



## MIXED USE DEVELOPMENT

84 Broomfield St & 137 to 151 Cabramatta Road,  
Cabramatta East



# Mixed Use Development

84 Broomfield St & 137 to 151 Cabramatta Road, Cabramatta East

## Prepared for

Moon Investments Pty Ltd

## By



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## Table of Contents

<b>1</b>	<b>Introduction</b>	<b>1</b>
1.1	Background	1
1.2	Purpose of Report, Consultant Team and Documentation	3
1.3	Referrals and Consultation	4
1.4	Type of Development Application and Consent Authority	5
<b>2</b>	<b>The Site Location and Context</b>	<b>6</b>
2.1	Location	6
2.2	Parcel Description and Context	7
2.3	Site location and description	10
2.4	Site Analysis	11
<b>3</b>	<b>Proposed Development</b>	<b>13</b>
3.1	Elements of the proposed development	13
3.1.1	Subdivision of part public lane and stormwater works	13
3.1.2	Demolition	14
3.1.3	Construction of Mixed Use Development and new Public Domain	14
3.1.4	General and Specific Uses within the development	17
<b>4</b>	<b>Environmental Assessment</b>	<b>19</b>
4.1	Biodiversity and Threatened Species Impact	19
4.1.1	Biodiversity impacts	19
4.2	Integrated Development	19
4.3	Bush Fire Prone Land	22
4.4	Environmental Planning instruments	22
4.4.1	State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development 2002	22
4.4.2	State Environmental Planning Policy (Transport and Infrastructure) 2021	23
4.4.3	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	26
4.4.4	State Environmental Planning Policy (Resilience and Hazards) 2021	26
4.4.5	State Environmental Planning Policy (Biodiversity and Conservation) 2021	27
4.4.6	State Environmental Planning Policy (Planning Systems) 2021	27
4.5	Fairfield Local Environmental Plan 2013	28
4.6	Draft Environmental Planning Instruments	33
4.7	Development Control Plan	35
4.7.1	Pre DA Minutes Commentary on Compliance with DCP	35
4.7.2	Assessment against Specific DCP Requirements	40
4.8	Planning Agreement	47

4.9	Environmental Planning and Assessment Regulation 2021	47
4.10	Likely Impacts of the Development	48
4.10.1	Construction	48
4.10.2	Design	48
4.10.3	Operation	49
4.11	Suitability of the Site	49
4.12	Submissions	49
4.13	Public Interest	50

## 5 Conclusion 51

### Tables

Table 1	Assessment against Chapter 3 of the Transport Infrastructure SEPP	24
Table 2	Lot descriptions and areas referenced to the height and FSR maps	30
Table 3	Assessment against Cabramatta Town Centre DCP 2022	40

### Figures

Figure 1	Site Location of Cabramatta in relation to major centres of Sydney	6
Figure 2	Staging boundaries	8
Figure 3	Extract of Planning Proposal (PP) sites (Yellow = Council PP; Red = Proponent PP)	9
Figure 4	Survey and site boundaries	11
Figure 5	Land Zoning Map Extract with site in yellow	29
Figure 6	Town Centre Precinct Map Extract	30
Figure 7	Floor Space Ratio Map Extract with Site bordered red	31
Figure 8	Height of Buildings Map Extract with Site bordered red	32
Figure 9	Existing and Proposed Floor Space Ratio Map	34
Figure 10	Existing and Proposed Height of Buildings Map	34

### Appendices

Appendix A:	Pre-DA Minutes
Appendix B:	Apartment Type Matrix
Appendix C:	Apartment Design Guide Assessment
Appendix D:	Assessment Parts 3 & 4 of NSW Child care Planning Guideline



# 1 Introduction

This Statement of Environmental Effects (**SEE**) accompanies a Development Application (**DA**) for subdivision, demolition and construction of a mixed-use development as well as drainage and public domain improvements over and adjacent to land located opposite Cabramatta Train Station and bounded generally by Broomfield Street, Cabramatta Road East (minor), Council's Cumberland Street and Fisher Street carparks in Cabramatta East. This SEE has been commissioned by Moon Investments Pty Ltd and this entity is the applicant for the DA and referred to as the proponent in this SEE.

The proposed works constituting development under the Environmental Planning and Assessment Act 1979 (as amended) and as outlined in this SEE include:

1. Subdivision (by boundary adjustment) to incorporate a small section of the existing cul de sac head at the end of the public lane off Cabramatta Road East into the site. This is also accompanied by a separate road closure application to Council for the same land
2. Demolition of buildings on Lot 7 Section E DP 4420, 76 Broomfield St; Lot 1 DP 205759 and Lot 10 DP 255023, 84 Broomfield St; Lot 2 DP 205759, 86 Broomfield St; Lots 5, 6, and 7 DP25618, 151 Cabramatta Road East; Lot 8 DP 25618, 147-149 Cabramatta Road East; and Lot 2 DP 580587, 139 Cabramatta Rd East Cabramatta Road East. These lots, together with the small section of public road to be closed comprise the development site (Site)
3. Construction of a mixed use development comprising basement car parking, shops, commercial premises and 358 apartments within three buildings framing a market square, connected by publicly accessible lanes to adjoining streets. This DA also includes the use of specific commercial and retail premises as a childcare, gymnasium, restaurant and tavern.
4. Works to the public domain including streetscape improvements along the Cabramatta Road East and Broomfield Road frontages in front of the Site as well as the implementation of the overall stormwater strategy involving minor level changes to the public lane off Cabramatta Road East (minor) to direct and convey overland flow through the site to the Broomfield Street and Fisher Road frontages.

## 1.1 Background

The proposed development comprises Stages 1 and 2 of a four-stage development over a large parcel located opposite and east of Cabramatta Station. This land has been the subject of a protracted rezoning process which has included:

- a. Pre-lodgement meetings in 2016 to discuss the opportunity to progress a Planning Proposal on the parcel bounded by Broomfield St, Cabramatta Road East (minor) up to and including the public lane, and Fisher Street up to and including Council's Fisher Street car park. This land was included in Council's previous Residential Development Strategy (RDS) for Cabramatta, noting that the broader RDS had earlier been abandoned given concerns by Transport for NSW (TfNSW) over the increased development proposed on the west side of Cabramatta.
- b. The first Planning Proposal lodged in August 2017 to increase heights and floor space ratio for the parcel including land on which Council's Fisher Street car park is located, but this was later withdrawn on request by Council Officers that the rezoning of Fisher Street car park was not supported.

- c. Resubmission of the Planning Proposal and new scheme in July 2018 excluding Council's Fisher Street car park. This Planning Proposal was supported by Council subject to a minor reduction in height of the tallest building. However, the Gateway Determination issued by the Department of Planning and Environment (DPE) required the exhibition based on the heights in the submitted Planning Proposal and unaltered by Council. Council sought a Gateway Review which resulted in the Independent Planning Commission (IPC) not supporting the Council changes. This same Gateway Determination, however, was subsequently revoked by Department of Planning and Environment (DPE) given DPE considered there was insufficient time following the IPC review for Council to then complete the Development Control Plan (DCP) and Planning Agreement (PA) required as part of the Gateway Direction.
- d. The same Planning Proposal was re-lodged in April 2021, but this stalled because TfNSW, among other things, required new traffic counts and analysis given the time from the original Traffic Impact Assessment in 2017. During this delay, TfNSW also provided new advice that it no longer supported the provision of a pedestrian bridge over Broomfield Street to the station concourse, a long term planning outcome that had been included in Council's DCP since 2013. The provision of a pedestrian bridge is infrastructure identified in the PA between the applicant and Council to be delivered as part of the Stage 1 DA or, if agreement cannot be obtained from TfNSW, a contribution to 110% the cost of the bridge be given to Council for provision of other local community services and facilities.
- e. The rezoning of the site was gazetted and published as Amendment No. 42 on 7 October 2022. Numerous attempts by Council and the proponent to meet and discuss the basis of the "non support" of the pedestrian bridge have not changed TfNSW's position.

Along this journey, the proponent has undertaken two detailed Traffic Assessments, two urban design reports, a Visual Impact Assessment for analysis as part of the IPC hearing, and variously detailed schemes to advance discussion and resolution on various aspects of the development. This included early consultations in 2017 with TfNSW on the pedestrian bridge design (before the "non support" decision), and the now abandoned changes to vehicular access arrangements on Cabramatta East (major), as well as updating the earlier traffic modelling.

In that time, Council has also undertaken an independent urban design review of the scheme, and progressed its own Accelerated Planning Proposal supported by its own traffic modelling that, among other things, proposes to increase the height and FSR of land further east along the Cabramatta East frontage, opposite the site on Cabramatta East, and on the same car park on Fisher Street that was removed at Council request from the first Planning Proposal. The maximum heights of buildings over the station were also increased.

The assemblage of a highly fragmented commercial parcel for a large-scale redevelopment capable of achieving place making and transit-oriented outcomes is challenging, and delays in the process can be catastrophic. Whilst most option agreements have been renegotiated for the first stages of the redevelopment as outlined in this DA, the support of all owners in these stages has been difficult to secure despite protracted negotiations. A small number of owners have elected not to be included in the redevelopment and will continue to operate or redevelop as "isolated sites". The non-inclusion of these owners is not fatal to the redevelopment and the architectural scheme has responded to these isolated sites to deliver a built form that achieves the overall planning objectives.

The proposed development across the areas known as Stages 1 and 2 of the site will include basement level carparking, loading and garbage storage, the delivery of ground level retail, some

first level commercial GFA and 358 residential apartments together with publicly accessible pedestrian laneways and a central Market Square, being the focus of community and retail activities for the development. Despite attempts at ongoing negotiations with TfNSW by both Council and the applicant to discuss the “non-support” of a new pedestrian bridge over Broomfield Street, no further headway or information is available, and this element has been excluded from this first DA for the land.

Under the recently gazetted Planning Proposal, the site retained its B4 Mixed Use Zoning under Fairfield Local Environmental Plan 2013 (**LEP**), albeit that this has now changed to an MU1 Zone following the implementation of DPE’s Employment Zones reforms which came into effect on 27 April 2023. Importantly, these changes do not impact on the built form controls that were the subject of the Planning Proposal and reviewed by the IPC to prescribe new heights, floor space ratios and lot size requirements. A new site specific DCP was also adopted to provide more fine-grained design planning controls for aspects of the development, particularly the central and peripheral public domain areas. The proposed development is consistent with the new planning controls.

## 1.2 Purpose of Report, Consultant Team and Documentation

This SEE has been prepared in accordance with Part 3 of the *Environmental Planning and Assessment Regulation 2021* (**EP&A Regulation**) for the purpose of:

- demonstrating that the environmental impacts of the development have been considered
- outlining steps to be undertaken to protect the environment or to lessen any expected harm to the environment.

This SEE details the necessary information for the proposed development to be assessed by the consent authority, including a description of the Site and its surroundings and an assessment of the proposed development against the relevant planning controls, provisions of the *Environmental Planning and Assessment Act* (EP&A Act) and accompanying Regulations. The application does not seek or require any variation to the development standards in Fairfield LEP that would require preparation and submission of a Clause 4.6 submission.

A Pre-DA Meeting was held on 7 July 2022 and second more detailed Pre-DA Meeting held on 14 December 2022. The Pre-DA Minutes on the matters raised from both meetings are included at **Appendix A** and these are addressed as relevant throughout the SEE.

To assist with the preparation of the scheme and the assessment of the application, the proponent assembled a consultant team that has prepared the documentation referenced throughout this SEE as follows:

- Plus Architecture – Architectural Package and Urban Design Report (including Design Verification Statement and Visual Analysis)
- Site Image – Landscape design and report
- The Gaimaragal Group – Connecting to Country workshops and recommendations
- ARC Traffic and Transport – Traffic Assessment including access, car parking and operations
- Location IQ - Retail Needs and Economic Impact Assessment



- Northrop – Lifts, Civils, Vertical transport, acoustics, ASP Level 3, , Hydraulic/Fire, Mechanical, Electrical, Sustainability Strategy/Basix/Section J
- JK Geotechnics – contamination, and geotechnical, excavation and footing advice
- Windtech – wind analysis
- MacKenzie Group - BCA Compliance advice including interface to isolated site
- MBM Quantity surveyors – Capital Investment Value of the development
- MRA Consulting Group – waste management plan, storage and operation advice for sizing and collection of waste and recyclables.
- Deneb Design – Visual Impact assessment renders
- Adams – Structural
- Project Surveyors – Draft Plan of Subdivision
- Veris - Detailed survey of parcel including site with location of improvements and levels
- MGAC – Access Review Report
- GLN Planning – Crime Prevention Through Environmental Design (CPTED) assessment

This SEE concludes that the proposed development is consistent with the relevant planning controls and that environmental impacts can be satisfactorily managed during the construction and operational phases of the development.

### 1.3 Referrals and Consultation

The EP&A Act and Environmental Planning Instruments made under that Act establish a framework whereby an application may be referred to another NSW Government Agency for consideration or concurrence as part of the planning process.

The proposed development does not trigger any integrated development referrals to other NSW Government agencies under Section 4.46 of the EP&A Act. **Section 4.2** of this SEE provides further discussion regarding integrated development matters.

The proposal is, however, development identified in State Environmental Planning Policies (SEPPs) that require the following referrals:

Under Section 2.99 of *SEPP (Transport and Infrastructure) 2021*, the proposal includes penetration of ground to a depth of at 2m below ground level (existing) of the basement construction on land within 25m (measured horizontally) of and below a rail corridor. Accordingly, written notice of the DA should be forwarded to the rail authority, Sydney Trains within 7 days of lodgement and the consent authority must take into consideration any submission provided in response to that notice.

Under Section 2.122 of *SEPP (Transport and Infrastructure) 2021*, the proposal comprises residential accommodation of 75 or more dwellings with access within 90m of a connection to a classified road. Accordingly, written notice of the DA is required to be forwarded to Transport for NSW (**TfNSW**) within 7 days of lodgement and the consent authority must take into consideration any submission provided in response to that notice.



## 1.4 Type of Development Application and Consent Authority

This DA seeks consent for 'demolition', 'the subdivision of land', 'the erection of a building', 'the carrying out of a work' and 'the use of land' to deliver the development of the first two stages within the parcel. This proposal constitutes 'development' as prescribed by Section 1.5 of the EP&A Act.

The DA is submitted under Section 4.12 and the SEE addresses the assessment criteria under Section 4.15 of the EP&A Act to be considered by the consent authority.

The DA is not categorised as Designated Development or State Significant Development pursuant to the EP&A Act or accompanying Regulations. However, as the capital investment value of the proposed development as outlined in the Cost Plan for the Cabramatta East Precinct Development prepared by MBM exceeds \$30 million (ie a total cost of \$215,402,700) and under Clause 2.19 and Schedule 6 of *SEPP (Planning Systems) 2021*, the DA is required to be referred to the Sydney Central City Planning Panel (the **Panel**) for determination. This part of the planning framework provides that the DA will be notified and assessed by Council, and then determined by the Panel. Development consent is therefore sought from the Panel pursuant to Part 4, Section 4.16(1)(a) of the EP&A Act.

## 2 The Site Location and Context

This section of the SEE discusses the site location and context to identify the social, environmental, economic, siting and design considerations that should inform how best to deliver appropriate development outcomes for the land.

The process of documenting these considerations is important as it provides a more thorough site analysis, highlighting what may require specific design responses or specialist technical input before the next part of the design phase and application of the more general built form and other planning controls are applied to the project.

