



Statement of Environmental Effects

Amending DA: In-fill affordable housing

46 COURT ROAD
FAIRFIELD

FEBRUARY 2024



QUALITY ASSURANCE

PROJECT: Amending DA – Infill Affordable Housing

ADDRESS: 46-52 Court Road, Fairfield

LOT/DP: Lot 100, DP 1277808

COUNCIL: Fairfield City Council

AUTHOR: Think Planners Pty Ltd

Date	Purpose of Issue	Rev	Reviewed	Authorised
21/02/2024	Co-ordination	A	BC	AB
27/02/2024	Final Draft	B	BC	AB
29/02/2024	Submission	C	BC	AB

Integrated Development (under S4.46 of the EP&A Act). Does the development require approvals under any of the following legislation?

Coal Mines Subsidence Compensation Act 2017	No
Fisheries Management Act 1994	No
Heritage Act 1977	No
Mining Act 1992	No
National Parks and Wildlife Act 1974	No
Petroleum (Onshore) Act 1991	No
Protection of the Environment Operations Act 1997	No
Roads Act 1993	No
Rural Fires Act 1997	No
Water Management Act 2000	No

Concurrence

SEPP (Industry and Employment) 2021	No
SEPP (Resilience and Hazards) 2021	No
SEPP (Transport and Infrastructure) 2021	Yes
SEPP (Planning Systems) 2021	No
SEPP (Precincts—Central River City) 2021	No
SEPP (Precincts—Eastern Harbour City) 2021	No
SEPP (Precincts—Regional) 2021	No
SEPP (Precincts—Western Parkland City) 2021	No
SEPP (Biodiversity and Conservation) 2021	No

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EXECUTIVE SUMMARY

This Development Application is an **amending DA** to make alterations and additions to an approved mixed use development at 46 Court Road, Fairfield. The approved development is for:

Demolition of existing structures and the construction of an 8-12 storeys mixed-use development consisting of 4 multi-storey buildings containing 290 residential developments (9 studio apartment, 92 x 1-bedroom apartments, 156 x 2-bedroom apartments and 37 x 3-bedroom apartments) and 1,413m² of commercial/retail floor space above 3 levels of basement car park and associated landscaping

The approved development (DA687.1/14) is currently under construction, with a modification to address Conditions of Development Consent currently under consideration by Fairfield City Council.

This Development Application seeks to:

Amend the approved DA (as amended) by making alterations and additions to the approval to facilitate the delivery of 15% affordable housing for a period of 15 years, with the building height and FSR using the bonus provisions under State Environmental Planning Policy (Housing) 2021.

As it is an amending DA, the Capital Investment Value is calculated only on the component of the development where approval is sought, that is the additional dwellings by virtue of height and FSR under the Housing SEPP 2021. The Capital Investment Value is less than \$75 and therefore the proposal is not State Significant Development, with Council remaining the determining authority.

Refer to attached legal advice prepared for this application and addressed to Council that confirms both the amending DA pathway and also status as local development.

The proposal seeks to achieve the following under the Housing SEPP 2021:

	LEP 2013	Housing SEPP	
		Requirement	Proposed
Affordable Residential GFA	-	15% 5,185.65	15.5% 5,349 sqm
FSR	3.5:1	+30% (4.55:1)	3.74:1
Height	38m	+30% (49.4)	49.2 m

This increases the total yield of the proposal from 290 units to 381 units, with an appropriate mix of studio, 1 bedroom, 2 and 3 bedroom units over Buildings A, B, C and D.

Relevantly, in 2022, Council commenced assessment of a S.4.55 Application over the subject site. This application is currently under assessment and we understand a determination will be made shortly. It is emphasised, and for the purposes of providing clarity to the Council in the assessment, this Development Application is made using the plans for the above mentioned S.4.55 Application, which when approved will modify the parent DA.

The development has substantially commenced with no changes to the envelope at ground level. There are no physical changes to the basement other than the reallocation of parking spaces utilising the rates with the Housing SEPP 2021 for infill affordable housing and non-affordable housing. Other minor changes include:

- an increase in the waste storage capacity with an additional waste storage room,
- removal of two studio apartments associated with the additional floorspace generated by the additional building height,
- updated apartment mix,
- Inclusion of light weight roofs, and
- Inclusion of six car share spaces.

The subject site is a significant land parcel of 9,234 sqm and located within the Court Road Precinct of the Fairfield Town Centre, approximately 45m north of the intersection of Court Road and Spencer Street and approximately 130m south of the intersection of Court Road and Nelson Street. The development site is within a 300m radius of the major transportation hub including Fairfield Train Station and a bus interchange with services to Blacktown, Cabramatta, Bossley Park, Sydney, Liverpool, Bonnyrigg, Smithfield and Parramatta. It is noted that a bus stop with regular services to Parramatta, Liverpool, Blacktown, Prairiewood and Smithfield is located at the site's frontage to Court Road.

The development site has a frontage to Court Road to the west, which serves as a local distributor road providing access to a Fairfield Train Station, bus interchange and a large shopping centre from the north. The site also has a frontage to The Horsley Drive to the east, which is a north-south road network connecting Fairfield to two key arterial road network including the Cumberland Highway to the north and The Hume Highway to the south.

The land is zoned MU1 Mixed Use under Fairfield LEP 2023 with the proposed development permissible within the zone. A FSR of 3.5:1 applies to the site and a 38m maximum building height. This proposal seeks to utilise the 30% bonus provisions within the *State Environmental Planning Policy (Housing) 2021* when 15% affordable housing is provided. In this regard, the maximum height and FSR apply to the site under the Housing SEPP 2021:

- FSR of 4.55:1
- Height: 49.4m

The proposal complies with the above height and FSR which is achieved through the provision of 15.5% of the GFA as affordable housing.

The proposal is also seeking to utilise the site in accordance with the zoning as well as taking advantage of its location within the town centre and proximity to public transport, essential services, schools, and recreational opportunities. Furthermore, the proposal provides much needed affordable housing within a highly accessible location, adding much needed housing supply for low and very low income households.

Importantly, the additional height sought by this application is not inconsistent with the current character and desired future character for the precinct, which comprises a mix of tower heights in close proximity to the site, and which often exceed that proposed in this application.

As detailed further in this statement the development concept is consistent with the planning principles applying to the site and represents an efficient use of well-located land. It is concluded that following a review of the relevant planning controls, the proposed development is consistent with the objectives, planning strategies and detailed controls of these planning documents.

Having regard to the benefits of the proposal and considering the absence of adverse environmental, social, or economic impacts, and that the proposal represents an appropriate use of well-located land, the application is submitted to Council for assessment. Think Planners Pty Ltd recommends the approval of the application, subject to necessary, relevant, and appropriate conditions of consent.

BACKGROUND

- The parent DA. DA687.1/14 was approved by Council over the subject site on 21 December 2015. The approval is described as:

Demolition of existing structures and the construction of an 8-12 storeys mixed-use development consisting of 4 multi-storey buildings containing 290 residential developments (9 studio apartment, 92 x 1-bedroom apartments, 156 x 2-bedroom apartments and 37 x 3-bedroom apartments) and 1,413m² of commercial/retail floor space above 3 levels of basement car park and associated landscaping

- In 2023, Council commenced assessment of a S.4.55 Application over the subject site. This application is currently under assessment and we understand a determination will be made shortly.
- This Development Application is made using the plans for the above mentioned S.4.55 Application, when approved will modify the parent DA.

CONTEXTUAL DESIGN ANALYSIS

This section provides a brief urban design analysis of the subject site. The character of an area is established by a range of factors, including height, how buildings relate to each other, street presentation, setbacks and landscaping. In essence, this means ensuring that when proposing a new building, an assessment of the local character is undertaken to ensure that it is consistent with the established character of the area within the immediate context and broader locality. In undertaking this assessment, it is essential to understand how development controls seek to develop a future character and whether this has been achieved.

In essence, however, the purpose of this analysis is to outline the principles applied over the subject site that shows how it integrates with the existing character to achieve an enhanced built form outcome that:

- Responds to site features
- Is consistent with the local characteristics of the area
- Is aligned with the future character of the area
- It has a massing that responds to and enhances the site's and local area's characteristics.

As the proposal is for additional building height, and with the ground plane already defined, with construction commenced, this analysis concentrates on height and broader character and massing considerations.

The analysis also responds to development approvals and development controls near the subject site. This is critical to understand how the area has developed, along with the relationship between the objectives of Council controls and development standards. In doing so, the study assesses how the development scheme considers the area's site features and key characteristics.

This analysis builds on the earlier description of the site, including its location in the immediate and broader context. For brevity, it is not repeated.

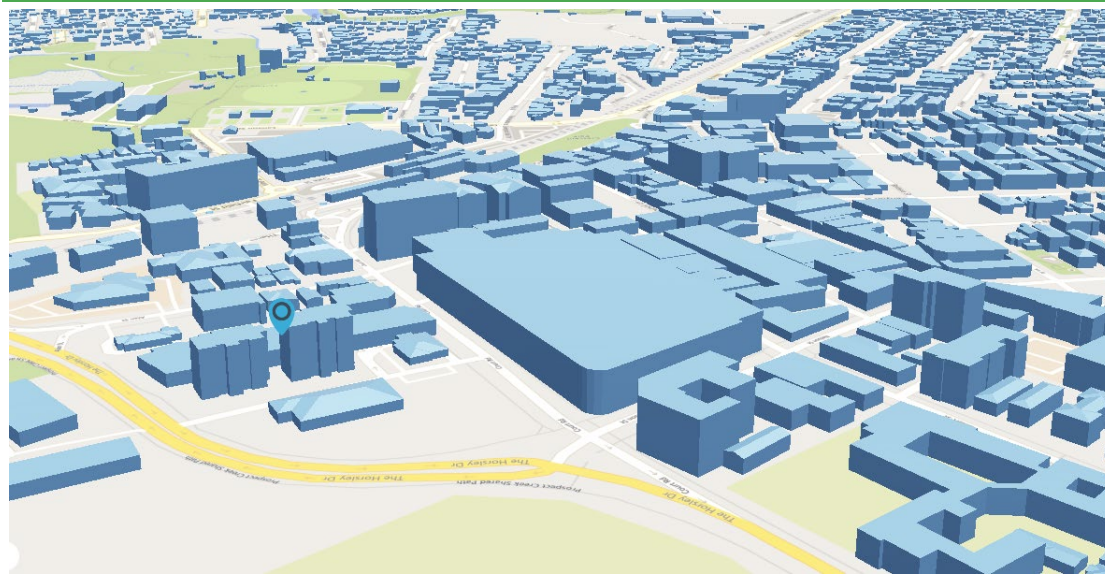
Context

The Fairfield City Centre is seeking to transform into a vibrant mixed use centre. It has a heavy rail station and bus interchange (Fairfield Railway Station) located close to the southern edge of the centre, providing local and regional connectivity. Broadly the centre has traditionally been a lower scale centre with two storey office and retail buildings, along with traditional big box retailers. Consistent with plans by Council, the character of the town centre is gradually changing with taller buildings generally



between 8 and 12 storeys evident. The existing and emerging character is shown in the model image below.

Figure 1: Modelled view of the Fairfield City Centre (NSW Spatial Digital Twin).



The Fairfield Town Centre generally has a commercial core with the balance being mixed use precincts. Under Council's Fairfield City Centre DCP, the town centre has been divided up into six precincts, with the subject site within the Court Road Precinct. The Court Road Precinct is a large area with the subject site having a direct relationship with the adjacent Smart Street Precinct, which includes Fairfield City Central shopping centre, otherwise known as "Neeta City" in the DCP.

Numerous urban design studies have been undertaken within the city centre, all seeking to consolidate and revitalise the City Centre.

Relevant studies are addressed below.

– Fairfield City Centre Urban Design Study

This study was prepared by Council between 2020 and 2022 with an ultimate purpose of revitalising the City Centre and applied to all sites less than 2,500 sqm. It is notable that the subject site is above 2,500 sqm but was included in this study and notated that it was unlikely to redevelop.

Amendments proposed in the endorsed including higher building heights and densities surrounding the subject site as shown in the figure below. This includes indicative envelopes for key sites, and also approved development applications. Importantly, the structure plan shows a (not endorsed) concept for a corner park adjacent to the subject site on its southern boundary which would provide substantial amenity benefits for the

entire town centre if provided as it addresses a distinct lack of meeting and gathering places within the town centre. Council's website notes that regarding future open space:

Open space and connectivity opportunities will be considered as larger sites redevelop, in consultation with the land owners and as part of future site specific Development Control Plan controls

The city model below shows substantially taller buildings on:

- the corner of Alan Street and the Horsley Drive, noting that Alan street is the southern boundary
- Court Road, south of Alan Street
- the western side of Court Road, including the neighbouring site
- the northern neighbouring site

This is shown in Figure 2 and 3 below.

