniqueness of Cabramatta*

It is difficult to understand what elements or aspects of the commercial development on the eastern side of Cabramatta should be retained given that the area is tired and ripe for redevelopment in a location that can produce a transit oriented development outcome, consistent with broader planning principles.

- *Strain on the local infrastructure*

It is unknown what infrastructure this submission is referring to. However, the site can be connected to all utility services and the arc Traffic Assessment notes that this development can occur without any significant upgrade of the road network, which is a rarity for large scale redevelopment in infill urban locations. The site itself provides a market square designed as a passive communal meeting place and additional communal open space areas. The site is also well served by local open space and recreation opportunities including the Cabramatta Leisure and Cabramatta Bowling Club, and Longfield Park and Cabravale Memorial Park within walking distance of the site.

In addition to the above, the Planning Agreement entered into with Council also provides for either the construction of the pedestrian bridge or the payment of a contribution of nearly \$5M to Council for the upgrade of community services and facilities in the area. As noted the applicant has been denied the most basic request to have a Pre DA meeting with TfNSW for the bridge and its last formal correspondence with Council is that it does not support the bridge. In these circumstances it is likely the monetary payment will be required.

- *Increase population results in increase in crime*

There is no evidence that an increase in population results in an increase in crime. Indeed a well-designed development that enables good surveillance of entries and public domain demonstrably can deter crime which typically occur in areas with poor surveillance and few people.

The report was accompanied by a Crime Prevention by Environmental Design Report and the proposal includes commitment for CCTV for all public domain areas within the site.

- *Enough shops should be a playground*

The site has been zoned for commercial uses for a significant period of time reinforcing and enabling the redevelopment of the site for commercial uses. Nonetheless the development incorporates a substantial market square embellished with different levels, water feature and public art which will attract children's play. Note also, as discussed above, the requirements of the Planning Agreement.

- *Too much density when compared to the rest of Cabramatta; and*



The rezoning of the site went through a protracted rezoning process and was exhibited a number of times to enable a transit oriented development given proximity to Cabramatta Station. It is noted that Council has also progressed a fast track Planning Proposal to increase the density of the development in the remainder of this commercial area as well as areas within the western side Cabramatta.

The site has always been underutilised and will marry well with the other upzoning initiative progressed by Council for the Cabramatta Area.

- *The proposal will have negative implications to the isolated sites.*

As noted elsewhere in this response, there was only one submission from the owner of a strata unit in what has been described as an isolated site notwithstanding that this issue is arisen as there is not enough owners in the scheme to dissolve the strata scheme under the *Strata Schemes Development Act 2015*.

### **GFA Calculations**

*A review of the GFA calculations plans has been undertaken, and clarification is required on the following as it appears that they may also be considered as gross floor area:*

- *Within Tower C the first floor lobby, corridor and toilets. Also the lobby on Level 2 that accesses C2.11, C2.11 and C2.12.*
- *All three towers include a vacant area on the top level.*

*Clarification is needed in regards to these areas and if they are to be included as Gross Floor Area.*

Refer to the Plus Architecture RFI response and illustrations.

### **Childcare Centre**

*The proposal includes a childcare centre for 80 children on the first floor level of Tower B. The following matters are raised regarding this use:*

- *Details about the operation of the childcare are limited. It is recommended that a more detailed analysis be provided for the operation of the childcare centre. This should clarify how lift, child drop off, lobbies operate on day-to-day basis given the issues raised about conflict between the childcare centre and the residential dwellings. It is noted that no details of staff numbers and the breakdown of children ages has been provided.*
- *Childcare facilities are subject to NSW Government Childcare Planning Guidelines which include minimum amounts of unencumbered indoor and outdoor play area is provided per child. It is noted that 7m<sup>2</sup> per child is required as outdoor space and 30% of this space is to be able to receive sunlight. Given that this is a new building it is considered reasonable that these guidelines and others are strictly met. It is not clear that the outdoor space provided will meet the requirements to be considered outdoor space nor is it clear that it will achieve solar requirements.*

- *Details on how the proposal meets the unencumbered indoor and outdoor space requirements has not been provided. It appears that the proposal also does not include a nappy change facilities or craft sinks.*
- *It appears that the children's outdoor play area can be viewed from the residential podium above. It is not considered appropriate that residents from the residential dwellings would be able to interact and see children within the childcare centre.*
- *Details of the fencing around the outdoor play to ensure that there are no climbable features that could result in a safety risk.*
- *Details of a safe refuge to accommodate all the children and staff (0.25m<sup>2</sup> per person) in the event of an emergency. The doors, walls, floors and ceiling of the refuge shall have a minimum Fire Resistance Level (FRL) equal to that required for the fire stairs.*

Refer to the Plus Architecture RFI response and illustrations and Plan of Management for the Child Care Centre prepared by GLN Planning.