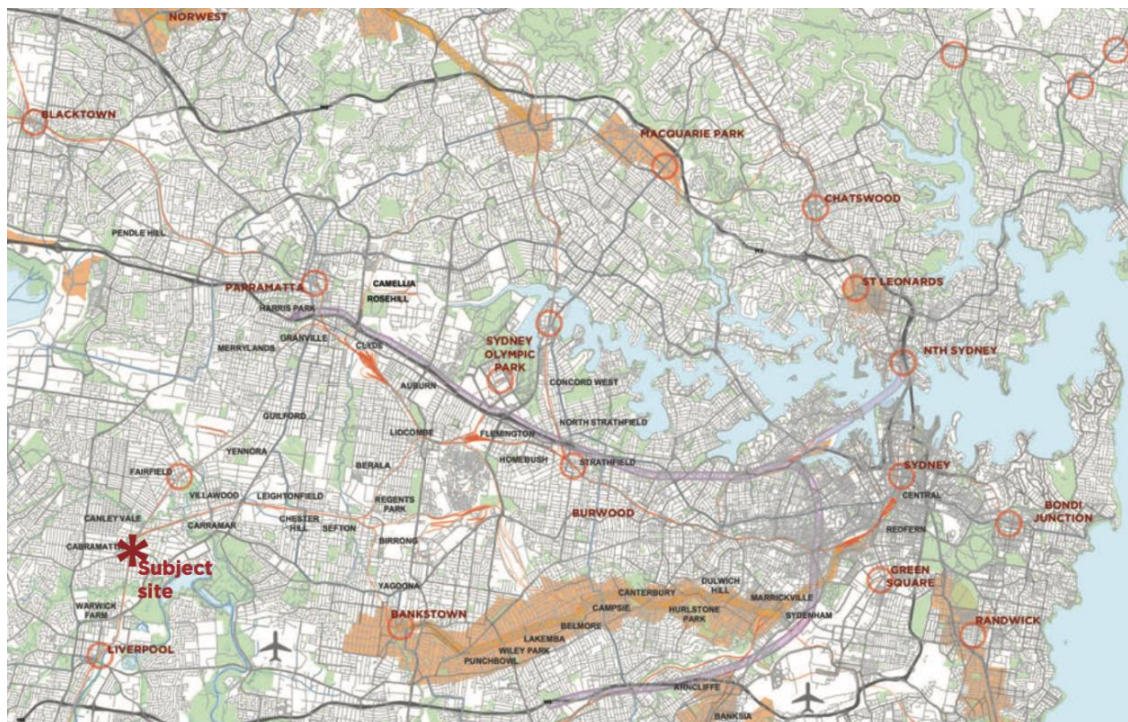
### 2.1 Location

The site for the proposed development is in Cabramatta - a suburb located about halfway between Fairfield in the north and Liverpool in the south, and between Cumberland Highway to the west and the Hume Highway to the east.

Bankstown Airport is approximately 5km to the southwest. Air Services Australia has confirmed during the Planning Proposal stage that the proposed heights as outlined in the original Planning Proposal are outside the obstacle limitation areas for aircraft. The development as proposed is even lower than those heights.

Importantly, Cabramatta is also located at the junction of the T3 Bankstown Line with the T5 Cumberland Line, and the T2 Airport, Inner West and South Rail Line providing highly accessible public transport access to the City, Parramatta and Liverpool.

**Figure 1** shows the location of Cabramatta in the Sydney Region.



**Figure 1 Site Location of Cabramatta in relation to major centres of Sydney**

The rail line through Cabramatta divides the commercial centre and much of the suburb, creating what is referred to in this SEE as “Cabramatta East” and “Cabramatta West”. The only vehicular crossings over the rail line are at an overpass of Cabramatta Road immediately south of the station, at an overpass off Bareena Street some 720m north of the station, and at an underpass some 900m south of the station at Sussex Street. The station concourse provides the only dedicated pedestrian crossing point between the east and west sides of Cabramatta, together with access to the station platforms.

Through Connecting to Country workshops referenced later in the SEE, it is known that:

*Over the five to eight thousand years the Darug people have inhabited this region, and formed family clans and these clans formed nations. Boundaries were often geographic boundaries and the Georges River formed one of the boundary.*

*To the north of the river, people spoke the Darug language, the Kameygal (Botany Bay), Bediagal (Hurstville/Bankstown), Cabrogal (Cabramatta) and the Cannemegal (Prospect and Fairfield). To the south of the river were the people who spoke the Dharawal language, the Gweagal (Kurnell) and the Norongerragal (Menai/Holsworthy).*

*The Cabrogal tribe, lived in the Cabramatta area for tens of thousands of years. Cabramatta West is thought to be named from a Darug language word meaning “fresh tasty water grub”.*

*The land was everything to the Darug people who inhabited the area; family, plants, animals, sea, land and sky were all Country and as humans they too were a part of Country.*

The development represents an opportunity through form, landscape, public art and place naming to explore elements and themes that will connect to country.

Today, Cabramatta has developed into a vibrant retail centre known for its restaurants and shops of Asian origin, and is considered a gourmand destination for Vietnamese, Thai and Chinese cuisines. These businesses are mainly located in Cabramatta West, generally occupying small shops on highly fragmented landholdings.

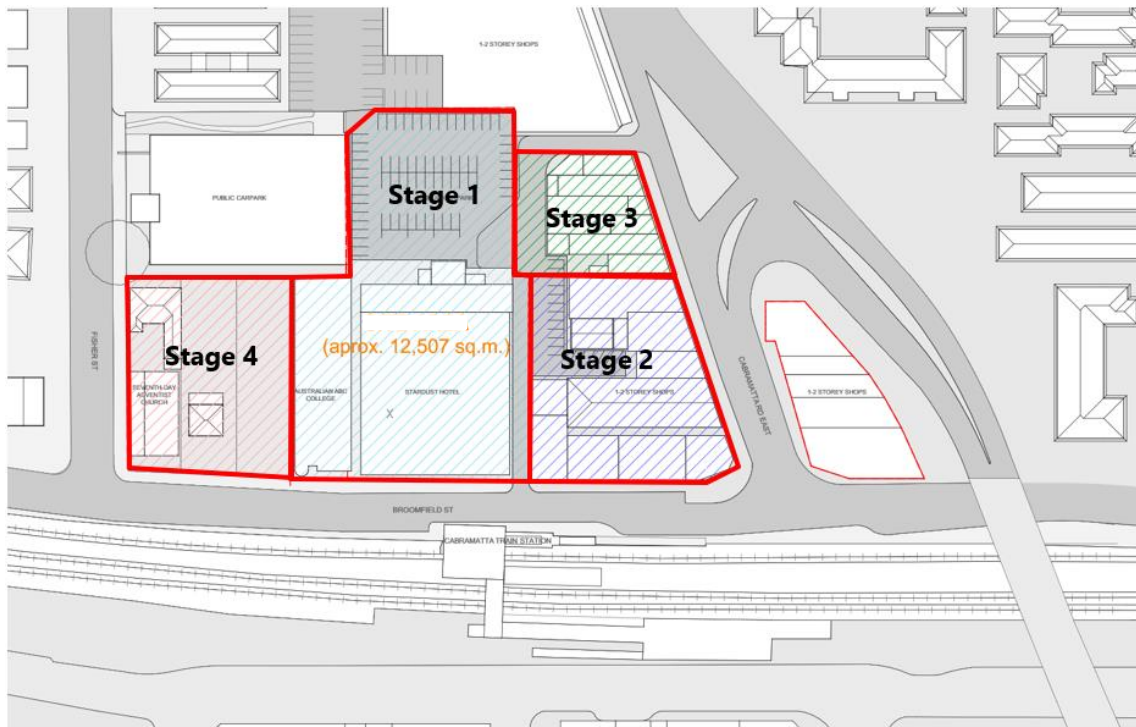
The Cabramatta East commercial area where the site is located is comparatively run down, and without the food or shop offerings that give the western side its vibrancy. It is a rare opportunity to assemble a parcel capable of achieving transit-oriented development and revitalisation of this part of Cabramatta East with the potential to represent through design and place initiatives a fusion of Original People and Asian cultures.

## 2.2 Parcel Description and Context

The Site is part of a larger parcel that was the subject of a recently gazetted Planning Proposal (Amendment No 42) located immediately opposite the station with frontage to Broomfield Street, Fisher Street, Cabramatta Road East and incorporating the public laneway off Cabramatta Road East and extending to the Cumberland Street and Fisher Street car parks.

The total area of the parcel of the Planning Proposal gazetted as Amendment No 42 to Fairfield LEP is approximately 1.25ha. However, this DA is proposed only across Stages 1 and 2 of the four stage development as nominated in the Development Control Plan (DCP) adopted for the land. The

general staging of the parcel and outline of existing improvements on this and adjacent land is shown in **Figure 2**.



**Figure 2 Staging boundaries**

The improvements on the original Planning Proposal parcel include a number of smaller retail shops, commercial premises, hotel, ABC Learning College, Church, dwelling house and a vacant lot. There are approximately 60 to 70 private car parking spaces to the rear of the shops.

Council's Fisher Street car park is located to the north east of the site and separates the rezoned parcel from the residential flat buildings further east. The remainder of the commercial area on the eastern side of Cabramatta address Cabramatta Road East. It comprises a 'tail of land' immediately east of the site and an 'island' of land opposite the site on Cabramatta Road East (minor) which backs onto the road over the rail line.

Council has progressed an Accelerated Planning Proposal to increase the heights and FSR of the tail land east of the site and island of shops opposite on Cabramatta Road East as well as for the Fisher Street car park to the north of the site and for future development over the rail station. The land on the western side of the railway station has also been rezoned generally to increase heights from a 10m to 14m, although some key sites in that area were given greater heights up to a new maximum of 39m.

It is noted from work undertaken as part of the Planning Proposal that traffic impacts associated with growth on the western side of Cabramatta had little impact on the key intersections on the eastern side of the station, which enabled the revisiting of the previous Residential Development Strategy and proposals to include the upzoning of the site and other land in East Cabramatta. **Figure 3** shows the location of the Planning Proposal parcel (outlined red) and some of the upzoned land in Council's Accelerated Planning Proposal outlined in yellow focussing on Cabramatta East in vicinity of the Site).





Source: Nearmap as amended by GLN

**Figure 3 Extract of Planning Proposal (PP) sites (Yellow = Council PP; Red = Proponent PP)**

Throughout the proponent's Planning Proposal exercise, Council sought to ensure that the parcel had a high degree of pedestrian permeability by requiring publicly accessible pedestrian links to extend into the Market Square at the centre of the site from Fisher Street, Cabramatta Road East (minor), Broomfield St and the Cumberland Street car park. The rezoning of the adjacent Tail land by Council is likely to further increase pedestrian movements from the east.

Beyond the commercial zoned land in Cabramatta East, the area is generally bordered by predominantly 2 and 3 storey residential flat buildings, representing an earlier attempt in the 1970s at increasing densities closer to the station. Detached housing is located further to the north, south and east of this flat development.

The area on the east side of the rail line is well served by community infrastructure with Cabramatta Public School some 200m southwest of the station, and Canley Vale Public School just over 1 kilometre to the north west. Cabramatta High School is located about 1.3 kilometres walk to the southwest. Also within walking distance of the site is Cabravale Leisure Centre some 650m north of the station, the Cabramatta Bowling Club about 700m east of the site and the German Austrian Society 500m to the north. Within about 400m walking distance of the site, on the western side of the station, is the Police Citizen Youth Club, Cabramatta Community Centre, Whitlam Library and the Cabra Vale Diggers Club.

There are a number of sports fields located along Cabramatta Creek including Don Dawson Oval, Cabramatta Sportsground and Irelands Bridge Reserve, and Adams Park. Passive recreation includes

two parks in Vale Street and the Cabra Vale Leisure Centre on the east side, and the Cabra Vale Memorial Park on the west side of the rail line.

## 2.3 Site location and description

The mixed-use development will be located on Lot 7 Section E DP 4420, 76 Broomfield St; Lot 1 DP 205759 and Lot 10 DP 255023, 84 Broomfield St; Lot 2 DP 205759, 86 Broomfield St; Lots 5, 6, and 7 DP25618, 151 Cabramatta Road East; Lot 8 DP 25618, 147-149 Cabramatta Road East; Lot 2 DP 580587, 139 Cabramatta Rd East as well as a small section of the public lane cul-de-sac in Cabramatta East. The total area of the site is 8,177m<sup>2</sup>.

There is currently a private driveway that traverses from Broomfield Street adjacent to the hotel that accesses a private car parking to the rear and which also connects to the end of the public lane off Cabramatta Road East (minor).

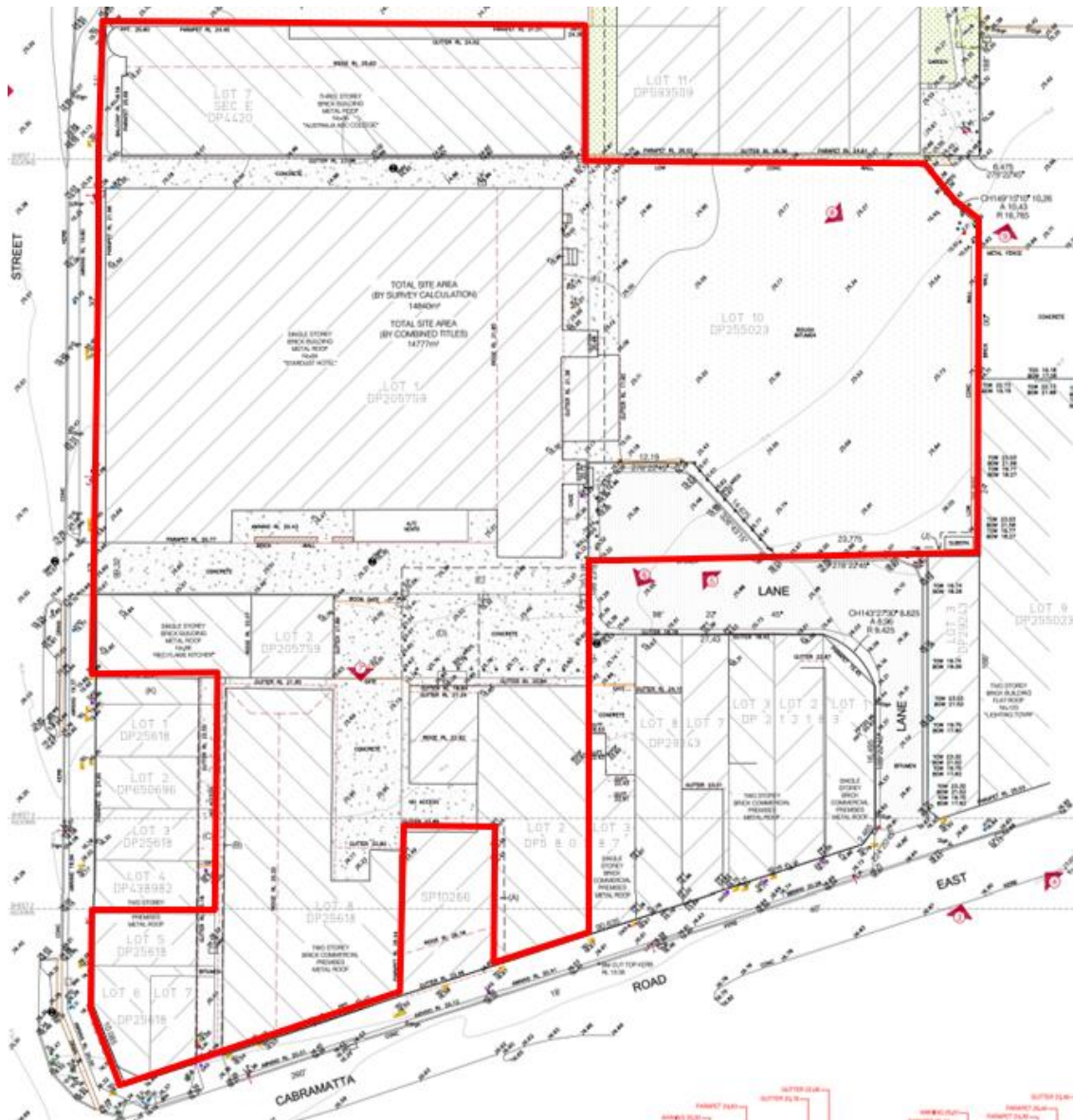
As noted above, part of the cul de sac head of the laneway will be closed and incorporated into the development site, thereby maintaining the public road access to existing development fronting Cabramatta Road East (minor) to be developed in a later stage. This cul de sac head will be reinstated on completion of Stage 1 to provide service access to the market square.