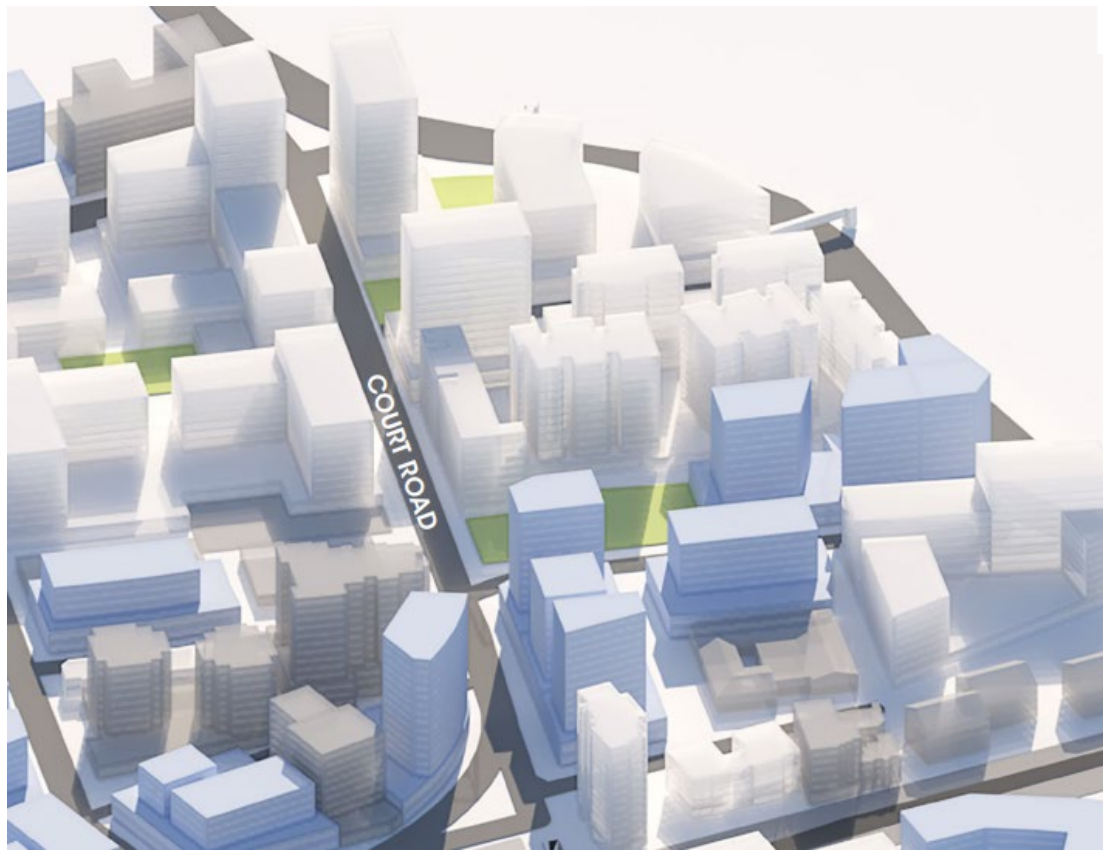
These changes both within future opportunity sites, more broadly across this part of the city centre, substantially change its character, particularly along Court Road and The Horsley Drive.

Figure 2: Council's Future Vision for the town centre (Fairfield City Council)





Figure 3: Excerpt view of the city centre vision showing the significantly lower scale of the subject site when compared to surrounds (Fairfield City Council)



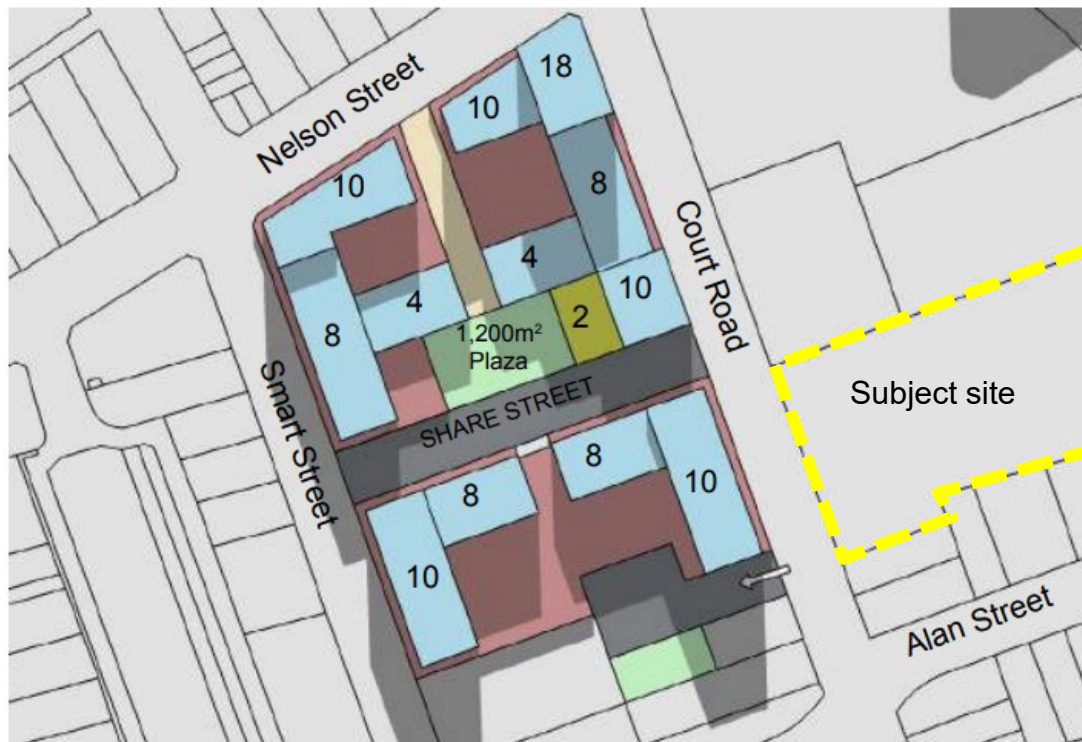
– Fairfield City Centre Key Sites Urban Design Study 2018

This study sought to provide the framework for land owner initiated planning proposals for sites over 2,500 m². It did not include the subject site as it was anticipated at the time of preparation as unlikely to redevelop.

The study does advocate for a change in building form within the town centre that impacts how the city is read and experienced. In terms of building heights, this includes buildings of up to 22 storeys and a varied street frontage height in different areas of the city centre. The key change that this has made in the city centre and along Court Street is that the street frontages are now characterised by a mix of heights, rather than a consistent height. Furthermore, when 30% additional height is added to the subject site, it remains lower at 15 storeys than other nearby buildings.

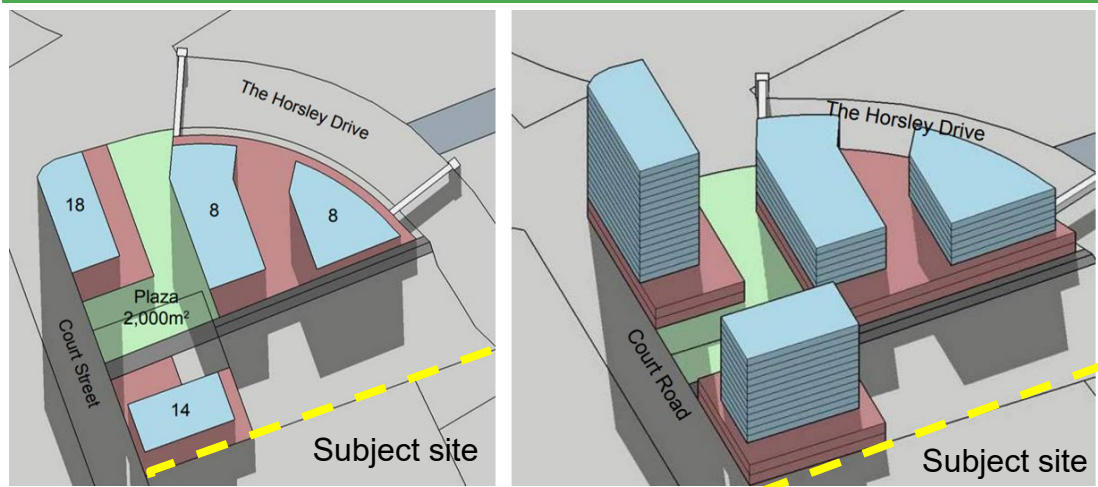
Within the immediate vicinity of the subject site the Urban Design Study provides design guidelines for a future planning proposal on the 'Neeta City Site', which is shown in the figure below. Key design requirements in this precinct include a three storey podium with building heights ranging between 8 and 18 storeys along Court Road.

Figure 4: Neeta City Site Design Requirements with subject site shown in dashed yellow line (Fairfield City Council)



Likewise, the northern neighbouring site is also identified in the Key Sites Urban Design Study. It is described as the Aldi and McDonald's sites with an associated development opportunities plan. Within this plan, building heights along Court Street range between 14 and 18 storeys Development Opportunities Plan.

Figure 5: Aldi and McDonald's sites Design Requirements with subject site shown in dashed yellow line (Fairfield City Council)



The following matters are relevant to the subject site:

1. A Street wall along Court Road that defines the street and recessed towers above.
2. Building Heights ranging from 14 to 18 storeys on the neighbouring Aldi and McDonalds site, considerably above the subject site proposal.
3. Building heights ranging from 10 to 18 storeys on the Neeta City site, considerably above the subject site located to the west on the opposite side of the road
4. Court Road is characterised by a range of tower heights established by the Council in its urban design vision and referenced in the DCP as Opportunity Sites, which the Councils urban design analysis encourages heights that exceed the height sought in this application. This informs the Desired Future Character for Court Road, which the proposal is consistent with.

Conclusion

This brief analysis has considered the contextual fit of the subject site considering its immediate context and existing and future character. Design considerations, including compliance with the ADG are addressed elsewhere in this Statement of Environmental Effects. The proposed Development will strengthen the sense of place in the Fairfield City Centre by providing a high quality built form outcome and exceptional presentation to the street. Critically the scale of the proposed additions development is comparable with recently approved developments, along with Council's urban design plans to revitalise the Fairfield City Centre.

In the above context of heights along street it is clear that Court Road currently has a varied rather than consistent character, which would be continued when adjacent and nearby sites develop. This will result in the subject site being an anomaly in what would otherwise be a relatively consistent streetscape and skyline. Likewise, it is clear that if the subject site did not have a development approval (now commenced), then having a site area of above 2,500 sqm it may have benefited from Council's large sites urban design study, or at minimum, urban analysis within the most recent UDS that recommended controls to guide its future development in a manner consistent with this important area within the town centre.

However, as this analysis has established, an amending DA to provide in-fill affordable housing on the subject site provides an opportunity to create a more harmonious streetscape and skyline through increasing the height of buildings over the subject site. This would with reference to the subject proposal apply:

- a 10 storey building height along Court Road

- a 10 storey to 14 storey transition to the McDonalds and Aldi site. This providing a more subtle and proportional transition down from the 18 storey corner building.
- a 10 storey height is appropriate, retaining the varied pattern within the street block.
- A fifteen storey building height in the centre of the site, consistent with building heights anticipated by Council on nearby sites. Importantly, even applying the Housing SEPP height bonus for infill affordable housing, the building heights are less than the 18 storeys anticipated by council.

This analysis unequivocally demonstrates that the proposal is compatible with the desirable elements of the existing character of the local area, along with the desired future character as expressed in Councils urban design studies and DCP references.

SITE AND LOCALITY

LEGAL DESCRIPTION

The subject site is known as 46 Court Road, Fairfield and legally described as Lot 100 in DP 1277808.

FAIRFIELD TOWN CENTRE

The subject site is located within Fairfield Town Centre, which is located approximately 32km south west of the Sydney CBD and within close proximity to other regional centres including Parramatta (10km to the north), Liverpool (6km to the south west) and Bankstown (10km south east).

The Fairfield Town Centre is characterised by a mix of commercial and residential developments, including mixed use development. It includes the main administrative centre of Fairfield City Council and provides a full range of retail opportunities and services including two shopping malls and variety of multicultural local businesses. The town centre has experienced an intensification of its built form with the addition of large commercial towers above commercial podiums.

Within the Town Centre the subject site is located in the Court Road Precinct, an area bounded by the Horsley Drive to the north-east and east, Court Road to the north-west and west and to the north, and Alan Road to the south. The Precinct is to play a transitional role between other urban areas and the central area precincts. It has a great opportunity than any other part of the periphery for higher densities as it does not adjoin any residential area.

SUBJECT SITE

The subject site is a significant land parcel located within the Court Road Precinct of the Fairfield Town Centre, approximately 45m north of the intersection of Court Road and Spencer Street and approximately 130m south of the intersection of Court Road and Nelson Street. The development site is within a 300m radius of the major transportation hub including Fairfield Train Station and a bus interchange with services to Blacktown, Cabramatta, Bossley Park, Sydney, Liverpool, Bonnyrigg, Smithfield and Parramatta. It is noted that a bus stop with regular services to Parramatta, Liverpool, Blacktown, Prairiewood and Smithfield is located at the site's frontage to Court Road.

The development site has a frontage to Court Road to the west, which serves as a local distributor road providing access to a Fairfield Train Station, bus interchange and a large shopping centre from the north. The site also has a frontage to The Horsley Drive to the east, which is a north-south road network connecting Fairfield to two key arterial road network including the Cumberland Highway to the north and The Hume Highway to the south.