### **Medical Centres, Restaurant, Tavern and Gymnasium**

*It is considered that there are limited details regarding the proposed specific uses as part of the Application. The proposed Medical centres and Gymnasium do not include fitout details. More detailed documentation of the operation and scale of these uses needs to be provided including (but not limited to) hours of operation, patronage numbers, staff numbers, security arrangement, servicing and waste arrangements as well as any details regarding liquor licence requirements. These details are considered necessary in order for Council to assess their potential impacts to the development and surrounding locality.*

As noted previously the gym component has been deleted from this application as it detailed assessment is best assessed when an operator is on board. The area is nominated as a commercial suite that will require a DA for the first use.

Refer to Plans of Management for both the Tavern and Medical Centre prepared by GLN Planning to assist Council in understanding the use and addressing the queries above.

### **Plan of Management**

*To ensure the impact of the proposed commercial uses is minimised to the proposed residential dwellings, the Applicant shall provide a Plan of Management for all commercial uses proposed including the childcare centre, licensed premises, and gymnasium. The Plan of Management should demonstrate how the proposed development will operate to ensure no negative impact on amenity on the proposed residential dwellings and any neighbouring sites. The Plan of Management should be individual and specific for each proposed development such as childcare centre, licensed premises and gymnasium.*

See response above.



## Conclusion

This is a substantial redevelopment comprising a mixed development some 7 years in the planning and costing over \$200M in construction value alone. It will, when complete provide over 350 dwellings opposite excellent public transport – the type of initiatives the State Government is trying to secure across all of Sydney.

Council is charged with the role of providing an assessment of the application to assist the Planning Panel make a determination. The assessment must be based on the provisions of Section 4.15 of the EP&A Act and a proper interpretation of the planning provisions in the LEP and DCP. It will also recommend appropriate conditions of consent to attach to any consent granted to ensure the detail is delivered as part of the final construction approval.

It is hoped that this application can now progress to determination based on this clear framework and in a timely manner.

Yours faithfully

**GLN PLANNING PTY LTD**

**PETER LAWRENCE**  
**DIRECTOR**

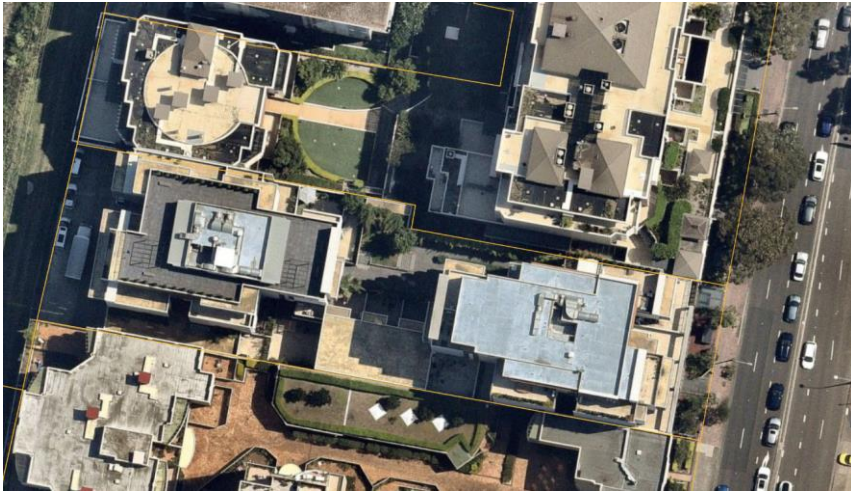


## **APPENDIX A**

**SEE SEPARATE STATUTORY DECLARATION FROM DIRECTOR OF MOON INVESTMENTS**



## APPENDIX B



## PACIFIC HIGHWAY, HORNSBY



## CHIPPENDALE