The land has a gentle slope generally toward the northwest. However, Council has provided preliminary flood information that shows that the precinct is affected by Overland Flooding requiring works near the public lane entry on Cabramatta Road East to formally direct water through the site to Fisher and Broomfield Streets. The Fisher Street car park located on Lots 74 and 75 Section E DP 4420, 41A Cumberland St and Lots 11 and 12 DP 593509, 16A Fisher Street, Cabramatta East contains a drainage easement which can assist in addressing this requirement.

Notwithstanding the large site assembled, there are a small number of sites included in the Planning Proposal boundaries for Stage 2 that have elected not to be involved in the redevelopment, despite protracted negotiations and offers above market value. These lands are referred to as “isolated sites” and will be discussed in further detail later in this SEE.

An extract of the survey is reproduced at **Figure 4** showing the improvements, topography and location of the isolated sites and easements.

A full copy of the survey plan is submitted with the SEE.



**Figure 4 Survey and site boundaries**

## 2.4 Site Analysis

The previous discussion helps identify the characteristics and features that underpin the site analysis process that informs the design, siting and environmental considerations for the proposed development on the land. The key matters discussed above for consideration in the site analysis and final plans for the development include:

- The east side commercial area is in decay and needs reinvigoration and renewal. There is good access to community and social infrastructure. However, the area is highly fragmented and there is a need to improve the building quality, public spaces, and connectivity to get the best out of this side as a place to live, work and visit.
- The location of the site immediately opposite Cabramatta Station gives the potential to pursue a transit-oriented development and provide a gateway development earmarking the



location of the station and commercial area. Stages 1 and 2 of the development are important in delivering and activating upfront the central market square and key pedestrian connections. Given the rezoning of land immediately east of the site there is a need to review these connections by providing additional and/or larger connections for the increase in pedestrian traffic from this area.

- The preservation of the alignment of the public lane will be important, not only to preserve access to Stage 3 but also to open up the space between Stages 1 and 2, creating further breathing room to the market square and new route for pedestrians from further east through to the station.
- The heights of the proposed development have been the subject of an IPC review as part of the Planning Proposal and are not of a height that encroaches into the obstacle limitation area measured from Bankstown Airport as review by Air Services Australia.
- Whilst the existing Asian influence creates a strong driver for the market square and shops, there is also a clear opportunity to Connect to Country by introducing and exploring architectural features, public art and place making themes of the indigenous inhabitants of the area.
- Vehicular access is available from the public lane off Cabramatta Road East and Broomfield Street. This can enable residential and retail traffic to be separated, accessing basements at different locations. The public lane off Cabramatta Road East entry is appropriate as the residential access point with potential to service also Stage 3 in the future. Retail and commercial traffic, loading and servicing should be limited to Broomfield Street.
- A small section of the public lane will be closed that provides access to the car park at the rear of the existing tavern (ie part of the development site). Whilst the cul de sac will be reinstated after completed of the Stage 1 and 2 developments, the existing public laneway outside of the development site is sufficient to continue to provide access to the rear garages of the existing shops fronting Cabramatta Road East (minor) within the future Stage 3 of the development.
- The proposed development will need to respond to the 'isolated sites' including maintaining the small extent of the existing right of way benefitting these lots within the development site, and ensuring appropriate separation as required by the Building Code of Australia (BCA) for the existing shops or as potentially redeveloped under the planning controls.
- There is the opportunity to design future connections at basement level of the development site to maximise the redevelopment opportunities of these isolated sites and Stage 3 of the development, and hence rationalise access points into the development from Broomfield Street and off Cabramatta Road East (minor).

### 3 Proposed Development

This DA seeks consent for a mixed-use development comprising basement carparking over which will be a new market square connected by lanes and framed by three buildings containing ground level retail, first level commercial GFA and 358 apartments above. The DA also seeks consent for the public domain improvements including upgrading of the pavements and street tree planting to the roads in front of the site and works to the existing public lane to implement an overall stormwater strategy to convey overland flows from Cabramatta Road East (minor) through the site to Broomfield Street and Fisher Road.

The overall design has been informed by the site analysis in the proceeding section and the layering and consideration of the more general planning controls applying to the land. The general approach and placing the scheme into the overall urban context is further documented in the Urban Design Report including Design Verification Statement prepared by Plus Architecture submitted with the application.

#### 3.1 Elements of the proposed development

The following discusses the elements of the proposal and references the technical reports that justify or support the design outcomes incorporated in the plans. The key elements for which consent is sought are:

##### 3.1.1 Subdivision of part public lane and stormwater works

The first element necessary to deliver the project is to close and subdivide part of the cul de sac head to add to the development site. Whilst it is intended that the cul de sac head be reinstated, the basement excavation for car parking on the development site will occur on this land including future connection to Stage 3.

The closure of the cul de sac head will not impact on the access to the garages to the rear of the existing shops fronting Cabramatta Road East as the lane is wide enough to allow manoeuvring into each garage. A separate road closure application has been submitted to Council with this application.

The Council has identified that the site conveys overland stormwater flows from Cabramatta Road East (minor) through the site to Broomfield Street and Fisher Road in high rainfall events. Changes are proposed to a small section of the public laneway off Cabramatta East (minor) to continue to direct and accommodate these flows through the site so as not to impact on other properties.

The works to the public lane will be the first works to be undertaken on site so that temporary access can be maintained along the private driveway off Broomfield Street under traffic management. Once these short term works are complete, access can return using the public laneway off Cabramatta Road East (minor) and the demolition of the improvements on the site can commence.

The documentation that details the subdivision and stormwater management works are the draft plan of subdivision prepared by Project Surveyors and the civil engineering report prepared by Northrop.



### 3.1.2 Demolition

The DA proposes to demolish all structures on site prior to excavation of the basements. A Preliminary Site Investigation does not identify any potential contamination aside from safely removing any asbestos building materials. Materials will be sorted on site in accordance with a Waste Management Plan for the demolition stage.

This stage will also see the installation of soil and erosion management measures as well as construction fencing for site security.

The documentation that details these works include the Preliminary Site Investigation prepared by JK Geotechnics, the Demolition Plan in the architectural set by Plus Architecture, Soil and Water Management Plan in the Civil Plan Set prepared by Northrop and Waste Management Plan prepared by MRA Consulting Group.

### 3.1.3 Construction of Mixed Use Development and new Public Domain

The construction process extends from excavation through to completion of the buildings and landscapes works as broken down into the following elements.

#### Excavation

Excavation within the site boundaries will occur for the construction of the separate residential and retail basements. As part of the excavation the sewer trunk main that traverses through the site will be relocated.

It is noted from the geotechnical report that the boreholes encountered a profile described as 'comprising pavement, fill and residual clay overlying siltstone bedrock at moderate depths that in turn overlies sandstone bedrock. The bedrock was generally initially extremely weathered and of hard soil strength and very low rock strength but improved to medium to high strength with depth. Groundwater was measured within the soil profile.' These conditions do not present an atypical excavation environment or approach to shoring the excavation.

The documentation that details these works include a Geotechnical Investigation prepared by JK Geotechnics which outlines the geotechnical conditions of the site and requirements for dilapidation surveys, excavation methods, retaining walls and footings.

#### Basement Construction

The proposal involves the construction of three basement levels providing the required 251 car parking (including 36 accessible spaces, 4 motorcycle places and 30 bicycle spaces) for the residential and 183 car parking spaces (including 4 accessible spaces, 20 allocated childcare spaces, 4 motorcycle spaces plus provision for 41 bicycle parking) for the retail and commercial uses.

The basement design separates the car parking for the residential use so that it is only accessed via the existing public lane off Cabramatta Road East (minor). The carparking for the retail and commercial uses as well as loading and garbage collection will occur from Broomfield Street. The basement design has also allowed for entries into the future Stage 3 development site (both separate residential and retail) and the 'isolated sites' located on Broomfield Street and Cabramatta Road East (minor).

The retail and commercial basement accessed off Broomfield Street will also accommodate the loading and garbage storage facilities.

Escalators, lifts and stairs will provide access to the basement levels generally connecting at the ground plane adjacent to the Market Square or in and adjacent to entry lobbies.

The documentation that details these works include a Geotechnical Investigation prepared by JK Geotechnics which outlines the geotechnical conditions for shoring, retaining walls and footings. The Architectural package prepared by Plus Architecture shows the design of the basements, future driveway connection points, location of loading, ramps, waste storage and collection and On Site Detention (OSD) within basement structure, while the Traffic Assessment prepared by ARC Traffic and Transport details parking design and provision, access requirements from each street and swept paths within the basement. The Traffic Assessment also assesses the impact of the additional traffic on the surrounding road network and key intersections. MRA Consulting has provided advice for waste storage and collection and documents by Northrop confirm the stormwater strategy including OSD.

#### Ground floor plane and public domain improvements

A central focus of the design has been to incorporate a large communal space referred to as Market Square in this SEE. The Market Square is the focal point for publicly accessible pedestrian only connections from Cabramatta Road East, Cumberland Street Car Park, Fisher Street and Broomfield Street - a requirement of Council as part of the Planning Proposal process. The pedestrian connections from these streets will be activated by shops and food and drink premises. All ramps have been designed to comply with accessibility requirements.

An accessway is ultimately proposed to service the Market Square utilising the alignment of the existing public lane. As noted previously, small part of the cul de sac head will be closed but the turning head will be reinstated. The provision of this accessway is an important new element responding to the need to service the Market Square by vehicles, the difficulties in progressing the laneway closure in the first stages (and before Stage 3) and importantly separating the buildings along the eastern boundary in Stage 1 and future Stage 3 to give better street addresses, delivery points and importantly providing more light and space into the Market Square.

The Market Square will be embellished with landscaping and public art to be focal point and arrival experience incorporating both Original People and Asian culture references into design elements including a suspended dragonfly and lanterns, with opportunities to utilise other Connecting with Country themes with landscaping, pavement designs and lane names. The Market Square will be activated with a continuation of shops and food and drink premises.

The levels in and around the ground plane of the development have been set to ensure that overland flow can be managed from Cabramatta Road East to Fisher Street and Broomfield Street. Sections of the basement slab has also been designed to created pockets for deeper natural soil plantings supplemented with raised planters to provide for larger tree plantings within the Market Square.

The design of the buildings and ground floor spaces toward the Broomfield Street frontage includes an allowance for a pedestrian bridge in the future should TfNSW change their position of not support for this public benefit infrastructure. Whilst it is noted that this is not part of the current DA package, there will be extremely limited locations for the landing point of the pedestrian bridge without sacrificing significant footpath space or the urban design and activation of Broomfield Street. Given TfNSW non support and refusal for a Pre-DA meeting, this component is not part of the current DA package.

Along the street frontages in front of the site, it is proposed to implement streetscape improvements including contiguous paving and street tree planting. The widening of the crossing on Broomfield Street has been shown to indicate the crossing treatment given TfNSW's decision not to support the overhead pedestrian bridge.

The documentation that details these works include Connecting to Country report prepared by The Gaimaragal Group, the Urban Design Report and Architectural package showing ground floor plans prepared by Plus Architecture, Landscape Plans prepared by Site Image Landscape Architects, Accessibility Report prepared by MGAC and stormwater management strategy prepared by Northrop.

#### Construction of three buildings

Three mixed use buildings are proposed on the site; two of which are located in Stage 1 and are located east (Building A) and west (Building B) of the Market Square; and one building located in Stage 2 (Building C) to the south of the Market Square.

Each building will comprise a retail and commercial podium above which will sit residential apartments. Each building also has elements featuring a distinctive colour drawn from the Australian landscape. The Urban Design Report aptly describes the built form response as follows:

*The positioning of the build within the urban context generates a connective and permeable ground plane that allows the community from the north, east, and south to move through the precinct to the train station. The central plaza will provide a community gathering place activated by retail and commercial uses on the ground floor and level 1, supported by the proposed three residential towers above.*

*The podium contains various breaks and steps that relate to entry points into both the retail and commercial podium as well as into the residential buildings above. Compositionally, the podia create a dynamic environment while maintaining consistent façade language towards the public domain. Within the established grid, the various retail and commercial uses can further animate the facades using depth and articulation with various materials and expressions.*

*The residential towers are strongly articulated to reduce the perceived length of the buildings and are stepped at the top to further emphasize the verticality of the buildings. The tower forms provide for articulation and visual relief over the podia for the communal gardens and private gardens. Conceptually, the rich landscape setting of the ground plane connects up to the podium level and weaves through the tower forms.*

*While there is a consistency in the overall form and composition of both the podia and towers, there is significant variety of expression, materiality, and articulation within to ensure sufficient richness and character within the overall precinct.*

*The architecture at this active level also seeks to use a language and materiality that reinforces the Connecting to Country themes.*

Building A has a splayed north western corner that adds both architectural interest and ensures the required solar access into the Market Square.

Aside from the placement of buildings to ensure good solar access to the Market Square, the Urban Design Report notes:

*The facade is designed to control solar gains while maintaining a comfortable internal environment. Window areas are carefully designed to minimise solar gain while maintaining views to the external environment and daylight. Naturally ventilated rooms, corridors and communal areas using cross ventilation will reduce the need for AC. The floorplates of the towers ensure a high percentage of cross ventilation. Each typical tower lobby has direct access to daylight, reducing the need for artificial lighting and operable windows provide for natural ventilation of the lobbies. The development includes the potential to generate, store, and use power by including PV panels on the tower roofs to be used in the car park for vehicle charging stations and common area lighting.*

*The design is water sensitive, and this will be a key consideration to the design of the communal podium areas and public realm landscape, which require substantial amounts of water for irrigation. Careful consideration of how to reuse water across the development will provide efficiencies combined with careful plant selection throughout the development. The project will use water-smart strategies to reduce potable water consumption through efficient fixtures.*

Along the two street frontages to the Site, shops are located at ground level to activate the street punctuated only by the new pedestrian connections and the vehicular entry and required services location on Broomfield Street. Careful attention has been given to incorporating the existing buildings and potential for redevelopment of the isolated sites into the architecture of Building C including consideration of existing setbacks and alignment of awnings and parapets. The Broomfield Street and Cabramatta Road streetscapes are intended to be extended in front of the isolated sites to further unify the streetscape appearance.

Apart from the market square as a communal centrepiece, separate areas of communal open space exceeding 25% of the site area have been incorporated in each building in rooftop locations above podiums and in the upper levels as follows:

- Building A – 339m<sup>2</sup> communal open spaces
- Building B – 632m<sup>2</sup> communal open spaces
- Building C – 1,120m<sup>2</sup> communal open space

The supporting documentation that further details these works and outcomes include Connecting to Country report prepared by The Gaimaragal Group, Urban Design Report (including allowance for the pedestrian bridge) and architectural plans prepared by Plus Architecture and Landscape Plans showing communal open space prepared by Site Image Landscape Architects. Northrop has prepared a Sustainability Strategy, and reviewed hydraulic, fire, mechanical and electrical reports. while Windtex have undertaken a wind analysis and provided recommendations for the façade. The MacKenzie Group has also provided advice on BCA compliance of the proposed development and approach to design for the interface to the isolated sites. An Access Report has been prepared by MGAC.

### **3.1.4 General and Specific Uses within the development**

Given the substantial areas allocated for the Market Square and pedestrian connections, the quantum of retail and commercial floorspace on the Site does not change significantly (albeit the car parking provision has increased given many existing shops currently have no or are significantly undersupplied with parking).

The ground level uses comprise some 2,981m<sup>2</sup> of retail space which includes 322m<sup>2</sup> of mezzanine space in Building A and 825m<sup>2</sup> allocated to the tavern to replace the existing hotel offering, plus 184m<sup>2</sup> of services and circulation.