The subject site is currently undergoing construction for a mixed use development consisting of four buildings over basement parking. The development over the subject site (DA687.1/2014) was approved by Council on 21 December 2015 and was described as:

“Demolition of existing structures and the construction of an 8-12 storeys mixed-use development consisting of 4 multi-storey buildings containing 290 residential developments (9 studio apartment, 92 x 1-bedroom apartments, 156 x 2-bedroom apartments and 37 x 3-bedroom apartments) and 1,413m² of commercial/retail floor space above 3 levels of basement car park and associated landscaping”

As the site is a currently under construction, there is no significant vegetation within its boundaries, though extensive landscaping will be provided when the project is completed. Street trees are evident along Court Road, though the Horsley Drive is currently a poor pedestrian experience having low quality footpaths and inconsistent if any street tree plantings. Future improvements associated with development within the town centre are likely to improve the pedestrian experience along both the Horsley Drive and Court Road, representing a significant amenity benefits.

Figure 6: Current character of Court Road in vicinity of subject site (Google street view)



Figure 7: Emerging character within the town centre on the corner of Court Road and Spencer Street, opposite (Google street view)



Figure 8: Shows the site as viewed from The Horsley Drive, noting emerging character (Google street view)



DESCRIPTION OF PROPOSAL

This Development Application is an **amending DA** to make alterations and additions to an approved mixed use development at 46 Court Road, Fairfield. The approved development is for:

Demolition of existing structures and the construction of an 8-12 storeys mixed-use development consisting of 4 multi-storey buildings containing 290 residential developments (9 studio apartment, 92 x 1-bedroom apartments, 156 x 2-bedroom apartments and 37 x 3-bedroom apartments) and 1,413m² of commercial/retail floor space above 3 levels of basement car park and associated landscaping

The approved development is currently under construction, with a modification to address Conditions of Development Consent currently under consideration by Fairfield City Council.

This Development Application seeks to amend the approved DA by making alterations and additions to the approval to facilitate the delivery of 15% affordable housing for a period of 15 years, with the building height and FSR using the bonus provisions under *State Environmental Planning Policy (Housing) 2021*.

Pathway

This proposal is an amending DA to apply the infill housing provisions within the Housing SEPP 2021. As it is an amending DA, the Capital Investment Value is calculated only on the component of the development where approval is sought, that is the additional dwellings by virtue of height and FSR under the Housing SEPP 2021.

The Capital Investment Value is less than \$75 and therefore the proposal is not State Significant Development, with Council remaining the determining authority.

Refer to attached legal advice by Bartier Perry Lawyers which has been by the proponent for Council, which confirms status as local development.

Amending DA Mechanism

Section 4.17 of the *Environmental Planning and Assessment Act 1979* and Section 117 of the *Environmental Planning and Assessment Regulation 2021* provides the mechanism for an amending DA.

It is noted that this DA for alterations and additions to the approved DA is submitted to avoid any doubt regarding Section 4.55 and whether the proposal would be 'substantially the same development' when considering the amendments proposed.

Therefore a DA for alterations and additions is most appropriate and this 'amending DA' is a suitable mechanism to amend the plans.

This is able to occur as per as per Section 4.17(1)(b) of the Act which provides:

4.17 Imposition of conditions

(1) Conditions—generally

A condition of development consent may be imposed if:

- (b) it requires the modification or surrender of a consent granted under this Act or a right conferred by Division 4.11 in relation to the land to which the development application relates, or*

The procedural aspects of the amendment are as follows:

- Lodgement of 'amending DA' or alterations and additions DA- i.e. this application;
- Assessment and granting of consent with a condition imposed to the effect of 'Development consent approved under DA 687.1/2014 is modified to reflect the revised plans and other amended floor plans under this DA.
- The owner of the land prepares and serves a notice pursuant to Section 67 of the Environmental Planning and Assessment Regulation 2021 effecting the amendment of the original DA consent in accordance with the provisions of the new consent for the changes proposed as part of this amending DA.
- The prior consent is then modified to reflect the current amendments and the proposal can proceed

Refer to attached legal advice by Bartier Perry Lawyers which has been by the proponent for Council The key aspects of the proposal are provided below:

Housing SEPP 2021

The proposal seeks to achieve the following under the Housing SEPP 2021

	LEP 2013	Housing SEPP	
		Requirement	Proposed
Affordable Residential GFA	-	15% 5,185.65	15.5% 5,349 sqm
FSR	3.5:1	+30% (4.55:1)	3.74:1
Height	38m	+30% (49.4)	49.2 m

The total approved GFA is: 27,767 sqm.

The total proposed GFA is: 34,551 sqm, with the affordable component, taking up 15.5% or 5,349 sqm and is consistent with SEPP requirements.

Additional standard residential units equates to 4.2% of the additional GFA or 1,435 sqm.

Non-Residential Use

No changes proposed.

Basement and Parking

No changes proposed other than changes to parking spaces.

Parking Spaces have regard to the rates within the Housing SEPP 2021 for in-fill affordable housing and residential development.

There is no change to the retail spaces provided on site.

Bedrooms	Affordable Units			Residential units			TOTAL PARKING
	Parking Rate	Units	Parking	Parking Rate	Units	Parking	
Studio	0.4	-	-	0.5	7	4	4
1	0.4	20	8	0.5	91	46	54
2	0.5	42	21	1.0	175	175	196
3	1	2	2	1.5	44	66	68
Visitor	-	-	-	-	-	-	-
TOTAL			31			291	322

A total of 57 retail spaces are provided as per the approved DA. The total parking on the site is therefore: 57+322 = 379 spaces.

This represents a surplus of 60 parking spaces from the approved development which will be retained as parking spaces, six of which will be provided as dedicated car share spaces. The proposal has a total FSR of 3.74:1 and therefore comfortably achieves compliance with the maximum FSR permitted on the site at 4.55:1.

Apartment Yield and Mix

Bedrooms	Approved DA	Amending DA	Difference
Studio	9	7	-2
1 bedroom	92	111	+19
2 bedroom	152	217	+65
3 bedroom	37	46	+09
TOTAL	290	381	+91

The increase in apartment yield addresses the additional GFA permitted under the Housing SEPP for in-fill affordable housing.

Of the additional unit yield:

- 64 units will be used for infill affordable housing; and
- 27 units will be residential units for direct sale.

Roof

The following changes are made to the roofs of the buildings under this amending DA:

- Building A: Removal of inaccessible rooftop landscaping and replacement with a metal roof, draining into a box gutter.
- Building B: Removal of inaccessible rooftop landscaping and replacement with a metal roof, draining into a box gutter. Installation of Solar Photovoltaic Panels
- Building C: Removal of inaccessible rooftop landscaping and replacement with a metal roof, draining into a box gutter. Installation of Solar Photovoltaic Panels.
- Building D: Removal of inaccessible rooftop landscaping and replacement with a metal roof, draining into a box gutter.

Landscaped Area

Reduced from that with current S.4.55 (2) application through the removal of inaccessible rooftop landscaping.

Deep Soil

Remain the same as considered by Council in the current S.4.55 (2) Application (DA 687.1/2014).

Communal Open Space

The proposal exceeds the communal open space requirements of the ADG significantly. Regardless, this Modification DA provides for additional 133 sqm of Communal Open Space, bringing the total area up to 5,341 sqm (58% of the site area), above the 25% requirement of the ADG.

Solar Access

86.3% of apartments achieve a minimum 2 hour solar access as required by the ADG.

Cross Ventilation

62.2% of apartments achieve cross ventilation.

Waste

An increase in the waste storage capacity with an additional waste storage room.

LEGAL ADVICE

To provide abundant clarity in relation to the planning pathway of an amending DA and the application of the SEPP (Housing) provisions to this application, legal advice has been sought:



Bartier Perry Pty Ltd
Level 25, 161 Castlemagh St
Sydney NSW 2000 Australia

PO Box 2631
Sydney NSW 2001

T +61 2 8281 7800
ABN 30 124 690 053
bartier.com.au

General Manager
Fairfield City Council
PO Box 21
FAIRFIELD NSW 1880

26 February 2024

Our ref: 240925

Attention: City Development and Compliance Group

Dear Sir,

**Development application for affordable housing
Property: 46 Court Road, Fairfield**

We act for Fairfield Developments No. 1 Pty Ltd.

We are instructed to prepare this submission in support of a development application (DA) in relation to the property identified as Lot 100 in Deposited Plan 1277808 and known as 46 Court Street, Fairfield (Property).

The DA will propose development for **affordable housing** pursuant to *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)*, associated with a mixed-use development that is currently under construction at the Property.

The purpose of this submission is to identify and address the relevant provisions of the Housing SEPP which permit a development to benefit from additional floor space ratio (FSR) and building height, above and beyond the general development standards for such that apply to the land, in exchange for the provision of an affordable housing component.

1. SUMMARY

1.1 For reasons set out in the following:

- 1.1.1 A new DA is an appropriate means of seeking, and (subject to other jurisdictional matters and a merit assessment outside the scope of this submission) being granted consent to provide a development that comprises affordable housing under the Housing SEPP.
- 1.1.2 The Property and the development to be proposed under the new DA is eligible and can benefit from the additional FSR and building height available under the Housing SEPP.

151784491 - 233287 (SXG)

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2. BACKGROUND

- 2.1 On 21 December 2015, Council approved development application number 687.1/2014, granting consent subject to conditions (**Consent**) for:

Demolition of existing structures and the construction of an 8-12 storeys mixed use development consisting of 4 multi-storey buildings containing 290 residential apartments (9 studio apartments, 92 x 1-bedroom apartments, 152 x 2-bedroom apartments and 37 x 3-bedroom apartments) and 1,413sqm of commercial/retail floor space above 3 levels of basement car park and associated landscaping

(Approved Development)

- 2.2 Prior to the Consent lapsing, the Approved Development was physically commenced on the Property.
- 2.3 Construction of the Approved Development has continued and currently remains ongoing and is at an advanced stage.
- 2.4 On 14 December 2023, the *State Environmental Planning Policy Amendment (Housing) 2023 (SEPP Amendment)* was published on the NSW Legislation website and (to the extent relevant in this matter) came into force as part of the amended Housing SEPP.
- 2.5 Broadly, the SEPP Amendment and the amendments made to the Housing SEPP that are relevant to this submission are aimed at increasing the supply of affordable housing across the State.

3. PROPOSAL

- 3.1 Our client proposes to utilise the affordable housing provision of the SEPP Amendment and, under the Housing SEPP, seek consent for development comprising the following:

3.1.1 Additional levels atop the buildings of the Approved Development:

- a) Increasing the maximum overall height of buildings at the Property by 11.25 metres, from 38 metres (Approved Development) to 49.25 metres.

3.1.2 Additional gross floor area (GFA) of 6,784sqm to the Approved Development:

- a) Increasing the 27,767sqm of GFA of the Approved Development to 34,551sqm;
- b) Increasing the FSR of development at the Property from 3:1 (Approved Development) to 3.74:1;
- c) Provision of 15.5% of the FSR of the combined development, being the Approved Development and the proposed development (**Combined Development**) as an *affordable housing component*.

3.1.3 Based on the above parameters, a total of 91 additional apartments to the Approved Development, comprising:

Development application for affordable housing at 46 Court Road, Fairfield

- a) 7 x studio apartments (a reduction of 2 from the 9 x studio apartments of the Approved Development);
- b) 111 x 1-bedroom apartments (an increase of 19 from the 92 x 1-bedroom apartments of the Approved Development);
- c) 217 x 2-bedroom apartments (an increase of 65 from the 152 x 2-bedroom apartments of the Approved Development);
- d) 46 x 3-bedroom apartments (an increase of 9 from the 37 x 3-bedroom apartments of the Approved Development); and
- e) A total of 381 apartments (increase of 91 apartments from the 290 apartments of the Approved Development).

(Proposal)

3.2 We are instructed that:

3.2.1 The capital investment value (CIV) of the Proposal is below \$75 million and so is local development rather than **State significant development**.

- a) The CIV for the new DA is based on the development for which consent is sought only, i.e. the Proposal;
- b) CIV for the new DA does not include the Approved Development, which has already been approved and is the subject of the Consent;
- c) Refer to our submissions below regarding an amending DA.

3.2.2 The 15.5% **affordable housing component** (as defined under section 15B of the Housing SEPP – **Affordable Housing Component**) will satisfy the definition of **affordable housing** under section 1.4 of the *Environmental Planning and Assessment Act 1979*, and section 13 of the Housing SEPP.

3.3 The Proposal, if approved, would have the effect of amending the Approved Development to the extent necessary to accommodate it.

4. AMENDING DEVELOPMENT APPLICATION

4.1 The Approved development at the Property is currently being undertaken in accordance with the Consent.

4.2 To provide affordable housing for the benefit of the community by utilising the Affordable Housing Provisions, and to ensure a Combined Development can be constructed in the most efficient manner, our client will lodge a (or lodges this) new DA with Council.