The uses of these retail tenancies around the Market Square and along the pedestrian connections are intended to activate these spaces as well as the adjoining Broomfield Street and Cabramatta Road East (minor) streetscapes with small shops and food and drink premises where outdoor eating opportunities will help activate these spaces. The retail spaces in Building A are provided with mezzanine levels giving generous floor to ceiling volumes and a consistency to the podiums surrounding the Market Square.

On the first level, the buildings incorporate either commercial, residential or a mixture of both. The DA seeks consent for a childcare centre for 80 places comprising 562m<sup>2</sup> of GFA together with outdoor play area on a covered balcony in Building B, and a medical centre (occupying 548m<sup>2</sup> of GFA), gym (occupying 507m<sup>2</sup> of GFA) and restaurant (occupying 342m<sup>2</sup> of GFA) in Building C.

A total of 358 residential apartments will be located within the three buildings as follows:

- Building A – 96 dwellings (14 studios, 21 x 1 bed, 46 x 2 bed, 14 x 3 bed and 1 x 4 bed)
- Building B – 134 dwellings (1 studio, 44 x 1 bed, 82 x 2 bed and 7 x 3 bed)
- Building C – 128 dwellings (13 studios, 21 x 1 bed, 71 x 2 bed, 23 x 3 bed)

It is noted that some apartment typologies are 2 storey enabling greater amenity, opportunity for cross ventilation and outlook.

Overall, the scheme incorporates a mix of unit types including 8% (28 units) as studios, 26% (94 units) as 1 bed apartments, 53% (189 units) as 2 bed apartments and 13% (47 units) as 3 bed apartments. All studios and apartments meet or exceed the Apartment Design Guide requirements. The proposal also includes 10% of apartments as “accessible” in each building, exceeding Council’s requirement of one every 20 dwellings. The Apartment Type Matrix showing unit and balcony areas, car parking, storage, accessibility solar and cross ventilation is at **Appendix B**.

The supporting documentation that details these works and outcomes include Connecting to Country report prepared by The Gaimaragal Group, Urban Design Report and architectural plans prepared by Plus Architecture and Landscape Plans showing communal open space prepared by Site Image Landscape Architects. Northrop has prepared a Sustainability Strategy, Accessibility Report and reviewed hydraulic, fire, mechanical and electrical allowances. A Retail Needs and Economic Impact Assessment Report has also been prepared by Location IQ to ensure the retail offerings present a viable package while Windtex has undertaken a wind analysis and provided recommendations for the façade. All units have been assessed under BASIX and the specific uses of retail and commercial floorspace (ie the tavern, childcare, gym and restaurant) have also been assessed by Northrop.





## 4 Environmental Assessment

This section of the SEE assesses the proposed development against the planning framework and planning controls applicable to the Site and the proposed development, including:

- threatened species and biodiversity impacts (Section 1.7 of the EP&A Act)
- integrated development matters (Section 4.46 of the EP&A Act)
- bush fire prone land (Section 4.14 of the EP&A Act)
- State and Local environment planning instruments
- Development Control Plans
- Other matters for consideration relating to DAs (Section 4.15 of the EP&A Act).

### 4.1 Biodiversity and Threatened Species Impact

The EP&A Act contains provisions designed to ensure biodiversity conservation and threatened species legislation are considered as part of a single development assessment process. The provisions to be considered are:

#### 4.1.1 Biodiversity impacts

Section 1.7 of the EP&A Act requires consideration as to whether a proposed development will have a significant effect on threatened species, populations or ecological communities relating to terrestrial and/or aquatic environments as required under Part 7 of the *Biodiversity Conservation Act 2016* (**BC Act**) and Part 7A of the *Fisheries Management Act 1994* (**FM Act**) or matters of National Environmental Significance under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**).

Stages 1 and 2 of the Site for the proposed development is devoid of all vegetation and contains no water course or natural features. Accordingly, the proposed development will not impact threatened species or ecological communities or their habitats, and the DA does not require further consideration under the BC Act, FM Act or EPBC Act.

### 4.2 Integrated Development

Section 4.46 and 4.47 of the EP&A Act requires consideration of whether the proposed development would trigger an approval under other environmental or development related NSW Acts of Parliament. This development is categorised as 'integrated development'.

The following provides brief commentary on whether any aspects of the development trigger a need for the consent authority to refer the application as integrated development to seek general terms of approval from other government agencies.

#### Coal Mine Subsidence Compensation Act 2017

The *Coal Mine Subsidence Compensation Act 2017* establishes provisions for consideration damages to new buildings caused by subsidence arising from coal mining.





The Site is not located within a mine subsidence district; therefore, no integrated approval is required to address this legislation.

### **Fisheries Management Act 1994**

The DPI is responsible for conserving the State's fishery resources and protecting and conserving fish habitat and threatened aquatic species in NSW waters (including permanent and intermittent, marine, estuarine and freshwater waterways). The DPI is an "approval body" for development that requires one or more of the following permits under the FM Act:

- Section 144 - aquaculture permit (i.e. cultivating fish or marine vegetation for sale or commercial purposes).
- Section 201 - permit to carry out works of dredging or reclamation.
- Section 205 - permit to harm (cut, remove, damage, destroy etc) marine vegetation on public water land or the foreshore of such land or on an aquaculture lease.
- Section 219 – permit to obstruct the free passage of fish.

As the Site does not contain any watercourse and the development does not propose to carry out any works that would cause harm to any threatened species, populations, or ecological communities as prescribed by the FM Act, no integrated approval is required to address this legislation.

### **Heritage Act 1977**

Heritage in NSW is principally protected by the *Heritage Act 1977* which was passed for the purpose of the identification and registration of items of State Heritage Significance. The *Heritage Act 1977* seeks to protect and conserve items of State Heritage Significance through the operation and establishment of the Heritage Council of NSW and its associated functions.

No works are proposed that are referred to pursuant to Section 57 of the *Heritage Act 1977*. Therefore, no integrated approval is required to address this legislation.

### **Mining Act 1992**

The *Mining Act 1992* aims to encourage and facilitate the discovery and development of mineral resources in NSW, having regard to the need to encourage ecologically sustainable development.

No mining lease is being sought as part of the DA, noting the DA is for the construction of a mixed-use development.

### **National parks and Wildlife Act 1974**

The purpose of the *National Parks and Wildlife Act 1974* (**NP&W Act**) is to conserve NSW's natural and cultural heritage, as well as foster public appreciation, understanding and enjoyment of NSW's natural and cultural heritage. It is also the principal legislative instrument for the protection and management of Aboriginal cultural heritage places and objects in NSW.

The site has been substantively developed including public lanes, car parks and buildings. The site is unlikely to contain any items listed under the NP&W Act given the level of disturbance.



### **Petroleum (Onshore) Act 1991**

The *Petroleum (Onshore) Act 1991* encourages and facilitates the discovery and development of petroleum resources in NSW.

No production lease is being sought as a part of the DA.

### **Protection of the Environment Operations Act 1997**

The *Protection of the Environment Operations Act 1997* provides a single licensing arrangement to replace the different licences and approvals under existing separate acts relating to air pollution, water pollution, noise pollution and waste management.

The implementation of appropriate environmental protection works will ensure that no licence will be required.

### **Roads Act 1993**

Section 138 of the *Roads Act 1993* requires approval from the road's authority (either Council or Transport for NSW) for certain works to be carried out on, or over a public road, or connect to a classified road.

There are no new connections proposed to a classified road and the only works to public roads will be changing the pavement level of the public lane off Cabramatta Road East (minor) to implement the Stormwater Strategy and overland flow path through the site, and works in the cul de sac head the subject of the separate road closure. The proposal also outlines improvements to Broomfield Street footpath area including some road narrowing. Council can approve these works outside of the integrated development framework.

It is noted that the private driveway off Broomfield that leads to the Stardust Hotel rear car parking area and also connects to the public lane will be closed as it is part of the Site. However, this is not a public road nor does it have any easements or other instruments on title permitting other properties or public traffic to traverse this land. The redevelopment of this part of the site including the private driveway does also not trigger an integrated development referral.

Based on the above, no integrated approval is required to address this legislation.

### **Rural Fires Act 1997**

Section 100B of the RF Act requires a Bush Fire Safety Authority to be issued by the Commissioner for:

- a. a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes, or*
- f. development of bush fire prone land for a special fire protection purpose.*

The Site is not identified as containing 'bush fire prone land' and therefore no integrated development referral is required.



## Water Management Act 2000

The proposed works are not situated within 'waterfront land' (identified as being within 40 metres from the top of a river, lake or estuary) nor will it interfere with an aquifer in accordance with Section 91(2) of the WM Act. The geotechnical report found no ground water under the site.

Based on the above, no integrated approval is required to address this legislation.

## 4.3 Bush Fire Prone Land

Section 4.14 of the EP&A Act provides for the general consideration of bush fire hazard on land mapped as bush fire prone.

As the Site is not mapped as bushfire prone, this Section of the Act does not apply to the proposed development.

## 4.4 Environmental Planning instruments

Environmental Planning Instruments is the collective name for State Environmental Planning Policies (SEPPs) and Local Environmental Plans. The EP&A Act and the EP&A Regulation are also included in this classification.

The following outlines the environmental planning instruments relevant to the assessment of the proposed development.

### 4.4.1 State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development 2002

This policy (**SEPP 65**) applies to the proposed development. Clause 28 of SEPP 65 requires:

*(2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*

*(a) the advice (if any) obtained from the design review panel, and*

*(b) the design quality of the development when evaluated in accordance with the design quality principles, and*

*(c) the Apartment Design Guide.*

With regard to (a) above, Fairfield City Council does not have a design review panel. However, the Council seeks input on applications containing apartments from an independent urban design/architect from the commencement of the DA process at the Pre DA meetings through to a review after lodgement. The development has responded to the comments from Council's independent expert provided at the Pre- DA stage.

With regard to (b) above, the Urban Design Report includes a Design Statement that addresses the design quality principles.

With regard to (c) above, the Apartment Design Guide (ADG) is broken into 4 parts. The assessment of the proposed development against the relevant considerations in Parts 3 and 4 of the ADG is addressed in **Appendix C**.

#### 4.4.2 State Environmental Planning Policy (Transport and Infrastructure) 2021

The *State Environmental Planning Policy (Transport and Infrastructure) 2021* (**Transport and Infrastructure SEPP**) commenced on 1 March 2022 and consolidates and repeals four SEPPs, transferring most of the existing provisions into Chapters 2, 3 4 and 5.

##### Chapter 2 – Infrastructure

**Under Section 2.99** of the Transport and Infrastructure SEPP, the proposal includes penetration of ground to a depth of greater than 2m below existing ground level for basement construction and the Site is situated within 25m (measured horizontally) of Cabramatta Railway Station and lines.

Written notice of the DA is required to be forwarded to the rail authority, Sydney Trains within 7 days of lodgement and the consent authority must take into consideration any submission provided in response to that notice.

**Under Section 2.100** of the Transport and Infrastructure SEPP, the proposal includes development of land in or adjacent to a rail corridor for the purposes of residential accommodation and centre based child care facility (albeit this is located internal to the development) that may be adversely affected by rail noise or vibration.

In these instances, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette and for residential accommodation be satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

The Acoustic Report submitted with the application address these requirements.

**Under Section 2.120** of the Transport and Infrastructure SEPP, proposed development in this case adjacent to a road carrying more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) is required to address the same criteria in Section 2.100 above. The site does not front Cabramatta Road East (major) and there is no published data giving traffic volumes on the website). Discussions with ARC Traffic and Transport confirm volumes assessed in the work would be less than this threshold. Accordingly, Section of the SEPP does not apply to the proposed development.

**Under Section 2.122** of the Transport and Infrastructure SEPP, the proposal comprises residential accommodation of 75 or more dwellings with access within 90m of a connection to a classified road, being Cabramatta Road East. As such, the proposed development is classified as Traffic-Generating development in accordance with Clause 2.122 of the SEPP.

Written notice of the DA is required to be forwarded to TfNSW within 7 days of lodgement and the consent authority must take into consideration any submission provided in response to that notice.

### Chapter 3 - Educational establishments and child care facilities

The proposal includes a centre based childcare centre. Chapter 3 Education establishments and child care facilities in the Transport and Infrastructure SEPP contains planning rules and controls from the repealed *State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017*. Chapter 3 is to be read in conjunction with the supporting *NSW Childcare Planning Guideline 2021*.

An assessment against the relevant provisions of the Chapter 3 Education establishments and childcare facilities is provided in **Table 1** below (noting that 3.24 and 3.25 are not relevant to the assessment of the application).

Table 1 Assessment against Chapter 3 of the Transport Infrastructure SEPP

Section	Requirement	Comment	Compliance
3.22 Centre Based Child Care Facility – Concurrence of Regulatory Authority	<p>1. <i>This clause applies to development for the purpose of a centre-based child care facility if:</i></p> <p>a. <i>the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or</i></p> <p>b. <i>the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.</i></p>	<p>This provision requires 3.25m<sup>2</sup> of unencumbered indoor space for each child attending (indoor space is equated to activity rooms). Based on 80 children, the centre requires a minimum 260m<sup>2</sup> to be provided. The proposed development provides 262m<sup>2</sup>.</p> <p>This provision requires 7m<sup>2</sup> of unencumbered outdoor space for each child attending. Based on 80 children, the centre requires a minimum of 560m<sup>2</sup> to be provided. The proposed development provides 560m<sup>2</sup>.</p> <p>The proposed development meets the requirements of the <i>Education and Care Services National Regulations</i>.</p>	Yes
3.23 Centre-based child care facility—matters for consideration by consent authorities	<p><i>Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.</i></p>	<p>Part 3 and 4 of the <i>NSW Child Care Planning Guideline</i> outlines matters for consideration and design criteria. A comprehensive assessment against Part 3 and 4 of the guidelines is provided with this SEE (refer to <b>Appendix D</b>).</p>	Yes
3.26 Centre Based Child Care Facility – Non-Discretionary Development Standards	<p>1. <i>The object of this clause is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.</i></p>	<p>The Council does not have any standards that conflict with the non discretionary standards outlined in this clause.</p>	Yes

Section	Requirement	Comment	Compliance
	<p>2. <i>The following are non-discretionary development standards for the purposes of section 4.15(2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility:</i></p> <p>a. <i>location—the development may be located at any distance from an existing or proposed early education and care facility,</i></p> <p>b. <i>indoor or outdoor space</i></p> <p>c. <i>site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,</i></p> <p>d. <i>colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.</i></p> <p>3. <i>To remove doubt, this clause does not prevent a consent authority from:</i></p> <p>a. <i>refusing a development application in relation to a matter not specified in subclause (2), or</i></p> <p>b. <i>granting development consent even though any standard specified in subclause (2) is not complied with.</i></p>		
3.27 Centre Based Child Care Facility – Development Control Plan	<p>1. <i>A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility:</i></p> <p>a. <i>operational or management plans or arrangements (including hours of operation),</i></p> <p>b. <i>demonstrated need or demand for child care services,</i></p>	A DCP applies to the Site and the proposed development. However, it does not specify a more onerous requirement, standard or control in relation to the matters identified.	Yes

Section	Requirement	Comment	Compliance
	<p><i>c. proximity of facility to other early education and care facilities,</i></p> <p><i>d. any matter relating to development for the purpose of a centre-based child care facility contained in:</i></p> <p><i>i. the design principles set out in Part 2 of the Child Care Planning Guideline, or</i></p> <p><i>ii. the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).</i></p> <p><i>2. This clause applies regardless of when the development control plan was made.</i></p>		

#### 4.4.3 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The BASIX SEPP requires certain residential development to meet standards to achieve energy efficiency, reduced potable water consumption and sustainability.

The proposal includes the construction of apartments which are classified as BASIX buildings under the *Environmental Planning and Assessment Regulation 2021*. A BASIX assessment and certificates accompany the application.

#### 4.4.4 State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 (**RH SEPP**) commenced on 1 March 2022 and repeals three SEPPs, transferring most of the existing provisions into Chapters 2, 3 and 4.

Chapter 4 Remediation of land contains planning provisions from the repealed State Environmental Planning Policy No. 55 – Remediation of Land, which provides a state-wide planning framework for the remediation of contaminated land and to minimise the risk of harm.

Under Section 4.6 of the RH SEPP, a consent authority must not consent to the carrying out of any development on land unless—

- (a) it has considered whether the land is contaminated, and

- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

To add guidance to the clauses above, subclause 2 requires that before determining an application for consent to carry out development that would involve a change of use the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

A Preliminary Site Investigation report has been prepared by JK Geotechnics that identified potential contaminating land uses being a historical motor mechanic use and off-site land uses (including dry cleaner business and motor garage/service station).

Subclause (3) of the RHSEPP states that:

*The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation. (Author's emphasis)*

The requirement can be satisfied by attaching an appropriate condition to any consent granted. In any event the proponent has already commissioned the DSI to address this matter.

#### **4.4.5 State Environmental Planning Policy (Biodiversity and Conservation) 2021**

The catchment draining to the Georges River is a regulated catchment described in State Environmental Planning Policy (Biodiversity and Conservation) 2021 (B&C SEPP). The proposed development is located within the mapped catchment.

Part 6.2 of the B&C SEPP contains provisions for development within regulated catchments including giving consideration to water quality and quantity leaving the site, aquatic ecology and flooding. In relation to the proposed development, the first 2 matters are addressed by ensuring the design and controls employed during the construction process address and maintain overland flows through the Site and the quality of water leaving the site. The Stormwater Management Report address these matters, together with the nominated soil erosion management devices to be employed during construction.

The proposal does trigger consideration of the controls in specific area in Division 3 or controls on development for specific purposes in Division 4.

#### **4.4.6 State Environmental Planning Policy (Planning Systems) 2021**

As noted in **Section 1.4**, this SEPP is applicable to this development application as the Capital Investment Value (**CIV**) is greater than \$30 million. As required by *Chapter 2 – state and regional development*, the proposal is to be determined by the Sydney Western City Planning Panel.



## 4.5 Fairfield Local Environmental Plan 2013

Whilst Fairfield Local Environmental Plan came into effect in 2013, the Planning Proposal that introduced the new built form controls to the Site was gazetted as Amendment 42 on 7 October 2022. This Amendment did not seek to change the underlying zoning, but only increase the built form controls applying to the land when a proposed development is located on land meeting or exceeding the minimum site area and incorporating more than 50% of residential accommodation for each building in the scheme.

The current controls in the LEP are discussed below.

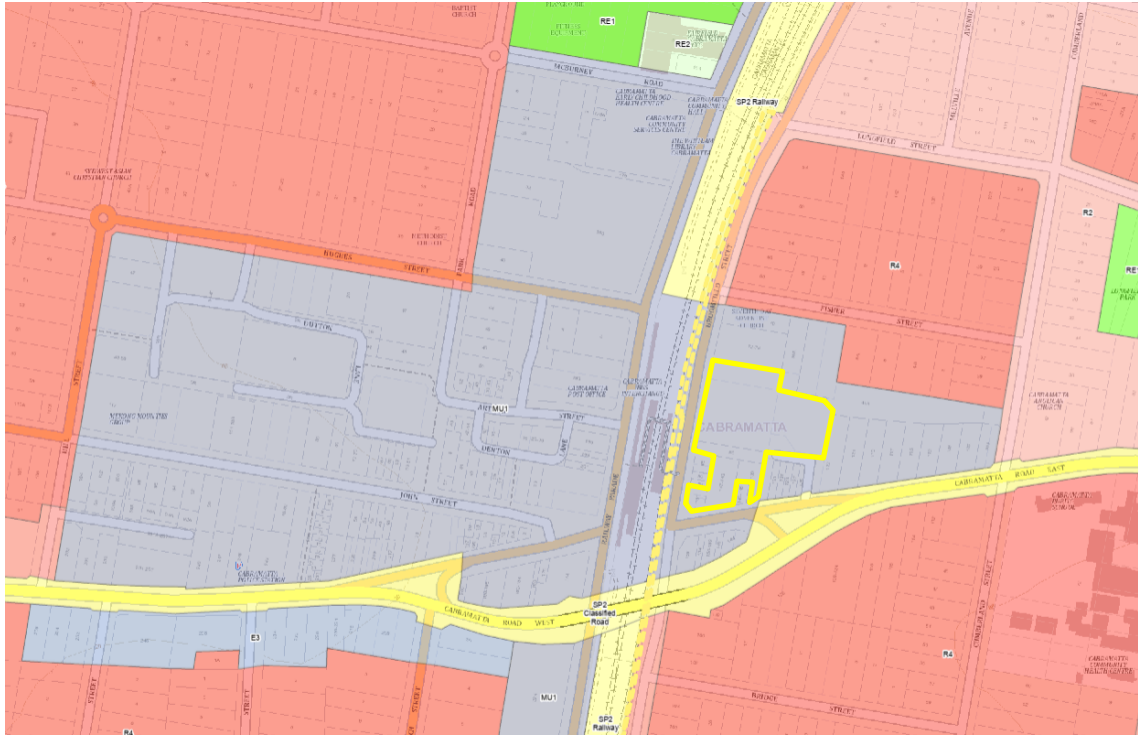
### Land Zoning

As a consequence of the Employment Zones reforms initiated by DPE, the underlying zoning changed from a B4 – Mixed Use Zone to a MU1 – Mixed Use Zone under the Fairfield LEP 2013 on 27 April 2022. This change resulted in minor changes to the zone objectives and land use table.

The objectives of Zone MU1 Mixed Use are:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To support the development of Bonnyrigg, Prairiewood, Fairfield and Cabramatta as the principal locations for specialist cultural, retail, business, tourist and entertainment facilities and services.*

The land use table continues to permit the mixed-use development including the following components, centre-based child care facilities, commercial premises, medical centres, recreation facilities (indoor), retail premises including food and drink premises (including a pub) and shops and shop top housing. The proposed development of the site remains consistent with the Zone objectives and permissible development with the consent of Council. The zoning of the Site and surrounding area is shown in **Figure 5**



Source: Fairfield LEP 2013

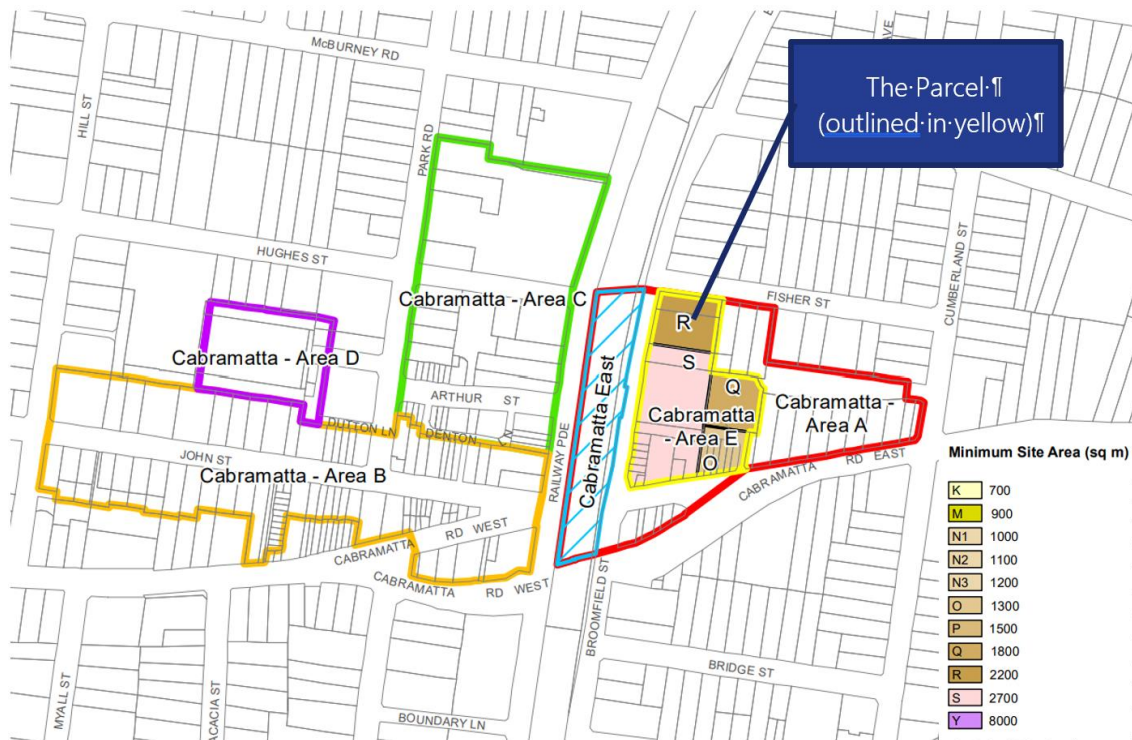
**Figure 5 Land Zoning Map Extract with site in yellow**

### Built Form Controls

The built form controls applicable to the Site allow the maximum height of building and maximum floor space ratio to be achieved as shown on the LEP maps, but only if the development occurs on a site equal to or greater than the minimum lot size as shown on the Minimum Site Area Map Town Centre Precinct Map \_ Sheet CL2\_017 and the development incorporates over 50% of the GFA for residential accommodation.

**Figure 6** is an extract from the Minimum Site Area Map Town Centre Precinct Map \_ Sheet CL2\_017 showing the Site located in Area E and requiring a minimum site area of 1,800m<sup>2</sup> for the development in the area of the Site notated with the letter "Q" and a minimum site area of 2,700m<sup>2</sup> for the development of any part of the site in the area notated with the letter "S".

There is no applicable minimum Lot Size under Clause 4.1 of Fairfield LEP as a consideration to this DA.



Source: Fairfield LEP 2013

**Figure 6 Town Centre Precinct Map Extract**

It is noted that the site area of the development in Area Q (comprising Lot 10 DP 255023 on which Building A is located) is 2,134m<sup>2</sup> and the site area of the development in Area S (comprising Lot 7 Section E DP 4420, Lots 1 and 2, DP205759, Lots 5, 6, 7, and 8 DP25618 and Lot 2 DP580587 on which Buildings B and C are located) is 6,043m<sup>2</sup>. The sites therefore well exceed the minimum site area required to achieve the maximum heights and FSRs applicable to these sites.

Clauses 7.2 and 7.3 of the LEP contain the detailed provisions for the built form for development on land identified as "Cabramatta – Area E" on the Town Centre Precinct Map. The clauses apply specific matched FSRs and heights to facilitate the desired built form on different parts of the Site. The heights and FSRs that apply to the specific parts of the Site (as shown in the extracts of the FSR and Height Maps discussed below) are shown in **Table 1** **Table 2**:

Table 2 Lot descriptions and areas referenced to the height and FSR maps

Site Area - FSR "W" & Height "Z2" Maps		Site Area - FSR "AA2" & Height "AA" Maps	
Lots	Area	Lots	Area
10/255023	1,948	2/205759	557
Road closure	186	5/25618	88
7/E/DP 4420	874	6/25618	98
1/205759	2,938	7/25618	70
		8/25618	882
		2/580587	536
<b>Total</b>	<b>5,946</b>	<b>Total</b>	<b>2,231</b>

The specific clauses that set the key FSR and Height built form standards are discussed further below:

#### Clause 7.2 – Cabramatta floor space ratio

The key provisions are as follows:

*(4A) The maximum floor space ratio for a building on land identified as “Cabramatta—Area E” on the Town Centre Precinct Map is—*

*(c) if 10% to 50% of the floor space is used for the purposes of residential accommodation—2.2:1.*

As the proposed buildings on the Site each contain greater than 50% residential floor space nominated in Clause 7.2(4A)(c), the development can achieve the maximum floor space ratio as shown on Figure 7.



Source: Fairfield LEP 2013

**Figure 7 Floor Space Ratio Map Extract with Site bordered red**

The application of the maximum FSR to the proposed development that meets both the minimum site area requirements (excluding isolated sites) and residential accommodation exceeding 50% translates to the following maximum FSRs:

- o Area of W2 is 5,946 @ 3.85:1 equates to a maximum FSR of 22,892m<sup>2</sup>
- o Area of AA2 is 2,231@ 6.45:1 equates to a maximum FSR of 14,389m<sup>2</sup>



Proposed Building A (with retail GFA of 937m<sup>2</sup> and residential GFA of 8,102m<sup>2</sup> or total GFA of 9,039m<sup>2</sup>) and Proposed Building B (with retail GFA of 770m<sup>2</sup>, childcare centre of 562m<sup>2</sup> and residential GFA of 11,729m<sup>2</sup> or total GFA of 13,061m<sup>2</sup>) or a total FSR of 22,100m<sup>2</sup> or FSR 3.717:1, complying with the LEP for this part of the site.

Proposed Building C with retail of 2,671m<sup>2</sup> of shops, medical centre and tavern and residential GFA of 11,713m<sup>2</sup> or a total GFA of 14,384m<sup>2</sup> or FSR of 6.44:1, complying with the LEP for this part of the site.

### Clause 7.3 – Cabramatta height of buildings

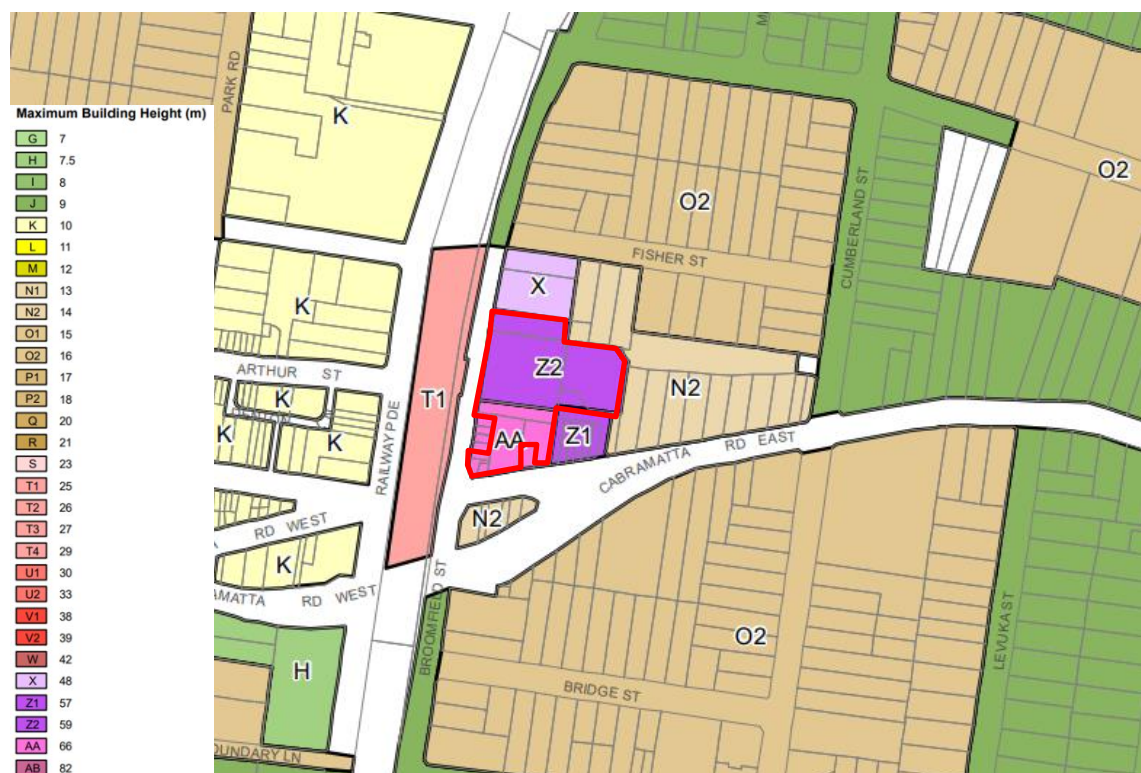
The key provisions are as follows:

*(5A) The height of a building on land identified as “Cabramatta—Area E” on the Town Centre Precinct Map must not be greater than—*

*(a) 10m, unless at least 50% of the building will be used for the purposes of residential accommodation, and*

*(b) 14m, unless the site area will be at least the minimum site area shown for the land on the Minimum Site Area Map*

As the proposed buildings on the Site each contain greater than 50% residential floor space and comply with the minimum site area nominated in Clause 73(5A)(a) and (b), the development can achieve the maximum height of 59m on that part of the site notated as “Z2” and 66m on that part of the site notated as “AA” as shown in **Figure 8**.