4.3 This can be sought through a further DA, in an approach sometimes referred to as an "amending DA".

4.4 In *AQC Dartbrook Management Pty Ltd v Minister for Planning and Public Spaces* [2021] NSWCA 112 at [229] to [235], and referring to and consolidating earlier authorities on the same subject matter, the Court of Appeal held (paraphrasing):

- 4.4.1 If a proponent wishes to carry out a different development different the development approved under a development consent, the proponent has two options:
 - a) Either make a fresh application for another development consent; or
 - b) Apply to modify the already granted development consent or approval.
- 4.4.2 Amendments to the EPA Act to include provisions allowing modification of a development consent (now sections 4.55 and 4.56 of the EPA Act) do not abrogate the right to seek to obtain successive development consents in respect of the same land: *Progress and Securities Pty Ltd v North Sydney Municipal Council* (1988) 66 LGRA 236 at [242].
- 4.4.3 An applicant has the option of either applying to modify an existing development consent, provided the modification sought falls within the scope of the provisions allowing for modification of a development consent, or applying for a further development consent.
- 4.4.4 A development application cannot be made to vary the terms of a development consent directly; a development application can only be made seeking consent for the carrying out of development: *Gordon & Valich Pty Ltd v City of Sydney Council* [2007] NSWLEC 780 (*Gordon & Valich*) at [15] and [16].
- 4.4.5 Nevertheless, the grant of another development consent may have the consequence of effecting a modification of the original development consent in two ways;
 - a) The second development consent may be granted subject to a condition requiring the modification or surrender of the original development consent (under section 4.17(5) of the EPA Act); or
 - b) The terms in which the second development consent is granted and the carrying out of development in accordance with the second development consent may have the consequence of effecting a variation of the original consent: *Gordon & Valich* at [17]; *Auburn Municipal Council v Szabo* (1971) 67 LGRA 427 (*Szabo*) at [432] to [433].
- 4.4.6 There is nothing to prevent a person having two development consents to carry out development on the same land: *Liverpool City Council v Home Units Australia Pty Ltd* [1973] 2 NSWLR 61 at [70]; *Szabo* at [433]; *Waverley Council v Hairis Architects* [2002] NSWLEC 180 (*Hairis Architects*) at [30].
- 4.4.7 A development application can be made, and development consent can be granted, to erect or use a distinct part of a building or land that is already the subject of another development consent: *Hairis Architects* at [32].
- 4.4.8 The two development consents applying to development on the same land need to be read together to ascertain the development that is authorised to be carried out on the land: *Pilkington v Secretary of State for the Environment* [1974] 1 All ER 283 at [287].

- 4.5 Applying the above authority to the subject scenario:
- 4.5.1 Our client seeks further development consent for the Property by way of a new DA rather than a modification application, as is its right.
 - 4.5.2 The further development consent sought is for development at the Property, as detailed above in the description of the Proposal, rather than a mere variation of the terms of the Consent directly.
 - 4.5.3 Any consent granted under the new DA can be conditioned accordingly so that it has the effect of modifying the Consent.
 - 4.5.4 The development proposed under the Proposal would, if approved, have the practical effect of modifying the Approved Development.
 - 4.5.5 If the new DA is approved, our client will have two development consents applicable to the development and the Property, which is acceptable.
 - 4.5.6 Those two consents would be read together to ascertain the Combined Development, being the overall development authorised to be carried out at the Property.
5. AFFORDABLE HOUSING PROVISIONS
- 5.1 A key principle of section 2 of the Housing SEPP, since it came into force in its original form in November 2021, is to encourage *...the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability.*
 - 5.2 Further, the objective of Division 1, Part 2 of Chapter 2 of the Housing SEPP is stated at section 15A as:

... to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.
 - 5.3 In our submission, the assessment of a DA for development such as the Proposal, must take these overriding aims into account and be viewed and assessed in a manner that is beneficial to the achievement of these overriding aims.
 - 5.4 In the following, we identify and provide a critical analysis of the Proposal and the Property against relevant affordable housing provisions of Division 1, Part 2 of Chapter 2 of the Housing SEPP (**Affordable Housing Provisions**) which our client seeks to utilise for the purpose of the Proposal.

Eligibility of Affordable Housing Provisions

- 5.5 The Housing SEPP, generally, applies to the State: section 7, Housing SEPP.
- 5.6 Specifically, the Affordable Housing Provisions apply to *development that includes residential development* (which includes residential flat building component within a mixed use development: section 15B(1), Housing SEPP) if:
 - 5.6.1 The development is permitted with consent under Chapter 3, Part 4 of the Housing SEPP or another environmental planning instrument.

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- a) The Proposal is permitted with consent on the Property pursuant to the *Fairfield Local Environmental Plan 2013 (LEP)*.
- 5.6.2 The Affordable Housing Component is at least 10%.
 - a) As detailed further below, we are instructed that the proposed Affordable Housing Component of the Proposal is 15.5% of the Combined Development.
- 5.6.3 For development on land within the Six Cities Region, is in an **accessible area** (as defined under Schedule 10 of the Housing SEPP).
 - a) The Property is:
 - (i) Located in Fairfield which is within the Six Cities Region; and
 - (ii) Is in an accessible area, as it is within 800 metres walking distance of the public entrance of Fairfield Railway Station (as well as being within 400 metres of a bus stop).
- 5.6.4 The Affordable Housing Component of the Proposal does not include any affordable housing that is required under another environmental planning instrument or a planning agreement.
- 5.7 Based on the above, the Proposal and the Property satisfy the bare eligible requirements of the Affordable Housing Provisions: section 15C, Housing SEPP.

Additional FSR and Building Height

- 5.8 Pursuant to section 16 of the Affordable Housing Provisions (with our emphasis):
 - (1) *The maximum FSR for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).*
 - (2) *The minimum affordable housing component, which must be at least 10%, is calculated as follows—*

$$\text{affordable housing component} = \frac{\text{additional floor space ratio}}{(\text{as a percentage})} \div 2$$
 - (3) *If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).*

Example—

Development that is eligible for 20% additional floor space ratio because the development includes a 10% affordable housing component, as calculated under subsection (2), is also eligible for 20% additional building height if the development involves residential flat buildings or shop top housing.
 - (4) *This section does not apply to development on land for which there is no maximum permissible floor space ratio.*

Additional FSR

5.9 Based on the above:

- 5.9.1 We note that section 16(1) of the Affordable Housing Provisions refers to "... *development that includes residential development* ..." and so involves the overall FSR of the development and not merely the residential FSR component of a development.
- 5.9.2 Pursuant to section 4.4(2) of the LEP, the maximum FSR applicable to the Property is 3.5:1 (**FSR Development Standard**), which equates (based on the 9,233sqm total area of the Property) to a maximum GFA of 32,315.5sqm.
- 5.9.3 To benefit from the full additional 30% FSR of section 16(1) of the Affordable Housing Provisions (**Additional 30% FSR**), the Proposal is required (in accordance with the equation at section 16(2) of the Affordable Housing Provisions) to provide 15% Affordable Housing Component.
 - a) We are instructed that the proposed Affordable Housing Component of the Proposal is 15.5%, which is in excess of the 15% required Affordable Housing Component;
 - b) This being so, the Proposal may benefit from the Addition 30% FSR.
- 5.9.4 The FSR Development Standard and the Additional 30% FSR results in an applicable maximum FSR of 4.55:1, equating to a total GFA of 42,010.15sqm.
- 5.9.5 The Approved Development comprises an FSR of 3:1 and a total GFA of 27,767sqm, significantly below the FSR Development Standard, and we are instructed that:
 - a) The Proposal proposes an additional 6,784sqm of GFA;
 - b) The Combined Development would comprise an FSR of 3.74:1 and a total GFA of 34,551sqm; and
 - c) Thus, the Proposal and the Combined Development would be well below the maximum FSR permitted under the Affordable Housing Provisions.

Additional Building Height

- 5.10 Following the same assessment criteria and analysis as carried out for FSR at paragraphs [4.9.3] above, pursuant to section 16(3) of the Affordable Housing Provisions, the Proposal may also benefit from an additional 30% in building height.
 - 5.10.1 Pursuant to section 4.3(2) of the LEP, the maximum height of buildings applicable to the Property is 38 metres (**Height Development Standard**).
 - 5.10.2 To benefit from the full additional 30% in building height (**Additional 30% Height**), the Proposal is required (in accordance with the equation at section 16(2) of the Affordable Housing Provisions) to provide 15% Affordable Housing Component.

Development application for affordable housing at 46 Court Road, Fairfield

- a) We are instructed that the proposed Affordable Housing Component of the Proposal is 15.5%, which is in excess of the 15% required Affordable Housing Component;
 - b) This being so, the Proposal may benefit from the Additional 30% Height.
- 5.10.3 The Height Development Standard and the Additional 30% Height results in an applicable maximum building height of 49.4 metres.
- 5.10.4 The Approved Development comprises a maximum building height of 38 metres in compliance with the Height Development Standard, and we are instructed that:
- a) The Proposal proposes an additional 11.25 metres of building height;
 - b) The Combined Development would comprise an overall building height of 49.25 metres; and
 - c) Thus, the Proposal and the Combined Development would comply with the maximum building height permitted under the Affordable Housing Provisions.
- 5.11 We are instructed that, pursuant to section 21(1) of the Affordable Housing Provisions, the Combined Development would include the proposed Affordable Housing Component, managed by a registered community housing provider, for at least 15 years from the issue of an occupation certificate for the Combined Development.
- 5.12 Relevant and appropriate conditions can be imposed on any consent granted for the Proposal to ensure the retention and management of the Affordable Housing Component in accordance with the Housing SEPP.

Other Provisions

- 5.13 Sections 17 and 18 of the Affordable Housing Provisions do not apply to the Proposal.
- 5.14 Other documents lodged with the DA, including the architectural plans and Statement of Environmental Effects, will address the non-discretionary development standards and design requirements of the Affordable Housing Provisions (as well as the overall merits of the Proposal in general).
- 6. CONCLUSIONS**
- 6.1 Seeking further consent through a new DA is a lawful and appropriate means of pursuing the Proposal. If granted, the second consent would effectively modify the Consent and would need to be read in conjunction with it.
- 6.2 The Affordable Housing Provisions are available to the Property.
- 6.3 The Proposal satisfies the requirements of the Affordable Housing Provisions to benefit from the Additional 30% FSR and the Additional 30% Height on account of it providing a 15.5% Affordable Housing Component.
- 6.4 The Proposal complies with the Affordable Housing Provisions in relation to the additional FSR and the additional building height.

Development application for affordable housing at 46 Court Road, Fairfield

6.5 Other jurisdictional matters and an assessment of the merits of the Proposal are beyond the scope of this submission but will be addressed in other documents lodged in support of the DA (including architectural plans and a Statement of Environmental Effects).

To discuss any of the information in this letter, please contact the undersigned.

Yours faithfully
Bartier Perry



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CONSIDERATION OF PLANNING CONTROLS

The following summarises the relevant planning controls in relation to the proposal and the compliance of each.

STATE ENVIRONMENTAL PLANNING POLICY (BASIX) 2004

The approved development retains its BASIX Certificate issued under DA687.1/14, noting that a construction certificate has been issued for the subject site and that construction has commenced.

An updated BASIX Certificate will be provided to account for the new units included within the development.

STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022

Does not apply to this development as a BASIX Certificate has already been issued, with the project under construction.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Addressed in parent DA, with site works currently underway.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

This SEPP came into effect on 1 March 2022 and incorporated the provisions of four now repealed SEPP's being:

- State Environmental Planning Policy (Infrastructure) 2007.
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.
- State Environmental Planning Policy (Major Infrastructure Corridors) 2020; and
- State Environmental Planning Policy (Three Ports) 2013.

Chapter 2 – contains planning rules and controls from the former Infrastructure SEPP for infrastructure in NSW, such as for hospitals, roads, railways, emergency services, water supply and electricity delivery.

Subdivision 2 Development in or adjacent to road corridors and road reservations

Clause 2.115 Development other than road facilities on public road

The development is not proposed on part of a public road that is to be reclassified as part of this application.

Clause 2.116 Highway service centres in road corridors

The development is not proposed in a road corridor.

Clause 2.117 Development on proposed classified road

The development site is located within proximity to a classified road and as a result the traffic impact assessment considers the provisions of this chapter that requires a consent authority to consider the impact of arterial roads on buildings used for residential purposes.

Clause 2.118 Development with frontage to classified road

The development does not have frontage to a classified road.

Clause 2.119 Impact of road noise or vibration on non-road development

Addressed in Parent DA.

Clause 2.120 Excavation in or immediately adjacent to corridors

The proposal is not located in or immediately adjacent to a corridor. The land is more than 30m to the rail corridor.

Clause 2.121 Traffic-generating development

Addressed in Parent DA, with the proposal providing parking under the Housing SEPP 2021 for infill affordable housing. This results in 60 less parking spaces and no visitor parking. Refer to attached traffic report by Genesis Traffic for additional details, with the conclusion reproduced below:

The traffic and parking assessment undertaken for the Proposed Residential Development at 46-54 Court Road, Fairfield has concluded that:

- the traffic generation of the proposed development will not present any adverse traffic implications*
- the proposed parking provision will comply with the SEPP (Housing) 2021 criteria and will adequately serve*
- the development*

- the proposed access, internal circulation and parking arrangements will be appropriate to AS design criteria

STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

Under Cl.26A of the Planning Systems SEPP 2021, development for the purpose of in-fill affordable housing is State Significant Development if it has a Capital Investment Value (CIV) of \$75 million or above.