Source: Fairfield LEP 2013

**Figure 8 Height of Buildings Map Extract with Site bordered red**

The maximum height of buildings on that part of the site notated as "Z2" is Building A at 58.55m (Building B has a height of 56.5m), and the maximum height of the building on that part of the site notated as "AA" is Building C with a height of 65.85m, complying with the LEP for this part of the site.

#### Other provisions

The following clauses and comments address other clauses in Fairfield LEP:

Clause 2.7 of the LEP requires consent for demolition. The DA seeks consent for the demolition on the site.

Clause 5.21 requires consideration of a range of floodplain risk management matters for properties in the flood panning area. These relate to minimising the risk to development and the impacts on other properties as a consequence of flooding. It is noted that the Site is not identified on the Cabramatta Creek Flood Planning Map downloaded from Council's website on 11 May 2023.

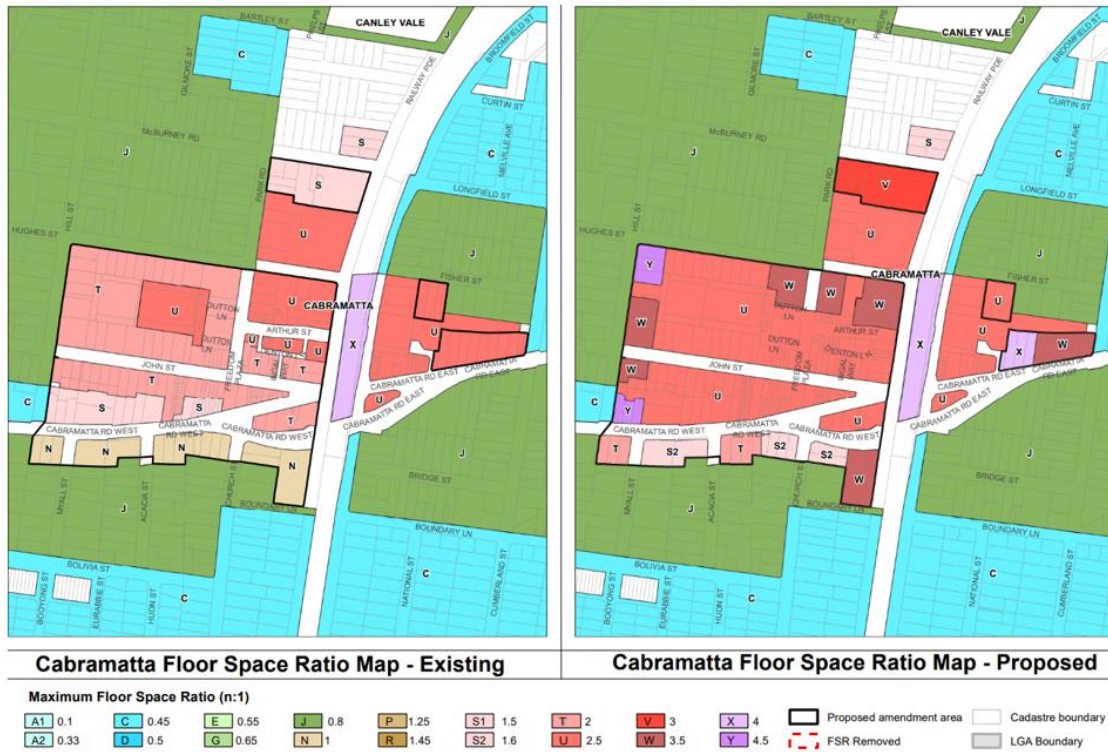
Despite the above, overland flow flooding is included in the definition of flooding as outlined in the DCP. Therefore, the provisions of Chapter 11 of the DCP apply. Council has advised that an existing overland flow path needs to be accommodated through the site and that floor levels of shops need to be set above the applicable flood planning level based on the 1%AEP plus freeboard. The investigations into overland flows are outlined in the Stormwater Management Report.

## 4.6 Draft Environmental Planning Instruments

Council has progressed a Planning Proposal for Stage 2 of the Accelerated Review of the Fairfield LEP 2013 including, among other things, increasing the density and height of development by amending the built form controls applying to Fairfield, Cabramatta, Canley Vale and Carramar Town Centres.

Of relevance to the proposed development is that part of the Planning Proposal that seeks to increase the heights and density of development to the north, south, east and west of the Site and more generally opposite the rail line in Cabramatta West.

In particular, the following maps show that that built form controls applying to land in vicinity of the site (note these maps do not include the new planning controls applying to the Site and broader parcel gazetted late last year). The controls work in the same way as that for the Site where the maximum FSRs and heights can be achieved where the development occurs on land above a minimum site area and where residential accommodation exceeds 50% of the GFA. It is noted that the heights immediately east of the Site are proposed to increase from 14m to 33m and 36m, and opposite on Cabramatta Road East (minor) to 20m. See **Figure 9** and **Figure 10**.



Source: NSW Government, 2023

**Figure 9 Existing and Proposed Floor Space Ratio Map**



Source: NSW Government, 2023

**Figure 10 Existing and Proposed Height of Buildings Map**



## 4.7 Development Control Plan

Council has in place the Fairfield City Wide Development Control Plan 2013 which includes a Chapter titled the Cabramatta Town Centre DCP with specific controls for the land inserted in 2022 following gazettal of the Planning Proposal to support the future development on the Site and broader parcel the subject of the rezoning.

The Cabramatta Town Centre Development Control Plan 2022 supplements the LEP by describing the planning, design and environmental objectives and controls to ensure orderly, efficient, and appropriate development occurs in Cabramatta's town centre.

The consideration of the DCP under the EP&A Act has a specific role to play and application of this to the proposed development. Importantly Section 4.15 (3A) of the EP&A Act states the following:

*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, and*
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—**is to be flexible in applying those provisions and allow reasonable alternative solutions** that achieve the objects of those standards for dealing with that aspect of the development, and*
- (c) may consider those provisions only in connection with the assessment of that development application.*

*In this subsection, standards include performance criteria. (author's emphasis)*

These provisions in the EP&A Act are important as planning is constantly evolving and information in respect to the development of any site and/or decisions made by government agencies or even private landholdings may warrant a reconsideration of how best to respond to those matters if the best design outcomes are to be achieved and overriding objectives met.

### 4.7.1 Pre DA Minutes Commentary on Compliance with DCP

The Council has raised some matters in the Pre DA meetings where it believes the proposed development as presented in those meetings may depart from some illustration or figures included in the new section of the DCP. It is appropriate at the commencement of this section to put those Council comments in perspective so proper consideration can be given to the proposed development. The issues raised by Council are as follows:

- The proposed development does not relate to the entire Site creating isolated sites and an altered position of the tower.
- The proposed development retains an accessway through to the future market square instead of a connected building (located part on Stage 1 and part on Stage 3).



- The deletion of the pedestrian bridge over Broomfield Street given TfNSW position not to support the bridge, engage with Council or the proponent or provide owners consent to lodgement of the application.

These matters are discussed further below:

#### Isolated site and an altered position of the tower

Given the delays in the Planning Proposal process and despite ongoing negotiations to secure all of the properties within Stage 1 and 2, there are a small number of landowners who have not agreed to be part of the redevelopment, as is their right.

The lot descriptions where the owners have decided not to participate in the redevelopment include a contiguous block of four properties in three ownerships totalling 368.78m<sup>2</sup> along the Broomfield St frontage comprising:

- 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)

It is noted that the isolated sites fronting Broomfield Street are benefitted by an easement for access 3.048m wide across the rear of the sites off Cabramatta Road East and which extends into the Site by 0.9146m. Given its narrow width this easement appears not to be used for vehicular access but rather for ancillary storage for the individual shops that front Broomfield Street. The proposed redevelopment will maintain this easement for these shops to Cabramatta Road East.

There is also one unit of 167.83m<sup>2</sup> in a three lot strata scheme at SP 10266, 143 – 145 Cabramatta Road East, Cabramatta where one owner has elected not to sell, thereby not triggering the 75% of the lots in a strata scheme whereby the Owners Corporation can force the dissenting Lot Owners to join in a sale of the strata building under the *Strata Schemes Development Act*, 2015. The total area of the lot on which SP 10266m is located is 433m<sup>2</sup>. As a consequence of the non participation of the one owner, the Strata Schemes Development Act 2015 cannot be used, so this site has to be excluded from the redevelopment.

It is noted that the non-participation of these landowners is not necessarily detrimental to the development of the site. Indeed, the planning controls incorporated in Fairfield LEP provide for a minimum lot size required to trigger the maximum height and FSR that would not include all land in any given stage. This “float” in the planning controls, in part, acknowledges the difficulties in assembling and maintaining the development parcel in control of the one entity and recognises Land and Environment Court rulings which outline the Planning Principle based on the decision of *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 (*Karavellas*).

The establishment of the Planning Principle by the Land and Environment Court is important as delays in negotiating and assembling all sites in a highly fragmented area will lead to an inability to progress the development in any meaningful timeframe, resulting in owners already secured by options not renewing or the developer unwilling to pay option extension fees or negotiate new options without a meaningful commitment by all owners. Strict adherence whereby Council requires the participation of all landowners before an approval is granted can be catastrophic and often is the sole reason for areas in desperate need of renewal to be overlooked or abandoned.

The Planning Principle adopted by the Land and Environment Court based on the *Karavellas* case concerns a matter where a site that would have been below the minimum lot size standard in the LEP was excluded from redevelopment, and the DCP identified the site for amalgamation with the adjoining lot to form a development site. The Planning Principle sets out the steps that should have been undertaken in the negotiation for acquisition of the isolated site including formal offers and giving those owners understanding of the redevelopment potential if the land is not amalgamated.

With regard to the application of the Karavellas Planning Principle to the site for the proposed development, it is noted that the minimum lot sizes implemented through Amendment No 42 to Fairfield LEP do not prevent development as would have been the case in Karavellas, but rather confer greater heights and floorspace ratios on the land if other design considerations are also met. The LEP continues to permit redevelopment consistent with the land use zone based on standards when an owner does not want to be incorporated in a larger redevelopment parcel. Also, unlike Sutherland LEP considered in the Karavellas Planning Principle, Fairfield LEP does not contain specific objectives related to site amalgamation, nor is there a provision or standard in the DCP requiring this to occur.

Whilst there have been many offers and dialogue with all owners in the parcels in the 6 or so years since the rezoning exercise commenced, following gazettal of the Planning Proposal on 7 October 2022, the proponent commissioned a valuation and formally made a final formal offer to the isolated landowners, including a last offer with a premium of 10% above market value. It is further understood that this offer outlined that, as per Karavellas Planning Principle, if not accepted, the future redevelopment of the parcels would be limited to planning controls that have always been included in the LEP without the ability to trigger the new heights and FSR incorporated subsequent to the gazettal of Amendment No 42.

The proponent has also further considered how these isolated sites could be developed in the future so that this can be considered from a design and BCA compliance viewpoint, particularly at the interface with the development Site. As part of these considerations the proponent has also identified locations in the basement levels of the proposed development where a connection could be made into a future basement of the isolated site, thereby ensuring the overall strategy to limit new access points into the parcel. In this regard, the proposed development is entirely consistent with the DCP.

The proponent has followed the Karavellas Planning Principle in making offers and advising of the implications to the future redevelopment potential if not amalgamated into the scheme. None of the isolated owners have changed their position and hence they cannot be included in the redevelopment. It is expected that if this DA is refused on this basis the Land and Environment Court will apply this Planning Principle.

The Council has also stated that the non inclusion of the shallow isolated site results in the tower being pushed further back from the corner of Broomfield Street and Cabramatta Road East, albeit that the same maximum height limit of 66m in the LEP applies to all the land in Stage 2 giving flexibility to move the tower within the Stage 2.

Council's Pre DA minutes contain an extract of an image from the DCP (Figure 5) that is referenced in the Development Controls section to presumably show that what was presented at the Pre-DA meeting was inconsistent with the DCP. However, the words in the DCP that reference this Figure state that final heights and siting of buildings are related to solar access to the market square and that dwellings in proximity to the Precinct are capable of achieving the required solar access.

Figure 5 referenced in the Development Controls has everything to do with demonstrating how solar access could be gained to the Market Square to the north of the tower element on Building C (and other buildings) and nothing to do with the setbacks of the tower to the intersection of Broomfield Street and Cabramatta Road East (minor). Indeed, the requirement to ensure other buildings adjoining the Site achieve ADG solar compliance would have resulted in the shifting of the tower to the east in any event to enable solar compliance for the building to the south with a new height limit under the draft Planning Proposal on Cabramatta Road East. If the tower were constructed in its original position then this future building would have achieved only 63% of units achieving the required solar access in the ADG. However, in its proposed location the building can achieve over 80%. Shifting of the tower is entirely consistent with the DCP in ensuring solar access to the building to the south.

There is no specific standard in the DCP that provides a setback for the location of the tower from either Broomfield St or Cabramatta Road East (minor). There is a performance standard requiring '*a mix of building heights which achieve a gateway place marking tower on the corner of Broomfield Street and Cabramatta Road East*' and it is considered that this is still achieved by the proposed development even accounting for the siting behind the shallow isolated sites.

GLN do not believe there is a non compliance or inconsistency of the tower form proposed to any standard or controls in the LEP or DCP for the built form in this stage of the development.

#### Retained accessway through to the future market square instead of a connected building

The proposed development seeks to close a part of the cul de sac head and reinstate it after construction as part of a new access lane and pedestrian path to the Market Square. The reinstated accessway means that a long single building in this part of the site will be separated into two buildings. Council has stated that in its Pre DA notes that this would represent a departure from the DCP.

The DCP at Figure 3B shows key pedestrian connections through the site and other Figures show the building on the eastern part of the site as a single building (to be constructed in 2 stages) rather than two more slender buildings separated by a private accessway as is now proposed The revised approach to that shown in various figures in the DCP serves the following purposes:

- Provision of a vehicle access point to the Market Square for servicing, cleaning and emergencies
- Provision of a clear and easily discernible access point to the lobbies for deliveries and postal services for each building
- Increasing permeability of the ground floor plane generally and accommodating larger pedestrian flows given Council's draft Planning Proposal increasing the density of development to the east.
- Enabling more breathing space which improves the amenity and usability of the market square
- Breaking up of the bulky built form on the eastern part of the site with improved amenity to future adjacent development.
- Improving solar access and cross ventilation for the residential apartments buildings in this part of the Parcel
- Increasing opportunities for landscaping and tree planting

- Resolving delivery issues given the public lane needs to be retained for access to existing shops outside the Site up until Stage 3 is developed.

There are no specific controls or performance criteria in the DCP that the proposed separation of the buildings would contravene. The reference in the Pre DA minutes can only be to the various figures indicating the notional siting and massing of buildings on the site. However, it is likely that to meet the ADG compliance and other design outcomes, the final location and configuration of the buildings shown in these figures may need to be massaged to meet planning outcome and hence strict adherence to the concept figures in the DCP is not required or would produce good planning outcomes.

The separation of the buildings and reinstatement of the accessway will ultimately improve solar access to buildings within and adjoining the site, a stated provision of the DCP. It is atypical that a Council would claim a proposed development is inconsistent with a DCP when it proposes more than the minimum connections to that shown in the DCP and which in turn produce greater ground plane amenity and improvements for the Market Square for future residents residing in the building in this part of the site.

#### The pedestrian bridge over Broomfield Street

There is a long history relating to the provision of a pedestrian bridge over Broomfield Street to connect to the rail concourse. This provision was included in the original Cabramatta DCP prior to the commencement of the Planning Proposal and in around 2018, the proponent met with Sydney Trains to establish its requirements. At this initial meeting there was no objection to the pedestrian bridge and general design requirements were outlined, to be subject to greater detail and of course consultation with Sydney Trains when progressing to DA stage.

During the Planning Process, however, further consultations identified that Sydney Trains was reviewing their position on the bridge given subsequent strategic work relating to the station. Despite the Project Delivery Unit (PDU) of the DPE coordinating formal consultations between Sydney Trains, Council and, at selected meetings, the proponent throughout the rezoning process, TfNSW on behalf of Sydney Trains formally advised Council that it does not support the pedestrian bridge connection.

The timing of this advice from Sydney Trains at the close of the rezoning process coincided with the finalisation of a Planning Agreement between Council and the proponent that provides for the construction of the pedestrian bridge by the developer or, if the pedestrian bridge is not supported by Sydney Trains, the payment of a contribution of an equivalent amount of 110% to be allocated to the improvement of community facilities in the locality.

Since that advice both Council and the proponent have tried to convene meetings with Sydney Trains to understand the position of Sydney Trains or whether further information could assist Sydney Trains in reconsidering the matter. Those attempts have not resulted in any further engagement from Sydney Trains. On behalf of the proponent, GLN Planning lodged a GIPA request in an attempt to access the strategic information referred to by Sydney Trains that may assist in unlocking the issues around the provision of the pedestrian bridge which would otherwise be entirely consistent with TfNSW stated policy objectives to improve accessibility to station and connections across rail lines to better link communities. Access to the strategic documents through the GIPA request was denied.

In a final attempt, the proponent authorised an email to be sent to Sydney Trains seeking a meeting to discuss the pedestrian bridge on 21 March 2023. This email was responded to with the reply was

that there was no change to Sydney Trains position on the pedestrian bridge. Accordingly, the bridge cannot be part of the DA and the PA will require a monetary contribution toward community facilities in the area.

Despite the above, the proposed development maintains the same space allocated in the original design that could accommodate the pedestrian bridge if Sydney Trains changes its position in the future. The bridge is shown for information in the Urban Design Report by Plus Architecture.

#### 4.7.2 Assessment against Specific DCP Requirements

The Site is identified in Section 2.5 of the DCP as Precinct 4A 'East Side Market Square and Station Interface'. The provisions are assessed in **Table 3**.

**Table 3 Assessment against Cabramatta Town Centre DCP 2022**

Matter	Comment
Part A – About this Plan	
1.2 Where does this plan apply?	The Cabramatta Town Centre DCP applies to the Site is situated within Precinct 4A.
<b>Part B, 2.5 – Precincts (Precinct 4A – East Side Market Square and Station Interface)</b>	
Objectives	
To set an appropriate urban structure centred on a new market square and promoting open and activated pedestrian connections through the site to adjoining streets, car parks and new overhead link to Cabramatta Rail Station;	The proposal creates an appropriate urban structure as stated, but does not include the Cabramatta Rail Bridge (see discussion above)
To articulate a built form that can be achieved under Fairfield LEP 2013 where the siting and massing of buildings maximises solar access into the market square and future dwellings both within and adjoining the precinct;	The proposal creates an appropriate articulated built form and solar access.
To articulate street setbacks, podium treatments and awnings to set the amenity for the street environment;	The proposal creates articulate setbacks, separate podium and treatments and awnings
To ensure retail and/or business uses are provided at ground level to activate streets and public spaces;	Retail and business are proposed at the ground level.
To detail requirements for tree preservation and landscaping;	There are no trees on site and landscaping plans detail the landscaping outcomes.
To ensure adequate safe and convenient, and accessible car parking and on site loading and waste collection access;	Car parking and access is design to serve separated residential and retail basements (including loading and waste collection)
To inform design responses for overland flow paths through the land in storm events;	The development incorporates the overland flow paths
To provide guidance on the location of signage; and	Signage is not proposed as part of this DA
To provide a staging framework to enable the orderly development of this part of the Cabramatta Town Centre.	The proposal is for Stages 1 and 2 that create the key parts of the Market Square and key connections. The design includes future basement level connections to access future Stage 3 and isolated sites.

Matter	Comment
<p><b>Desired Character</b></p> <ul style="list-style-type: none"> <li>A Precinct where the amalgamation of sites facilitates mixed use development incorporating shops, commercial, religious, and residential uses.</li> <li>The development will facilitate high levels of permeability to convey pedestrians through the site via vibrant laneways bordered by shops and cafes, or from the station via a new pedestrian overbridge into a generous central market square incorporating seating, water features, public art and outdoor dining.</li> <li>The development will also include a small supermarket and commercial premises including maintaining floor space for the existing tavern and church, with provision for new commercial spaces tailored for medical, childcare or similar uses.</li> <li>The massing of buildings within the height and floor space ratio controls will provide for a variation in built form to ensure that solar access to the market square and to residential dwellings within and in proximity to the site.</li> <li>Vehicular access to the Precinct will be from Fisher Street, Broomfield Street and Cabramatta Road East to a basement catering for both loading, waste collection and car parking for the entire development.</li> <li>The development will manage flows through the site to avoid nuisance flooding or hazard. New trees will be incorporated in the Broomfield Street, Cabramatta Road East and Fisher Street frontages as well as in and around the market square. Roof top gardens and communal areas will also be provided at podium level.</li> </ul>	<p>The proposed development for Stages 1 and 2 is consistent with this part of the character statement.</p> <p>The proposed development for Stages 1 and 2 is consistent with this part of the character statement with the exception that the pedestrian bridge is excluded given TfNSW not supporting the bridge as discussed above.</p> <p>Whilst a small supermarket is unlikely to be viable in this location, the proposed development for Stages 1 and 2 is otherwise consistent with this part of the character statement.</p> <p>The proposed development for Stages 1 and 2 is consistent with this part of the character statement.</p> <p>The proposed development for Stages 1 and 2 is consistent with this part of the character statement.</p> <p>The proposed development for Stages 1 and 2 is consistent with this part of the character statement.</p>
<p><b>A. Structure Plan</b></p> <p><b>Performance criteria</b></p> <p>The Urban Structure of the Precinct is centred on a new market square with lane connections to adjoining streets, car parks and new overhead link to Cabramatta Rail Station.</p> <p><b>Development controls</b></p> <p>The structure of the Precinct will focus on a generous central plaza/market square from which there will be clear activated pedestrian connections linking with Fisher Street, Cabramatta Road East, Broomfield Street and the Fisher Street and Cumberland Street Car Parks.</p> <p>An escalator and/or lift is to be provided to connect the ground level with first level linking to other commercial uses in the development facing Broomfield Street and a new overhead pedestrian bridge to the Cabramatta Rail concourse.</p>	<p>The proposed development for Stages 1 and 2 is consistent with this part of the Performance criteria.</p> <p>The proposed development achieves all these outcome.</p> <p>These elements were associated with the delivery of the pedestrian bridge. which TfNSW do not support. Nonetheless, a lift is provided to Building B and an escalator is provided to Building C and other element reinstated should TfNSW position changes in the future.</p>



Matter	Comment
The connections will be provided generally in accordance with Figure 2 and 3 below and will incorporate clear way finding measures to draw pedestrians to places within or destinations outside the precinct by signage and/or floor markings or other devices	The proposed development for Stages 1 and 2 includes the nominated connections this requirement. The landscape plan document wayfinding and measures to draw pedestrians to places including Connecting with Country references
<p><b>B. Built Form, Siting and Height</b></p> <p><b>Performance criteria</b></p> <p>The floor space permitted under Fairfield LEP 2013 is to be allocated to create a mix of building heights which achieve a gateway place marking tower on the corner of Broomfield Street and Cabramatta Road East and building heights which maximises solar access to the market square and dwellings within and external to the Precinct.</p> <p><b>Development controls</b></p> <p>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 Figures 4 below.</p> <p>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</p>	<p>The proposed development for Stages 1 and 2 is consistent with this part of the Performance criteria.</p> <p>The towers on top of podiums for Stages 1 and 2 are consistent with the development controls. The tower above Building C has been setback further from that shown in Figure 4 due to isolated sites but its additional setback is entirely consistent with enabling solar access to future apartment developments opposite on Cabramatta Road East (minor). The buildings along the street Broomfield Street frontage have also been aligned to the setbacks of the isolated site to ensure these are integrated into the overall streetscape.</p> <p>The towers on top of podiums for Stages 1 and 2 are consistent with the development controls. The tower locations and configurations have been carefully considered and adjusted to ensure solar access to dwellings in proximity of the site and achievement of 2 hours of sunlight to the market square.</p>
<p><b>C. Active Street Frontages, awnings &amp; materials</b></p> <p><b>Performance criteria</b></p> <p>Provide a mix of uses at ground level to activate street frontages and internal lanes and spaces.</p> <p>Articulate street setbacks, podium treatments and awnings to set the human scale and amenity for the street environment.</p> <p><b>Development controls</b></p> <p>The development will incorporate retail, residential and commercial type uses including a place of public worship, medical centres, child care centres and similar uses.</p> <p>Retail, commercial premises and the place of public worship at ground level shall address the perimeter</p>	<p>The proposal incorporates ground level uses to activate streets, internal laneways and spaces as shown by the uses and retail spaces nominated on the plans.</p> <p>Stage 1 and 2 of the development incorporates medical centre and child care centre, gym and restaurant on the first level and tavern and other retail spaces on the ground level</p> <p>The development is met as per the above and as shown on architectural plans.</p>

Matter	Comment
streets to activate these spaces. Internal tenancies fronting pedestrian laneways and the centre market square shall address and activate these areas. Tenancies requiring active frontage are shown in Figure 10 and 11.	
The market square and ground level lanes are suited to tenancies which celebrate Cabramatta's vibrant Asian heritage.	Tenancies have been created for food and drink premises and other shops. From a landscape and architectural perspective, the space will incorporate both Asian and connection to country themes.
Outdoor dining is permitted in the pedestrian laneways and market square areas.	Laneway and the market square have been designed for this experience.
Retail tenancies are not permitted above ground level which, together with those parts of the Precinct dedicated to the market square and new laneways, will limit the quantum of retail so it does not impact on broader retail trading in the Cabramatta Town Centre.	No retail is proposed above ground level and the quantum of retail spaces does not exceed what is already provided on site.
All residential lobbies will have a clearly identifiable address to a street or laneway.	This has been achieved and emphasized by splitting of buildings to the eastern part of the site.
Each lobby is to incorporate visible and secure mailboxes for the residents of the building and be of sufficient size to ensure secure access of persons and goods.	Lobbies will be provided as per these development controls. See also CPTED report submitted with DA.
New shops, cafes and restaurants at ground level shall incorporate awnings of consistent style external and internal to the development as shown in Figures 12.	Awning types have been provided as per Figure 12 for Stages 1 and 2.
All awnings are to use durable materials suitable for all weather conditions.	Noted and the architectural plans show the design meets this requirement.
The podium facing the surrounding streets is to only be broken by access to basements and pedestrian connections/laneways into the Precinct. Above awning level, the façade is to incorporate banding and differing colours, textures and treatments to break up its massing as shown in the images in Schedule A to this document	Noted and the architectural plans show the design meets this requirement.
<b>D. Safety and Security</b>	
<b>Performance criteria</b>	
Lighting and CCTV provide safe public domain, overhead bridge and laneway connections.	CCTV will be provided to the lobbies, laneways and Market Square and can be provided to the pedestrian bridge if constructed in the future.
<b>Development controls</b>	
Adequate lighting is to be provided to illuminate the central plaza/market square and connections through the Precinct.	Noted and supported. Detailed lighting plan to be provided for Construction Certificate.
An external lighting strategy/plan shall be submitted with any development applications and must detail the location and design of lighting and the proposed hours of operation. A light spill impact assessment prepared by a suitably qualified person is to be submitted with any development application to ensure proposed, adjoining or nearby existing residential properties are not adversely impacted by lighting reflection and glare and	Noted. There are no nearby residential properties and illumination at ground level will result in little change to the street frontages. New lighting provided to the laneways and market square are generally screened by the new buildings. A Detailed lighting plan is appropriately provided at the Construction Certificate stage.

Matter	Comment
shall comply with Australian standard AS4282 (1997) – Control of the Obstrusive Effects of Outdoor Lighting.	
Each stage of development is to provide a plan showing locations of CCTV (including specification of the CCTV units) covering adjoining streets and internal and external car parks, upper level connections including to the station concourse and residential lobby locations.	Noted. This requirement can be addressed by attaching an appropriate condition to any consent granted. Detailed CCTV plan to be provided for Construction Certificate.
CCTV must record 30 days of footage capable of capturing the identity of individuals including unobstructed view of the persons face and the person represents not less than 100% of screen height.	Noted. This requirement can be addressed by attaching an appropriate condition to any consent granted.
Camera views are not to be obstructed by temporary or permanent structures, signage or landscaping.	Noted and this requirement can be addressed by attaching an appropriate condition to any consent granted.
<b>E. Landscaping and Tree Preservation</b>	
<b>Performance criteria</b>	
Landscaping to the perimeter streets and public domain areas will provide shade, reduce the heat island effect and soften urban spaces.	The proposed development incorporates landscaping to that addresses this performance criteria as shown on the Landscape Plans.
<b>Development controls</b>	
Landscaping outcomes are to be high quality and easily maintained including inbuilt watering systems.	This is proposed in the design to achieve this outcome.
There is no requirement for deep soil landscaping to be provided within the Precinct given it is a high density mixed use environment. However, the development will incorporate raised or sunken planters which have sufficient soil depth to support canopy trees within the Market Square and public domain area between this space and Broomfield Street.	This is proposed in the design to achieve this outcome.
The laneway adjacent to Fisher Street Car Park should, in consultation with Council, include tree planting and landscaping to soften the car park structure.	The laneway in front of the Fisher Street car park is not part of the DA comprising Stages 1 and 2 of the development.
Street trees are to be provided in the footpath areas in Broomfield Street, Fisher Street and Cabramatta Road East. The existing tree in front of the Fisher Street Car Park is to be preserved.	New street tree planting is proposed along Broomfield Street and Cabramatta Road (East (minor) outside Stages 1 and 2 of the proposed development.
Roof top planting and landscaped communal open space shall be provided at podium level of buildings.	Roof top planting and communal open space is provided at podium level.
The concept landscape outcomes as discussed above are shown generally in Figures 13 to 16 below.	The landscaping outcomes are consistent with the Figures.
Landscaping should not impede CCTV to public spaces.	The placement of landscaping will be considered in CCTV views.
A landscape plan with a detailed plating list including species, number and location of planting is to be submitted with any Development Application proposing new built form on the site.	A detailed Landscape Plan and report is submitted with the DA.