The amending DA has a CIV of less than \$75 million and therefore it is not State Significant Development.

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Addressed under Parent DA.

STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

The Housing SEPP is relevant to the subject proposal, with consideration to be given to the following chapters:

- Chapter 2 Division 1 In-fill affordable housing
- Chapter 4 Design Quality of Residential Apartment Development
- Schedule 9 Design Quality Principles

Relevant chapters of the SEPP are addressed in the tables below.

Housing SEPP 2021 (Chapter 2 Division 1 In-fill Affordable Housing)		
Clause	Comment	Compliance
15C Development to which division applies		
1) This division applies to development that includes residential development if—		
a) the development is permitted with consent under Chapter 3, Part 4 or another environmental planning instrument, and	Both shop top housing and apartment buildings are permitted in the MU 1 Mixed Use Zone.	Yes
b) the affordable housing component is at least 10%, and	The proposal provides 15.5% of affordable housing	Yes
c) all or part of the development is carried out—		Yes

Housing SEPP 2021 (Chapter 2 Division 1 In-fill Affordable Housing)		
Clause	Comment	Compliance
<ul style="list-style-type: none"> i) for development on land in the Six Cities Region, other than in the City of Shoalhaven local government area—in an accessible area, or ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone. 	<p>The subject site is within an accessible area, being about 350 m from Fairfield Train Station and the Fairfield Bus Interchange.</p>	
2) Affordable housing provided as part of development because of a requirement under another environmental planning instrument or a planning agreement within the meaning of the Act, Division 7.1 is not counted towards the affordable housing component under this division.	N/A	N/A
3) In this section— <i>relevant zone</i> means the following—		
<ul style="list-style-type: none"> a) Zone E1 Local Centre, b) Zone MU1 Mixed Use, c) Zone B1 Neighbourhood Centre, d) Zone B2 Local Centre, e) Zone B4 Mixed Use. 	Noted	
16 Affordable Housing Requirements for additional FSR		
1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).	<p>The base FSR is 3.5:1, with the site having an area of 9,234 sqm.</p> <p>The maximum permitted FSR is 4.55:1, representing an additional 30%.</p>	Yes
2) The minimum affordable housing component, which must be at least 10%, is calculated as follows— AHC = Additional FSR (as a %) ÷ 2	15.5% affordable housing is provided, which facilitates an additional 30% FSR.	Yes
3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for	The proposal includes residential flat buildings and shop top housing. It therefore benefits from an additional 30% of building height. The current height is	Yes

Housing SEPP 2021 (Chapter 2 Division 1 In-fill Affordable Housing)		
Clause	Comment	Compliance
<p>residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).</p> <p>Example— Development that is eligible for 20% additional floor space ratio because the development includes a 10% affordable housing component, as calculated under subsection (2), is also eligible for 20% additional building height if the development involves residential flat buildings or shop top housing.</p>	38m, with an additional 30% taking the total maximum height to 49.4m	
4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.	A FSR applies to the land.	Yes
17 Additional floor space ratio for relevant authorities and registered community housing providers	Not relevant to this proposal	N/A
18 Affordable housing requirements for additional building height	Not relevant to this proposal as additional building height achieved via Cl.16.	N/A
19 Non-discretionary development standards—the Act, s 4.15		
1) The object of this section is to identify development standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.	Noted	Noted
<p>Note— See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.</p>		
2) The following are non-discretionary development standards in relation to the residential development to which this division applies—		

Housing SEPP 2021 (Chapter 2 Division 1 In-fill Affordable Housing)

Clause	Comment	Compliance
a) a minimum site area of 450m ² , b) a minimum landscaped area that is the lesser of— i) 35m ² per dwelling, or ii) 30% of the site area,	<p>The site area is 9,234 and complies</p> <p>The landscape area represents 17% of the site area. It is acknowledged that this is less than the non-discretionary development standard, it is a result of primarily removing rooftop landscaped areas. These landscaped areas were originally included in the approved DA to provide a softer outlook from adjacent dwellings, however in they were not in practice visible due to the need for screening walls. Furthermore, these rooftop areas were not accessible as communal open space and also presented significant maintenance issues to inaccessibility, meaning that it is not feasible landscaping.</p> <p>Rather than provide landscaping of dubious value, the proposal seeks to provide solar photovoltaic panels on buildings C and D. This presents a significant sustainability benefit for the proposed development and a much better long term outcome in terms of lower building management costs in terms of energy efficiency and improved amenity through removal of unviable rooftop landscaping.</p> <p>All roofs also catch more water which can be recycled on the site.</p> <p>It is notable that no changes have been made to ground level landscaping, with this DA being totally consistent with the current modification DA being considered by Council.</p> <p>The slightly lower site landscaping through the removal of rooftop planting areas is therefore considered as appropriate.</p>	No, justified
c) a deep soil zone on at least 15% of the site area, where— i) each deep soil zone has minimum dimensions of 3m, and ii) if practicable, at least 65% of the deep soil zone is	Does not apply, refer to Cl. 3 below.	N/A

Housing SEPP 2021 (Chapter 2 Division 1 In-fill Affordable Housing)

Clause	Comment	Compliance
located at the rear of the site,		
d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,	Does not apply, refer to Cl. 3 below.	N/A
e) the following number of parking spaces for dwellings used for affordable housing—		Yes
i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces,		
ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,		
iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,		
f) the following number of parking spaces for dwellings not used for affordable housing—		Yes
i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,		
ii) for each dwelling containing 2 bedrooms—at least 1 parking space,		
iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,		
g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,	Six car share spaces will also be provided. Complies within minimum internal apartment areas of ADG.	Yes
h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,	Not relevant to this proposal	N/A
i) if paragraphs (g) and (h) do not apply, the following minimum floor areas—		
i) for each dwelling containing 1 bedroom—65m ² ,	Not relevant to this proposal	N/A

Housing SEPP 2021 (Chapter 2 Division 1 In-fill Affordable Housing)		
Clause	Comment	Compliance
ii) for each dwelling containing 2 bedrooms—90m ² , iii) for each dwelling containing at least 3 bedrooms—115m ² plus 12m ² for each bedroom in addition to 3 bedrooms. 3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.	Noted	Noted
21 Must be used for affordable housing for at least 15 years 1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development— a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and b) the affordable housing component will be managed by a registered community housing provider. 2) This section does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.	This DA satisfies this clause, with a condition of consent anticipated. City West Housing will manage the affordable housing component . Noted.	Yes Yes Noted
22 Subdivision permitted with consent Land on which development has been carried out under this division may be subdivided with development consent.	Subdivision will form part of a future development application	N/A

Housing SEPP 2021 (Chapter 4 Design of Residential Apartment Development)		
Clause	Comment	Compliance
148 Non-discretionary development standards for residential apartment development—the Act, s 4.15		

Housing SEPP 2021 (Chapter 4 Design of Residential Apartment Development)		
Clause	Comment	Compliance
<p>1) The object of this section is to identify development standards for particular matters relating to residential apartment development that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</p> <p>Note— See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.</p>	Noted	Noted
<p>2) The following are non-discretionary development standards—</p> <p>a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,</p>	In-fill affordable housing complies parking requirements of with Cl.19 (2) (e). Parking for non-affordable housing complies with the rates specified in Part 3J of the ADG by virtue of utilising <i>Guide to Traffic Generating Developments (2002)</i> .	Yes
<p>b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,</p>	Complies as shown in attached plans.	Yes
<p>c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.</p>	Complies as shown in attached plans.	Yes

The development application is accompanied by a design verification statement by Jean Ligadu (Registered Architect No.8549) of Level 33 Architectural Division, who have directed and designed the proposal, and that the nine design quality principles set out in Schedule 9 of the Housing SEPP are achieved for the proposed development. Refer to attached statement for details, with an excerpt provided below for reference.

Design Verification Statement	
Principle	Response

Principle 1 | Context & Neighbourhood Character

The amalgamated site has an area of 9,233 m² with two street frontages, Court Road and The Horsley Drive.

The location of the site is ideally suited for a residential development due to its close proximity to town centre, public transport, schools, college, parks and shopping centers. The location is also well serviced by arterial roads such as The Horsley Drive, directly adjacent and it's within 400m of Fairfield Train Station. As such, the development is most suitable for an affordable housing mix bonus uplift envisioned by the State Environmental Planning Policy (Housing) 2021.

Residents have flexible multi way access to outer suburbs as well as Sydney International and Domestic airports and close proximity to schools and shopping centres serve as convenient key locations for the site. Main public transport service is closely situated. It only takes 10 minutes of walking to the Fairfield Train station.

The proposed building's bulk and scale has been determined by employing ADG controls and has been maintained and consistent with consent plans. The approved building setbacks have been maintained with a slight variation on the envelope ground floor level, east facing The Horsley Drive.

A single storey defined landscape podium connects all four building, linking two street frontages offering a base on which a setback upper building sits on. Both ground level street frontages offer retail services activates the streets and provide a wholistic commercial environment , whichever the retail shop faces. Retail parking has been provided in the center and located 'at grade' level for greater level of access.

It is expected that the proposal to develop the site for a mixed used development, will greatly enhance the quality and amenity of the streetscape and make a positive contribution to the growing community within the emerging neighbourhood. It responds positively to the requirements of Council's city strategies.

Principle 2 | Built Form & Scale

Building Height

The development proposes four buildings, Buildings A, B, C and D. Buildings A and D are both 11 storeys (above two-storey basement levels) at street level. Buildings B and C are both 15 storeys (above three-storey basement levels) at street level. This is in keeping with the intent of the bonus height controls set when a portion of the gross floor area to be dedicated to affordable housing for the area which limits apartment buildings at 15 storeys. On average the buildings are 13 storeys, but the differences in height allows a variety of scale within the site. Breaks in

between buildings also allow view corridors for residents and future neighbouring buildings.

Setbacks

The proposed buildings have maintained previous building setbacks from the approved consent drawings. Under a separate modification application, the only minor changes proposed are additional setback towards Shop 2 frontage from The Horsley drive in consideration of the stormwater pipes relocation which has been completed.

Here, additional greenery planting further improved the landscape setting of the otherwise busy road frontage.

The variable setbacks has been increased from 0.7m to 1.5m to 3.5 to 4.2m, creating a generous landscape setback zone.

Principle 3 | Density

The proposed neighbourhood with its future infrastructure, community facilities and services create the opportunity of a successful urban environment. Considered in conjunction with the facilities and accommodation provided by the development, will enable the residents to have a high level of community amenity.

The site has an area of 9,233m². The proposal is for 381 apartments with the bonus affordable housing uplift on the site achieves an FSR of 3.74: 1. The site comfortably houses this number of dwellings and allows for shared facilities that can be used by the residents. The arrangement of each building combined with the minimum separation requirements allows a positive outlook, solar access and amenity for residents. A detailed analysis of the solar access and communal open spaces has been provided.

Principle 4 | Sustainability

The building has been designed with due regard to environmentally sustainable design principles and aspects as outlined in the following points:

- The majority of the proposed apartments have their living areas and private open space orientated towards the north, east and west to maximize solar access. Cross ventilation limits the degree of artificial cooling required in summer, achieved through the open plan unit layouts and the provision of windows on opposite facades of the building.
- The use of hebel walls and concrete floor construction serves to regulate interior temperature fluctuations. Generous windows and door openings minimize reliance on artificial lighting in the interiors.
- Durable, low maintenance materials have been chosen for the development, including rendered

masonry, aluminium doors and windows and concrete paving.

- Solar photovoltaic panels has also been proposed to be dedicated to common areas power supply, which reduce total power consumption of the development.

Additional sustainable initiatives for waste management are provided with recycling points on each floor. Water efficient fittings, water re-use, and indigenous planting that requires low irrigation.

Principle 5 | Landscape

The landscaping for the development will contribute greatly to the amenity of the residents and to the surrounding public domain. Subject to a separate modification application, the high quality landscape to ground and level 1 podium with its seamless paving design and articulated bench planter seating will greatly enhanced the amenity of residents, public and visitors alike. There are various opportunities within the landscape setting for multiple activities to occur suitable for a lively community.

The balconies or courtyard areas provided for each unit are accessed directly from the principal living areas of each apartment. Large openings link the interiors with the private external open spaces. The private open spaces to the apartments have opportunities for planter pots and individual landscaping. The level and balconies are provided with extensive planters on top of the minimum private balcony area required.

Proposed planting consists largely of native's species to minimize water requirements. An updated Landscape Plan has been prepared by Canvas Landscape Architects.

Principle 6 | Amenity

The proposal offers a high degree of amenity to its residents and employs environmentally sustainable design principles in both the unit designs and the common areas.

Lift Lobbies

The lift lobby is naturally lit and secured. It's readily accessible from Court Road and The Horsley Drive.