Matter	Comment
<p><b>F. Loading, waste, vehicular access and car parking</b></p> <p><b>Performance criteria</b></p> <p>Provide adequate basement to facilitate the deliveries, waste collection, car parking and storage for the development.</p> <p><b>Development controls</b></p> <p>All car parking, deliveries, waste collection and car parking are to occur in underground basements.</p> <p>The basement is to be designed to accommodate clearance height for all vehicles entering the basement and enable them to enter and leave in a forward direction and as per Table 2.1 of AS 2890.2-2002.</p> <p>Loading and waste collection is to be provided in a central area.</p> <p>If the basement area is constructed in stages it should contain car parking, delivery areas, and areas for loading, waste storage sufficient to cater for each stage. Should separate basements for different stages be proposed, they should be designed so that they can be connected to other basements within the Precinct.</p> <p>Waste for the buildings is to be compacted and stored in the basement for collection. Communal waste and separate secure recycling rooms for residential and commercial businesses must be located in convenient and accessible locations related to each vertical core. An area should also be provided for the temporary storage of bulky waste items.</p> <p>A waste management plan must be prepared and submitted with the development application.</p> <p>Access to the basements will be from Fisher Street and Cabramatta Road East as shown in Figure 17.</p> <p>Car parking for the development shall be provided in accordance with the car parking table.</p> <p>Specialty uses such as Child Care centres, medical centres and places of public worship are to have identified parking and drop off areas located in close proximity to the lifts, stairs or entry.</p> <p>Car parking standards in this DCP set a benchmark for assessment and any variation to individual rate requirements due to dual use functions proposed will need to specifically be justified with any development application submission.</p>	<p>This proposed development is consistent with this performance criteria.</p> <p>All car parking loading and waste collection will occur within the basement.</p> <p>The design of the basement and access has been designed to accommodate all vehicles. Refer to the Traffic Assessment.</p> <p>The loading and waste collection is provided in central area. Refer to architectural plans and waste management plan. The proposal is consistent with this requirement.</p> <p>The basement contains car and loading for Stages 1 and 2 and future connections to Stage 3 and the isolated site. The proposal is consistent with this requirement.</p> <p>The building has been designed for waste to be stored for collection in the basement including recyclables. Refer architectural plans and waste management plan.</p> <p>A waste management plan is submitted with the DA.</p> <p>Stages 1 and 2 are access from Cabramatta Road East (minor) and Broomfield Street as shown in Figure 17.</p> <p>Car parking has been provided in accordance with the DCP and as outlined in the Traffic Assessment by ARC.</p> <p>The car parking for these uses are allocated as per this Development Control.</p> <p>Car parking has been provided in accordance with the DCP and as outlined in the Traffic Assessment by ARC</p>

Matter	Comment
Development shall provide access for disabled persons in accordance with relevant Australian Standards.	Access for disabled persons has been considered in the design. Refer to the Accessibility Report.
<b>G. Flooding and overland flow paths</b> <b>Performance criteria</b> <p>Existing overland flows will be safely accommodated as part of the development of the Precinct.</p> <b>Development controls</b> <p>The design will accommodate existing overland flows through the Precinct in a manner that does not increase the risk of flooding to adjacent properties and to the proposed development ground floor retail premises or expose pedestrians to unacceptable hazard in public domain areas.</p> <p>Overland flows can be accommodated in swales in the public and private land as shown in the following diagrams and sections.</p> <p>Development applications will need to provide the results of flood modelling as relevant to each stage of the development to achieve the performance criteria and development controls in this section.</p>	<p>The proposed development includes works to accommodate overland flows.</p> <p>The Stormwater Management Report outlines the proposed solution and background information as required in this section.</p> <p>See comment above</p> <p>See comment above.</p>
<b>H. Signage</b> <b>Performance criteria</b> <p>Signs blend with the form and design of the building facades within the Precinct.</p> <b>Development controls</b> <p>The development controls are not repeated as signage is not proposed as part of this application.</p>	<p>No signage is proposed as part of this application.</p> <p>Not applicable.</p>
<b>I. Staging</b> <b>Performance criteria</b> <p>Staging of the development can occur where the design enables the buildings to function independently prior to the next stage of development.</p> <b>Development controls</b> <p>Where the development is to be constructed in stages an indicative staging plan is to be submitted with the development application.</p> <p>The minimum size for a stage must be no less than 1,800m<sup>2</sup> of site area and must consider the built form outcomes of adjoining stages and have required facilities to operate independently until other stages are developed. In particular, basement car parks are to be designed to connect to previous and/or subsequent</p>	<p>The proposed development comprises Stage 1 and 2 of the 4 stage parcel. The staging enables the proposed development to function independently and also ensure that existing buildings in future stages are not compromised prior to development and can connect into the key infrastructure provided.</p> <p>The proposed development follows the Staging as set out in the DCP and complies with the minimum site area as well as responding to the built form and functioning of future stages and isolated development sites. In particular basement connections are provided for future access to Stage 3 and the isolated sites so no new access points are required to Broomfield Street or Cabramatta Road East (minor)</p>

Matter	Comment
<p>stages in the Precinct. The staging does not need to occur in consecutive order.</p>	
<p><b>J. Pedestrian Bridge Station Link</b></p> <p><b>Performance criteria</b></p> <p>Facilitate pedestrian access between Cabramatta Station and Precinct 4A – East Side Market Square &amp; Station Interface.</p> <p>Ensure that access points to the bridge are designed to meet universal access requirements.</p> <p>Ensure the pedestrian link is of high quality design.</p> <p><b>Development controls</b></p> <p>The development controls are not repeated as the pedestrian bridge is not proposed as part of this application.</p>	<p>The pedestrian bridge is not proposed as part of this application.</p> <p>Not applicable.</p>

## 4.8 Planning Agreement

The Cabramatta Town East Planning Agreement applies to the site and is triggered as part of the DA for Stage 1 of the development.

The Planning Agreement requires the developer to provide an overhead pedestrian link from the site at 84 Broomfield Street, Cabramatta over Broomfield Street to the Cabramatta Train Station Concourse. However, should the developer not be able to obtain approval from Transport for NSW, then the developer will provide a monetary development contribution equivalent to 110% of the value of the pedestrian bridge to be spent on the provision of improved community facilities in the area. The PA therefore contains a significant financial incentive to progress the pedestrian bridge.

The efforts of both Council and proponent to meet with TfNSW and Sydney Trains have been outlined in this SEE. Council, through the PDU of DPE has already significant documentation confirming the TfNSW position of not supporting the bridge, to the extent that further meetings have been abandoned. GLN can provide additional documents written direct to the proponent from TfNSW that confirm this position.

#### 4.9 Environmental Planning and Assessment Regulation 2021

Clause 29 of the Regulations requires that a DA for apartments be accompanied by a Design Verification Statement prepared by a qualified architect which must—

- (a) verify that the qualified designer designed, or directed the design of, the development, and
- (b) explain how the development addresses—
  - (i) the design quality principles, and
  - (ii) the objectives in Parts 3 and 4 of the Apartment Design Guide.



The proposal has been designed by Rido Pinn, Director of Plus Architecture and the Urban Design Report includes the Design Verification Statement.

In addition to the above, Clause 29(3) provides that if the development application is accompanied by a BASIX certificate for a building, the design quality principles do not need to be addressed to the extent to which they aim—

- (a) to reduce consumption of mains-supplied potable water or greenhouse gas emissions in the use of—
  - (i) the building, or
  - (ii) the land on which the building is located, or
- (b) to improve the thermal performance of the building.

Whilst the application includes BASIX Certificates, the Design Verification Statement also outlines additional sustainability measures to be incorporated in the proposed development.

## 4.10 Likely Impacts of the Development

The proposed development seeks to facilitate the revitalisation of the east side of Cabramatta by proposing a transit oriented development opposite the station with an urban form that both place marks the development and provides safe and pleasant pedestrian connections through to the station.

Any large scale project needs to consider the likely environmental impacts on both the natural and built environment as well as the social and economic impacts of that development which can be best summarised at the various stages of delivery as follows:

### 4.10.1 Construction

The potential impacts during construction can be addressed by implementing soil erosion management plans, traffic management plans, restrictions on hours of work and other environmental safeguards as outlined in the supporting documentation.

### 4.10.2 Design

The overall design needs to respond to the urban context and in particular ensure that adjoining properties do not have their development potential or amenity unreasonably impacted. The proposed development has carefully considered how the isolated sites will be developed in the future including providing access to these and Stage 3 through the basement structure, and that adjoining developments will be capable of achieving solar access.

The proposed development incorporates a solution to convey overland stormwater flows through the site and setting floor levels or using other accepted measures to prevent ground floor premises from flooding in relevant storm events.

A key requirement of Council through the Planning Proposal stage was that the amount of retail development on the site not exceed that which could be provided on site under the former planning controls and that the retail uses selected be viable. The quantum of retail on site is slightly less than that currently on site (reduced by the Market Square, pedestrian connections and access driveways

and service areas. Whilst all retail and commercial uses are not known at this stage, the development reincorporates the hotel and restaurant as a smaller tavern and restaurant and includes a medical centre, gym and child care centre. Location IQ has undertaken a retail impact assessment and also provided advice on potential tenants. The proposed uses will support the increased population on this and adjoining sites in East Cabramatta.

The access to the site for residents and commercial visitors and for loading and waste collection has been carefully considered. The proposed development includes the separation of access points with the residential uses accessing from Cabramatta Road East (minor) where the existing public lane configuration has sufficient width to accommodate the level of traffic from this component of the use, and the access location on Broomfield Street is nominated for retail and commercial visitors and loading and waste collection.

The design of the buildings and configuration of spaces has considered accessibility of the future users and Crime Prevention through Environmental Design principles.

#### **4.10.3 Operation**

The operation of the development has been the subject of careful review including that the traffic generated from the proposed development will not cause the road network or surrounding intersections to fail (the assessment has included Council's draft Planning Proposal showing upzoning adjacent sites in east Cabramatta).

An acoustic assessment has considered noise attenuation for certain premises and to address adjoining infrastructure (ie train movements).

Uses already nominated for the commercial and retail spaces include child care centre, medical centre and gym which will benefit the future residents and enable social interaction and health outcomes.

#### **4.11 Suitability of the Site**

The site has recently been rezoned by way of Amendment 42 for the proposed development and the suitability of the site was supported by the background studies and then reviewed by both the DPE and the IPC. The studies and process undertaken confirm the suitability of the site for the proposed use in this location and surrounding urban context. The site has strong strategic merit in being able to capitalise on transit oriented development in close proximity to superior public transport, active transport, shops, schools and open spaces.

There are no physical constraints to the proposed development with the exception of accommodating overland flows through the site in design storm events.

#### **4.12 Submissions**

The DA is required to be notified in accordance with Council's Policy. Our client requests the opportunity to review and comment on any submissions received.



#### 4.13 Public Interest

The proposed development is considered to be in the public interest for the following reasons:

- The proposed development is well located opposite Cabramatta Station and close to shops, schools, open space and a variety of community facilities
- The proposed development will become a catalyst for the redevelopment and revitalisation of East Cabramatta and including public domain improvements to the streetscape of both Broomfield Street and Cabramatta Road East (minor)
- The proposed development can implement genuine transit oriented development and will also include child care, medical, gym as part of the development to provide residents and visitor to the site opportunities for social interactions and health outcomes. Land uses that support the surrounding residential area assist in reducing traffic movements outside of the area and add to the vitality of the town centre precinct as a destination
- The proposed development creates a great meeting place at the Market Square incorporating Connecting to Country and Asian themes in public art and design
- The proposed development will provide a broad mix of housing to help meet housing demand in the area
- The proposed development will result in the payment of a monetary contribution to Council for the provision of new community facilities.
- The proposed development will create a significant number of local jobs through the construction and operation phases.

The proposed development has been designed to relate to the size, shape and context of the Site and will contribute to the desired future character for development in the area.

The proposed development is permitted with consent and is consistent with the intent of the relevant planning controls. Through appropriate design measures, the proposed development will have no significant adverse impacts on neighbouring properties and no adverse impacts on the environment. The architectural design is a well thought out design and a positive use of the available space. The layout achieves safe and efficient movement of vehicles and pedestrians. The design has positive aesthetic impacts on the streetscape and internally within the development.

On these grounds, the proposed development is considered to be in the public interest.

## 5 Conclusion

This SEE outlines the proposal including subdivision, demolition and construction of a mixed-use development as well as drainage and public domain improvements over and adjacent to land located opposite Cabramatta Train Station and bounded generally by Broomfield Street, Cabramatta Road East (minor), Council's Cumberland Street and Fisher Street car parks in Cabramatta East.

The proposed works constituting development under the Environmental Planning and Assessment Act 1979 (as amended) and as outlined in this SEE include:

5. Subdivision (by boundary adjustment) to incorporate a small section of the existing cul de sac head at the end of the public lane off Cabramatta Road East into the site. This is also accompanied by a road closure application to Council for the same land
6. Demolition of buildings on Lot 7 Section E DP 4420, 76 Broomfield St; Lot 1 DP 205759 and Lot 10 DP 255023, 84 Broomfield St; Lot 2 DP 205759, 86 Broomfield St; Lots 5, 6, and 7 DP25618, 151 Cabramatta Road East; Lot 8 DP 25618, 147-149 Cabramatta Road East; and Lot 2 DP 580587, 139 Cabramatta Rd East Cabramatta Road East. These lots, together with a small section of public road to be closed comprise the development site (Site)
7. Construction of a mixed-use development comprising basement car parking, shops, commercial premises and apartments with the buildings framing a market square connected by public lanes to adjoining streets. This DA also includes the use of commercial and retail premises as a child care, gymnasium and tavern given the different parking assessment.
8. Works to the public domain including streetscape improvements along the Cabramatta Road East and Broomfield Road frontages as well as the implementation of the overall stormwater strategy including minor level changes to the public lane pavement off Cabramatta Road East (minor) to convey overland flow through the site to the Broomfield Street and Fisher Road frontages.

The assemblage of a highly fragmented commercial parcel for a large-scale redevelopment capable of achieving place making and transit-oriented outcomes is challenging, and delays in the process can be catastrophic. Whilst most option agreements have been renegotiated for the first stages of the redevelopment as outlined in this DA, the support of all owners in these stages has been difficult to secure despite protracted negotiations. A small number of owners have elected not to be included in the redevelopment and will continue to operate or redevelop as "isolated sites". The non-inclusion of these owners is not fatal to the redevelopment and the architectural scheme has responded to these isolated sites to deliver a built form that achieves the overall planning objectives.

The proposed development across the areas known as Stages 1 and 2 of the Site will include basement carparking, loading and garbage storage, the delivery of ground level retail, first level commercial and 358 residential apartments together with publicly accessible pedestrian laneways and a central square, being the focus of community and retail activities for the development. Despite attempts at ongoing negotiations with TfNSW by both Council and the applicant to discuss the "non-support" of a new pedestrian bridge over Broomfield Street, no further headway or information is available, and this element has been excluded from this first DA for the land.

Under the recently gazetted Planning Proposal, the site retained its B4 Mixed Use Zoning under Fairfield Local Environmental Plan 2013 (**LEP**), albeit that this has now changed to an MU1 Zone following the implementation of DPE's Employment Zones reforms which came into effect on 27 April 2023. Importantly, these changes do not impact on the built form controls that were the subject

of the Planning Proposal and reviewed by the IPC to prescribe new heights, floor space ratios and lot size requirements to secure the key built form outcomes for the land. A new site specific DCP was also adopted to provide more fine-grained design planning controls for aspects of the development, particularly the central and peripheral public domain areas. The proposed development is consistent with the new planning controls.

The proposed development has been assessed against the relevant provisions of the EP&A Act, SEPPs, LEP and DCP and has been found to be an acceptable development consistent with the future anticipated growth of the Precinct for urban development.

Based on the information contained in this SEE the proposed development should be granted consent subject to appropriate conditions.

Mixed Use Development

84 Broomfield St & 137 to 151 Cabramatta  
Road, Cabramatta East



## APPENDIX A: PRE-DA MINUTES



Mixed Use Development

84 Broomfield St & 137 to 151 Cabramatta  
Road, Cabramatta East





## APPENDIX B: APARTMENT TYPE MATRIX

Mixed Use Development

84 Broomfield St & 137 to 151 Cabramatta  
Road, Cabramatta East



## B.1:



## APPENDIX C: APARTMENT DESIGN GUIDE ASSESSMENT

Mixed Use Development

84 Broomfield St & 137 to 151 Cabramatta  
Road, Cabramatta East



## C.1:



## **APPENDIX D: ASSESSMENT PARTS 3 & 4 OF NSW CHILD CARE PLANNING GUIDELINE**



Mixed Use Development

84 Broomfield St & 137 to 151 Cabramatta  
Road, Cabramatta East



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