Unit Layouts

Unit sizes are compliant with current SEPP 65 [now included in Chapter 4 of the Housing SEPP] and the Apartment Design guide of 50 m² for one- bedroom units, 70 m² and 75 m² for two-bedroom units and 90 m² and 95 m² for three-bedroom units.

All the bedrooms are of adequate size for a queen and or double bed if desired where a minimum of 3.0m has been observed. Ceiling heights are the required 2.7m minimum and surpass the required.

2.4m in the Building Code of Australia, with a floor to ceiling height of 2.7m. cross through units have been provided throughout.

Most master bedrooms include an onsite and built in wardrobe, and many units incorporate a study/communications area in the plan. Planning configurations are flexible and easily adaptable to cater for changing patterns in the built environment.

Unit Storage

All the units have been provided with compliant storage areas, both in the basement and within the units themselves. Built in wardrobes in all bedrooms and built in cupboards in the hallways and / or living spaces provide adequate storage for the units, with additional storage available for resident use in the basement car parks for larger items, including resident bicycle storage.

The floor plans are efficient, with little space required for access corridors. All units enjoy open plans with cross ventilation to limit the degree of artificial cooling required in summer, as well as generous living areas and private outdoor spaces that take advantage of the winter sun.

Visual privacy is achieved between units through the use of blade walls, planter boxes and screen walls. All common walls in units will be built to the standards required for acoustic privacy in the Building Code of Australia. The configuration of units within the building also serves to maximize acoustic privacy between dwellings.

Lift Access

Lift access is provided from the basement car park levels to all levels of the building, including the level 1 landscaped common areas, offering equitable access for all ages and degrees of mobility. A total of 21 adaptable units have been provided within the development. They have been distributed throughout the levels and consist of one- and two- bedroom varieties.

Residential lobby entries off Court Road Street is through a common lobby which can be accessed either by a flight of stairs or by an accessible ramp allowing secured and direct wheelchair access from the street to the foyers. Residential lobby entries off The Horsley Drive will be similar arrangement with a flight of stairs closest to the lobbies, which is interconnected with a platform lift provided to the southern entry for accessible access off a levelled paved pathway from The Horsley Drive.

Visitor and resident car parking are clearly demarcated on the drawings.

Waste Disposal

There are no major layout changes required to the waste management plan other than quantity of bins update and

	<p>a newly created residential bulky waste room as shown on the Ground Floor Plan changes.</p> <p>Garbage chutes have been provided on every level remains unchanged. The garbage chutes exit at the Ground level where the garbage can be sorted via a mechanical compactor system to allow a chute to divert to an empty bin once it's full, and to recycling bins.</p> <p>The waste collection will occur on the ground level garbage holding area where the bins will be wheeled directly to a HRV parking bay in accordance to Council's requirements.</p>
Principle 7 Safety	<p>The development of the site for residential purposes greatly increases the security of the area through providing streetscape activity and casual surveillance. Upper-level balconies will further increase passive surveillance levels over Gladstone and Victoria Streets.</p> <p>Adequate lighting will be provided for the site access points, such as car park entry and main entry pathways. Security roller door access to the car park, intercom entry to the lobby areas and access to the residential levels via the use of security passes will serve to ensure that the internal security of the residents is maintained at all times. There is no opportunity for concealment within lobbies or the car park areas.</p>
Principle 8 Housing Diversity & Social Interaction	<p>In accordance with Council's future outlook of this precinct, in regard to the site being located in the midst of other residential dwellings and public schools, the mix of different housing types as well as the proposed density cater appropriately for the varying demographics of the neighbourhood.</p> <p>A variety of unit types have been provided within the site, ranging from one to two- and three- bedroom units. A range of users is thereby catered for to suit the varying demographics of the neighbourhood and the growing population of the area.</p> <p>The site is well located for employment opportunities, being close to the retail, commercial and the Town Centre. The increased density afforded by the development will serve to attract more people to the area and increase patronage of the local retail, restaurant, educational and commercial facilities.</p> <p>Under the SEPP Infill Affordable Housing, the provision of affordable housing units will further contribute significantly to the community needs within Fairfield LGA providing low to moderate income household relief to be close to transport and amenities.</p>
Principle 9 Aesthetics	<p>The development seeks to make a high-quality contribution to the aesthetic amenity of the area with</p>

Careful detailing and quality finishes. The proposed development will offer entry level apartments with the look and feel of higher end developments, through the use of regular materials used in innovative ways of combinations and complexity to allow a desirable dwelling environment.

The main building material used on the facades of all buildings will be Hebel – combined in a variety of contrasting tones and textures to bring vibrancy to the building forms. Contrasting screening highlights important facades and prominent corners which address key street views. The fine nature of balustrading helps to define a finer rhythm to the built form achieving a balance of textures.

The overall building forms which address both street frontages set a comfortable scale to address the street, with its forms being both uplifting and well-articulated. Prominent corners are accentuated with exaggerated corners and parapets, which further reinforce the public realm and the development itself. The projecting balconies at the street frontages is similar in expression and anchor the proposal, providing an urban marker when viewed from both street frontages. The split of the podium form reduces the mass and bulk of the development, so that it sits comfortably within the existing streetscape and context of surrounding buildings.

The distinctive ‘floating’ metal roof was envisioned to provide lightness to the building ‘concrete’ form especially at these elevated levels. While this new element from the consent drawings not readily discernible from street level looking up, but will be appreciated from district view to tie in with the rest of the architecture, continuing the fine metal screening already provided throughout the facades.

Conclusion

The achievement of the SEPP65 guidelines [Chapter 4 of the Housing SEPP] may be assessed by examining the compliance with the planning guidelines contained in the Apartment Design Guide (ADG) issued by Planning NSW. The ADG provides a summary of “best practice” design parameters for residential apartments in NSW. The compliance with the Apartment Design Guide (ADG) may be viewed within the Statement of Environmental Effects which forms part of this submission.

In conclusion, I verify that as a Registered Architect, with the NSW Architects Registration Board (Registration No. 8549). I, Jean Ligadu, have directed the design and development of this project. I certify that the design has been developed in accordance with the nine design principles outlined above.

In conclusion, I believe the proposed development satisfies the matters under Section 4.15 of the *Environmental Planning and Assessment Act, 1979* and is generally in accordance with the general guidelines and

recommendations contained in Fairfield City Council's planning policies.

As demonstrated in the Planning Statement, prepared by Think Planners the proposal will not result in adverse environmental impacts to nearby streetscapes, external appearance of the building or on the amenity of nearby residents and is viewed as a positive contribution to the current location with the modifications arise from detailed design development following the grant of development consent.

A description of compliance with the applicable development facets and guidelines such as setbacks, building heights etc. is provided in the local planning controls discussion and tables below. It is noted that this assessment is largely restricted to the proposed additions which relates to the in-fill affordable housing.

An assessment against the relevant objectives and design guidelines contained in parts 3 and 4 of the Apartment Design Guide can be found below, noting that a number of these provisions are embodied within the Fairfield Local Environmental Plan 2013 and supporting Fairfield Development Control Plan 2013.

For reference, it is notable that the ADG overrides a DCP for certain design standards as show in Cl.149 below:

149 Apartment Design Guide prevails over development control plans

(1) A requirement, standard or control for residential apartment development that is specified in a development control plan and relates to the following matters has no effect if the Apartment Design Guide also specifies a requirement, standard or control in relation to the same matter—

- (a) visual privacy,*
- (b) solar and daylight access,*
- (c) common circulation and spaces,*
- (d) apartment size and layout,*
- (e) ceiling heights,*
- (f) private open space and balconies,*
- (g) natural ventilation,*
- (h) storage.*

(2) This section applies regardless of when the development control plan was made.

In the above instances, a DCP provision will have no effect.

ADG Element	Design Criteria/Design Guideline	Proposed	Compliance
Part 3 Siting the Development			
3A Site Analysis	Site Analysis	Provided with DA.	Yes
3B Orientation	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street (see figure 3B.1)	Addressed in parent DA	N/A
	Where the street frontage is to the east or west, rear buildings should be orientated to the north	Addressed in parent DA	N/A
	Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west	Addressed in parent DA. Regardless, the subject site has a western street frontage and shadow diagrams confirm any additional shadow is within ADG requirements.	N/A
3C Public Domain Interface	Terraces, balconies should have direct street entry, where appropriate	Addressed in parent DA	N/A
	Mailboxes should be located in lobbies, perpendicular to the street alignment	Addressed in parent DA with mailboxes provided in the same location.	Yes
	Substation, pump room, garbage storage rooms and other service rooms should be located in the basement carpark or out of view	Addressed in parent DA	N/A
3D Communal and Public Open Space	<u>Design Criteria:</u>		

ADG Element	Design Criteria/Design Guideline	Proposed	Compliance
	Communal open space has a minimum area equal to 25% of the site.	The proposal provides a total of 5,341m ² of communal open space and complies with both and solar access requirements. Refer to attached plans for details.	Yes
	50% of the principal COS should receive 2 hours of sunlight between 9am and 3pm	Complies, refer to attached plans.	Yes
	<u>Design Criteria:</u>		
	Minimum dimension of 3m	Not relevant as addressed in parent DA. The communal open space areas remains compliant with the approved plans and modifications required by conditions of development consent. This proposal slightly increase the area of communal open space by 2%.	N/A
	Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies.	The proposal ensures that direct, equitable access in line with relevant Australian Standard is provided to communal open space areas from common circulation areas, entries, and lobbies.	Yes
	Where communal open space cannot be provided at ground level, it should be provided on a podium or roof.	Communal Open Space areas are provided in the approved locations as shown in the plans provided with this SEE.	N/A
	Facilities are provided within communal open spaces and common spaces for a range of age groups, incorporating some of the following elements:	Not relevant as addressed in parent DA.	N/A
	<ul style="list-style-type: none"> • seating for individual or groups • barbecue areas • play equipment or play area. • swimming pools, gyms, tennis courts or common rooms 		

ADG Element	Design Criteria/Design Guideline	Proposed	Compliance
	Communal open space and the public domain should be readily visible from habitable room and private open space areas while maintaining privacy.	Not relevant as addressed in parent DA.	N/A
	Public open space should be well connected with public street along at least one edge.	Not relevant as addressed in parent DA.	N/A
3E Deep Soil Zones	<u>Design Criteria:</u>		
	A deep soil zone equivalent to 7% of the site must be provided.	The proposal is within the existing building footprint This DA makes no alterations to the building envelope currently subject to modification DA.	Yes
		Deep soil is provided at the rate of 11% of the site area, or 1,023m ² .	
		Whilst the ADG does recommend a 6m dimension for deep soil areas, this DA makes no changes to the approved areas currently subject to a modification application.	Yes
3F Visual Privacy			
Building separation up to 4 storeys (up to 12m)	<u>Design Criteria:</u> 12m between habitable rooms (6m) 6m between non-habitable rooms (3m)	No change to approved DA	N/A
Building separation between 5-8 storeys (up to 35m)	18m between habitable rooms (9m) 9m between non-habitable rooms (4.5m)	EXTERNAL SEPARATION External building separation continues the envelope already approved by Council in the parent DA. Whilst this is not strictly compliant with the ADG, it is considered to achieve the intent of 3F by incorporating moveable louvers to mitigate potential privacy impacts to adjoining property to the north/ This will ensure that privacy impacts are mitigated and the	Yes, consistent with objective
Building separation for building 9 storeys or above			

ADG Element	Design Criteria/Design Guideline	Proposed	Compliance
	24m between habitable rooms (12m) 12m between non-habitable rooms (6m)	<p>underlying intent of the separation requirements is achieved.</p> <p>INTERNAL SEPARATION</p> <p>The building separation distances within the approved DA are retained.</p> <p>From Level 7 on Building A to Level 10 the separation distance to Building B on site ranges from 12m to 15.965 m. Likewise between Building C and D, the internal separation is 9m and 12.4m. Whilst this does not meet the numerical guidance in the SEE, the design of the building, including placement of windows, circulation areas and non-habitable rooms means that the underlying objective of the ADG is achieved.</p> <p>Specifically with regard to:</p> <ul style="list-style-type: none"> - Block A and B: windows have been offset, along with the Building B angled with the separation distance increasing, window size has been carefully considered to facilitate solar access, but not outlook, and windows typically face non-habitable areas within apartments, along with common circulation areas and stairwells. - Block C and D: the non-habitable rooms, along with stairwells, lift cores and circulation areas. Along with the offsetting of and building articulation, adequate separation is achieved whilst maximising solar access. <p>CONSISTENCY</p> <p>In a recent decision, the Land and Environment Court in a recent</p>	

ADG Element	Design Criteria/Design Guideline	Proposed	Compliance
		<p>determination (Construction Development Management Services Pty Ltd v City of Sydney (2023) NSWLEC1620) found that it is a performance based document that is focused on achieving the intent of the objectives, rather than strict numerical compliance.</p> <p>In this case, the Commissioner found that despite not achieving solar access guidelines of the ADG, the proposal did meet the relevant objective (4A-1) for solar access and was therefore compliant with the intent of the ADG.</p> <p>This principle is also relevant to this proposal where building separation distances are less than the Design Criteria of 3F. In this instance the objective is as follows:</p> <p><i>[3F-1] Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy</i></p> <p>Relevant Design Guidance Visual Privacy states the purpose of the Design Guidance is to:</p> <p><i>Separation between windows and balconies is provided to ensure visual privacy is achieved</i></p> <p>Relevant Design Guidance includes using the site layout and building orientation to minimise visual privacy impacts, with reduced separation distances advocated when a non-habitable room faces a habitable rooms,</p> <p>As has been highlighted, the proposal clearly has been designed to provide exceptional levels of external and internal visual privacy. This has been achieved through a number of mechanisms including:</p>	

ADG Element	Design Criteria/Design Guideline	Proposed	Compliance
		<ul style="list-style-type: none"> Vertical, movable louvers to the north and south on building B and C On Block A and B: windows have been offset, along with the Building B angled with the separation distance increasing, window size has been carefully considered to facilitate solar access, but not outlook, and windows typically face non-habitable areas within apartments, along with common circulation areas and stairwells. On Block C and D: the non-habitable rooms, along with stairwells, lift cores and circulation areas. Along with the offsetting of and building articulation, adequate separation is achieved whilst maximising solar access <p>In applying the above performance based solutions, the proposal clearly achieves the intent of 3F with visual privacy achieved.</p>	
3G Pedestrian Access and Entries	Buildings entries should be clearly identified, and communal entries should be clearly distinguished from private areas	No change from parent DA	N/A
3H Vehicle Access	Car park access should be integrated with the building's overall façade	No change from parent DA.	N/A
	Car park entry and access should be located on secondary streets or lanes where available	No change from parent DA	N/A
	Adequate separation distance should be provided between vehicle entries and street intersection.	No change from parent DA	N/A

ADG Element	Design Criteria/Design Guideline	Proposed	Compliance
	Garbage collection, loading and service areas are screened	No change from parent DA	N/A
	Clear sight lines should be provided at pedestrian and vehicle crossing	No change from parent DA	N/A
3J Carparking	<u>Design Criteria:</u>		
	<u>Design Guidelines:</u>	Complies refer to discussing in Housing SEPP 2021.	Yes
	Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas	An additional 8 undercover parking spaces will be provided, increasing the provision from 124 spaces to 132 bicycle spaces.	Yes
Part 4 – Designing the Building			
4A Solar Access	<u>Design Criteria:</u> Living rooms and private open space of at least 70% of units to receive 2 Hours Solar Access between 9am and 3pm Mid-Winter	Complies as shown in the attached plans. 86.3% of the apartments achieve compliance with the minimum 2 hour requirement.	Yes
	A maximum of 15% of apartments receive no direct sunlight between 9am and 3pm Mid-Winter	13 % of apartments do not achieve 2 hours solar access at mid-winter Refer to attached Solar Access Calculation Plan for detail.	Yes
4B Naturally Ventilation	<u>Design Criteria:</u> 60% of units are cross ventilated in a building up to 9 storeys	62.2% of units are cross ventilated.	Yes
	Overall width of cross over or cross through apartments is < 18m	Development has a mix of dual aspect apartments, cross through and corner apartments. See attached architectural plans for detail. The proposed alterations retain consistency with the approved footprint.	Yes
	<u>Design Guidelines:</u> The building should include dual aspect		

		apartments, cross through apartments and corner apartments and limit apartment depths	
4C Ceiling Height		<u>Design Criteria:</u>	
	2.7m for habitable and 2.4m for non-habitable	Complies.	Yes
4D Unit Sizes		<u>Design Criteria:</u>	
1 bed	50m ²	All units comply as shown in the attached plans.	Yes
2 beds	70m ²		
3 beds	90m ²		
+5m² for each unit with more than 1 bathroom			
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10%	Every habitable room is provided with a window.	Yes
Habitable Room Depths		<u>Design Criteria:</u>	
	Limited to 2.5m x Ceiling Heights	Complies with ADG requirements	Yes
Bedroom sizes			
Master	10m ²	Complies.	Yes
Normal	9m ²	Complies.	Yes
Living room/dining areas have a minimum width of:			
3.6m	Studio/ 1 br	Complies.	Yes
4m	2br / 3br	Complies.	Yes
Open plan layouts that include a living, dining room and kitchen	8m to a window	Complies.	Yes
4E Private Open Space			
Balcony Sizes			
1 bed	8m ² & 2m depth	Complies.	Yes
2 beds	10m ² & 2m depth	Complies.	Yes
3 beds	12m ² & 2.4m depth	Complies.	Yes

Ground level / podium apartments	15m ² & 3m depth	Not applicable to this DA	N/A
4F Common circulation and space	<u>Design Criteria:</u>		
Common circulation units per plate	8 – 10 unit per plate	Lift Cores and circulation areas are provided consistent with the existing approval. This is consistent with the requirements of the ADG.	Yes
4G Storage	<u>Design Criteria:</u>		
	1 bed: 6m ³ 2 beds: 8m ³ 3 beds: 10m ³	Complies with ADG requirements as shown in the attached plans.	Yes
	Minimum 50% of required storage is within the apartment	Complies with ADG requirements as shown in the attached plans.	Yes
4H Acoustic Privacy	<u>Design Criteria:</u>		
	Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses	Development has provided adequate separation from neighbouring buildings/properties in-line with 3F Visual Privacy – design criteria above.	Yes
	Windows and door openings are generally orientated away from noise source	Where appropriate windows and door openings are orientated away from noise sources.	Yes
	Noisy areas within buildings including building enters and corridors should be located next to or above each other and quieter areas next to or above quieter areas.	The application is designed to create different 'zones' with more active areas clustered together and more passive areas also clustered together to maximise acoustic privacy and takes advantage of the lot orientation.	Yes
4K Apartment Mix	<u>Design Guidelines:</u>		Yes
	A variety of apartment types is provided	An appropriate mix is provided as shown in the attached plans, noting that this application seeks to remove two studio apartments, but gain a total of 91 new apartments with the following cumulative mix: Studio: 007 apartments 1 bed: 111 apartments	

		<p>2 bed: 217 apartments 3 bed: 046 apartments</p> <p>The mix is consistent with the existing approved DA consistent with the intent of the ADG.</p>	
4M Facades	<p><u>Design Guidelines:</u> Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.</p>	The proposal is consistent with the existing approved façade for the site.	Yes
4O Landscape Design	<p>Greater than 1,500m2:</p> <p>1 large tree or 2 medium trees per 80m2 of deep soil zone</p>	<p>This DA makes no change to the ground level landscape design, with areas and planting remaining consistent with the approval.</p> <p>Rooftop landscaping has been removed to facilitate solar panels on building C and D. The landscaping on roofs has also been removed due to it having no visual benefits to surrounding neighbours (i.e., it is not visible), it is not accessible for residents and has significant maintenance issues, including safety along with it being unviable for long term plant health.</p>	Yes
4Q Universal Design 20% of the total apartments	Achieve Liveable Housing Guidelines silver level universal design features	The proposal achieves compliance as shown in the attached plans.	Yes
4U Energy efficiency		A BASIX Certificate accompanies this proposals for the new unit yield. This indicates that energy efficiency for each residential unit is provided and the BASIX criteria is exceeded.	Yes
4V Water management and conservation	<p><u>Design Guidelines:</u> Reduce mains consumption, and reduce the quantity of stormwater runoff</p>	The new residential units have been provided with BASIX certificate indicating energy efficiency for each	Yes

residential unit is provided and that BASIX criteria are exceeded.			
4W Waste Management	<u>Design Guidelines:</u>		
	Supply WMP Allocate storage area	Addressed in original DA. Appropriate waste storage areas are provided. Refer to attached plans for detail and statement from Elephant Foot.	Yes Yes
4X Building Maintenance	<u>Design Guidelines:</u>		
	To ensure long life and ease of maintenance for the development	The proposed material is considered durable which may be easily cleaned. The use of masonry on the podium will ensure minimal future scaffolding/repainting is required.	Yes

FAIRFIELD LOCAL ENVIRONMENTAL PLAN 2013

The land is zoned MU1 Mixed Use under the provisions of the Fairfield Local Environmental Plan 2013.

Both 'shop top housing' and 'residential flat buildings' are permitted within the mixed use zone. This proposal represents an amending DA to an existing approval for a mixed use development which is currently under construction.

HOUSING SEPP 2021

This proposal seeks to apply the additional height and FSR possible under the Housing SEPP 2021 for infill affordable housing.

The proposal seeks to achieve the following under the Housing SEPP 2021:

	LEP 2013	Housing SEPP	
		Requirement	Proposed
Affordable Residential GFA	-	15% 5,185.65	15.5% 5,349 sqm
FSR	3.5:1	+30% (4.55:1)	3.74:1
Height	38m	+30% (49.4)	49.2 m

The total approved GFA is: 27,767 sqm.

The total proposed GFA is: 34,551 sqm, with the affordable component, taking up 15.5% or 5,349 sqm and is consistent with SEPP requirements.

Additional standard residential units equates to 4.2% of the additional GFA or 1,435 sqm.

Objectives of the zone

The proposal is consistent with the prescribed zone objectives that are stipulated as:

- *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 table below provides detail on the development standards relevant to the current proposal as well as other relevant LEP provisions, noting that the Housing SEPP 2021 in some instances takes precedence over the LEP for in-fill affordable housing.

Fairfield Local Environmental Plan 2013 – Compliance Table			
Clause	Controls	Comment	Complies
Zoning	MU 1 Mixed Use	Shop top housing and residential flat buildings are permitted in the zone, noting that this is an amending DA to an existing approval.	Yes
Part 2 Permitted or Prohibited Development			
2.3	Zone Objectives and Land Use Table	The site is currently under construction for a mixed use development. It remains consistent with the underlying intent of the zone objectives.	Yes
2.6	Subdivision – Consent Requirements	No subdivision is proposed as part of this application. This will be addressed via subsequent applications.	N/A
2.7	Demolition Requires Consent	The site is under construction with this proposal seeking to increase the building height and FSR to accommodate infill affordable housing.	N/A
Part 4 Principal Development Standards			
4.3	Height of Buildings: 38 m	AH SEPP applies, with the maximum height permitted at 49.4m. The proposal has a maximum height of 49.25m and therefore complies.	Complies with AHSEPP
4.4	Floor Space Ratio: 3.5:1	AH SEPP applies, with the maximum FSR permitted at 4.55:1. The proposal has a maximum FSR of 3.74:1 and therefore complies.	Complies with AHSEPP
4.6	Exceptions to Development Standards	N/A	N/A
Part 5 Miscellaneous Provisions			
5.10	Heritage Conservation	N/A as no heritage item on site or in immediate vicinity.	N/A
5.20	Flood planning	Addressed in parent DA, noting that updated stormwater management plans	Yes

		have been prepared and are submitted with this DA.	
Part 6 Additional Local provisions			
6.1	Acid Sulfate Soils	Addressd in Parent DA	N/A
6.2	Earthworks	Addressed in Parent DA	N/A
6.5	Terrestrial biodiversity	Addressed in Parent DA	N/A
6.6	Riparian land and watercourses	Addressed in Parent DA	N/A
6.9	Essential services	Addressed in Parent DA	N/A
6.10	Active street frontages	Addressed in Parent DA	N/A
6.12	Design excellence	<p>The amended building is considered to exhibit design excellence as demonstrated below:</p> <p>a) At completion, the development will deliver four buildings ranging between 11 and 15 storeys, consistent with the desired scale and character of buildings in the immediate vicinity, noting the site specific plans for the Neeta Site and the McDonalds and Aldi sites. The building when completed will set a high standard of design for future development along with being consistent with the desired future character that is emerging in more recent plans of council within the sites immediate vicinity. The buildings have a high standard of architectural design which incorporates physical articulation of the built form and a mixed palette of building materials and finishes.</p> <p>The range of materials will contribute towards articulating both buildings whilst reducing the overall bulk and mass of the building.</p> <p>b) The delivery of the three contemporary buildings will not only be consistent with the emerging character in the Fairfield Town Centre but will significantly improve the urban character within the precinct. Furthermore, the overall development will also improve the public domain with high quality walkways and connecting</p>	Yes

throughfares, the introduction of new public spaces, park and attractive built form that address its frontages.

Further, the proposed development is to be appropriately landscaped and is of a form and style that will positively contribute to the cohesiveness and visual appreciation of the streetscape.

c) The proposal will not impact on significant views due to its location and that the proposal is to be of a size and scale that is predominantly consistent with controls for sites within the immediate vicinity of the proposal, noting that the Housing SEPP permits additional height and FSR when in-fill affordable housing is provided.

d) (i) The development site has an approved mixed use development, with this DA seeking to amend the consent.

(ii) The development site has an approved mixed use development, with this DA seeking to amend the consent.

(iii) There are no heritage constraints.

(iv) The proposal is compliant with the ADG and broader intent of Council DCP controls with adjacent sites able to be developed with suitable separation, setback, amenity and urban form.

(v) At completion, the development will deliver four buildings ranging between 11 and 15 storeys, consistent with the desired scale and character of buildings in the immediate vicinity, noting the site specific plans for the Neeta Site and the McDonalds and Aldi sites.

Furthermore, the range of materials also contribute towards articulation of the building whilst also reducing the overall bulk and mass of the buildings.

The development is provided with facades that are well articulated with a mixture of vertical and horizontal features including windows, projecting walls, recessed balconies and framed elements

that reduces large expanses of unbroken wall.

(v) The range of materials significantly contribute to the articulation of the building and reducing the overall bulk and mass of the building.

As such the design of the development reflects the form and function of buildings within the Fairfield Town Centre.

(vi) No change from existing approval and not relevant to this DA.

(vii) Development has been designed to minimise excessive shadowing to adjoining properties. This is demonstrated via attached Shadow Diagrams.

Furthermore, the buildings will achieve solar access requirements in accordance with the ADG.

Finally, the building have been designed to minimise reflectivity.

(viii) A BASIX Certificate accompanies this application. Furthermore, the development has been designed to exceed the solar access and natural ventilation requirements under the ADG.

(ix) No change from existing approval and not relevant to this DA.

(x) & (xi) No change from existing approval and not relevant to this DA.

(xii) The ground plane and publicly accessible landscaped areas remain unchanged from the current modification application being assessed.

FAIRFIELD CITYWIDE DEVELOPMENT CONTROL PLAN 2013 – CHAPTER 3: ENVIRONMENTAL MANAGEMENT AND CONSTRAINTS

All relevant Council controls have been considered in the following compliance table.

Fairfield Development Control Plan 2013 – Chapter 3: Environmental Management and Constraints Compliance Table			
Clause	Controls	Comments	Complies
3.2	Preservation of Trees or Vegetation	Addressed in parent DA.	N/A
3.5	Flood Risk Assessment	Addressed in parent DA.	N/A
3.6	Land Contamination	Addressed in parent DA.	N/A
3.8	Acid Sulfate Soils	Addressed in parent DA.	N/A
3.11	Erosion and Sediment Control	Addressed in parent DA.	N/A
3.12	Heritage Items	There are no heritage restrictions on the site or within its immediate vicinity. Not applicable.	N/A

FAIRFIELD CITYWIDE DEVELOPMENT CONTROL PLAN 2013 – CHAPTER 7: RESIDENTIAL FLAT BUILDINGS

All relevant Council controls have been considered in the following compliance table.

Fairfield Development Control Plan 2013 – Chapter 7 Residential Flat Buildings Controls Compliance Table			
Clause	Controls	Comments	Complies
Special considerations			
7.2.1	Heritage	There are no heritage restrictions on the site or within its immediate vicinity. Not applicable.	N/A
7.2.2	Accessible and Flexible Units	The development provides lifts from the ground floor and delivers equitable access to common areas and communal open space areas.	Yes
	DCP requires 1 accessible unit per 10 units	The development provides a total of 40 units or 10.5 % of the total unit yield as adaptable housing.	
7.2.3	Stormwater Disposal	A Stormwater Management Plan has been prepared and accompanies this application and is consistent with the approved drainage strategy for the subject site under the parent DA. Refer to attached stormwater management plan for details.	Yes
7.2.5	Lifts	Lifts are provided in accordance with the ADG. Refer to relevant discussion within the ADG for more detail.	Complies – Housing SEPP 2021
7.4 Built Form			
7.4.1	Floor Space Ratio	Complies with AHSEPP for infill affordable housing.	Yes
7.4.2	Building Height	Complies with AHSEPP for infill affordable housing.	Yes
7.4.3	Building Setbacks	Site specific considerations apply in the Fairfield Town Centre DCP. Note building separation complies with the intent of the ADG.	Yes
7.4.4	Building Articulation	Consistent with existing approval.	Yes
7.5 Amenity			
7.5.1	Ventilation	Complies with Housing SEPP 2021	Yes
7.5.2	Visual and Acoustic Privacy	7.4.2.1 Visual Amenity Complies with Housing SEPP 2021. Refer to discussion in ADG compliance table.	Yes

Clause	Controls	Comments	Complies
		<p>7.4.2.2 Acoustic Amenity</p> <p>The application is designed to create different 'zones' with more active areas clustered together and more passive areas also clustered together to maximise acoustic privacy.</p>	Yes
7.5.3	Solar Access	<p>The proposal has been designed to reduce the potential for overshadowing of neighbouring properties. Refer to attached shadow diagrams for detail.</p> <p>As per the ADG, both building achieve the minimum 2 hours of solar access at mid-winter in accordance with the ADG.</p>	Complies – Housing SEPP 2021
7.5.4	Private Open Space	<p>The proposal provides a minimum of one balcony for each residential unit.</p> <p>Where appropriate, primary balconies are located adjacent to main living areas and comply with the private open space requirements under Chapter 4 of the Housing SEPP 2021 to ensure that they are sufficiently sized to cater for the needs of future occupants.</p> <p>The proposed balconies have been designed to ensure that future residents will be provided with high quality private open space areas that are both useable and functional.</p>	Complies – Housing SEPP 2021
7.5.5	Common Open Space	Complies with ADG Design Guidance by providing 58% of the site as communal open space area.	Complies – Housing SEPP 2021
7.5.6	Safety and Security	Addressed in parent DA, with additional floors providing a similar floorplate and access to the same lift and circulation areas. There is no change to ground level areas or landscaping as part of this DA.	Yes
7.6 Car Parking, Loading and Vehicle Access			
7.6.1	Car Parking	<p>Car parking is provided in accordance with the rates within Chapter 2 of the Housing SEPP for affordable in-fill housing.</p> <p>Refer to discussion under Chapter 2 of the Housing SEPP 2021 for additional details and the attached traffic report.</p> <p>Six car share spaces are also provided.</p>	Yes

Clause	Controls	Comments	Complies
7.6.2	Vehicle Access Controls	No change from existing approval	N/A
7.7 Site Servicing			
		No change from existing approval which has the capacity to cater for the additional units.	N/A
7.8 Landscaping			
7.8.1	Landscape Design	<p>The landscape area represents 17% of the site area. It is acknowledged that this is less than the non-discretionary development standard, it is a result of primarily removing rooftop landscaped areas. These landscaped areas were originally included in the approved DA to provide a softer outlook from adjacent dwellings, however in they were not in practice visible due to the need for screening walls. Furthermore, these rooftop areas were not accessible as communal open space and also presented significant maintenance issues to inaccessibility, meaning that it is not feasible landscaping.</p> <p>Rather than provide landscaping of dubious value, the proposal seeks to provide solar photovoltaic panels on buildings C and D. This presents a significant sustainability benefit for the proposed development and a much better long term outcome in terms of lower building management costs in terms of energy efficiency and improved amenity through removal of unviable rooftop landscaping.</p> <p>All roofs also catch more water which can be recycled on the site.</p> <p>It is notable that no changes have been made to ground level landscaping, with this DA being totally consistent with the current modification DA being considered by Council.</p> <p>The slightly lower site landscaping through the removal of rooftop planting areas is therefore considered as appropriate</p>	Consistent with objectives
7.7.2	Fencing and Walls	No fencing is proposed as part of this application.	N/A
7.8 Miscellaneous			
7.8.1	SEPP 65	This SEE provides an assessment of Chapter 4 of the Housing SEPP 2021, with a Design Verification Statement also submitted in support of the proposal	Yes

Clause	Controls	Comments	Complies
7.8.3	BASIX	A BASIX Report has been prepared and is attached as part of this application. This report is for the new unit yield only.	Yes

FAIRFIELD CITYWIDE DEVELOPMENT CONTROL PLAN 2013 – CHAPTER 12: CAR PARKING, VEHICLE AND ACCESS MANAGEMENT

All relevant Council controls have been considered in the following compliance table.

Fairfield Development Control Plan 2013 – Chapter 12 Car Parking, Vehicle and Access Management Controls Compliance Table			
Clause	Controls	Comments	Complies
		Car parking is provided in accordance with the rates within Chapter 2 of the Housing SEPP for affordable in-fill housing.	Yes
		Refer to discussion under Chapter 2 of the Housing SEPP 2021 for additional details and the attached traffic report.	
		Six car share spaces are also provided.	

FAIRFIELD CENTRE DEVELOPMENT CONTROL PLAN 2013 – CHAPTER 11: FLOOD RISK MANAGEMENT

A portion of the site has been identified as being affected by flooding.

Appropriate flood mitigation measures are to be incorporated into the development to minimise impact of potential flooding on the proposal and that the development does not detrimentally increase the potential flooding effects on other developments or properties.

This has been satisfactorily addressed in the parent DA.

FAIRFIELD CITY CENTRE DCP 2013

The Fairfield Town Centre has undergone a numerous planning studies which guide future development outcomes within the precinct. These masterplans have amended both LEP standards and DCP controls.

Fairfield City Centre DCP 2013

This masterplan provides the overarching vision for the Fairfield Town Centre as communicated within the Development Control Plan. It includes site specific design requirements for identified precincts within the City Centre. It did not however set controls for certain sites to the north of the subject site (Aldi and McDonalds Opportunity Site) and the west (Neeta City Opportunity Sites).

The DCP sets the following parameters for the subject site as shown in the Figure below. This vision is based on the historical characteristics of the town centre, along with a desire to retain a two storey street frontage height within the town centre.

Image 3: Neeta City Site Design Requirements with subject site shown in dashed yellow line



The current DA has been approved and is generally consistent with the intent of the controls for the subject site, though the building footprint in the central portion of the

have been modified to present a more feasible development outcome, with higher amenity values for both commercial floorspace and residents.

Fairfield City Centre Urban Design Study

This study was prepared by Council between 2020 and 2022 with an ultimate purpose of revitalising the City Centre and applied to all sites less than 2,500 sqm. It is notable that the subject site is above 2,500 sqm but was included in this study and notated that it was unlikely to redevelop.

Amendments proposed in the endorsed including higher building heights and densities surrounding the subject site as shown in the figure below. This includes indicative envelopes for key sites, and also approved development applications. Importantly, the structure plan shows a (not endorsed) concept for a corner park adjacent to the subject site on its southern boundary which would provide substantial amenity benefits for the entire town centre if provided as it addresses a distinct lack of meeting and gathering places within the town centre. Council's website notes that regarding future open space:

Open space and connectivity opportunities will be considered as larger sites redevelop, in consultation with the land owners and as part of future site specific Development Control Plan controls

The city model below shows substantially taller buildings on:

- the corner of Alan Street and the Horsley Drive, noting that Alan street is the southern boundary
- Court Road, south of Alan Street
- the western side of Court Road, including the neighbouring site
- the northern neighbouring site

This is shown in Figures 9 and 10 below.

These changes both within future opportunity sites, more broadly across this part of the city centre, substantially change its character, particularly along Court Road and The Horsley Drive.

Figure 9: Council's vision for the Fairfield City Centre modelled (Fairfield City Council)

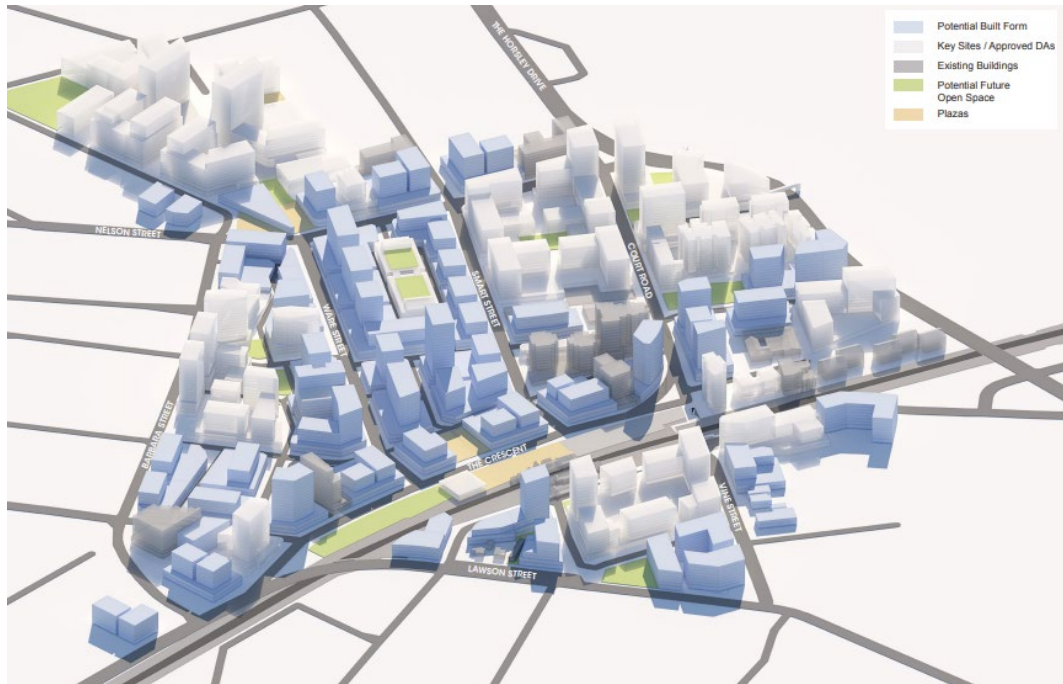
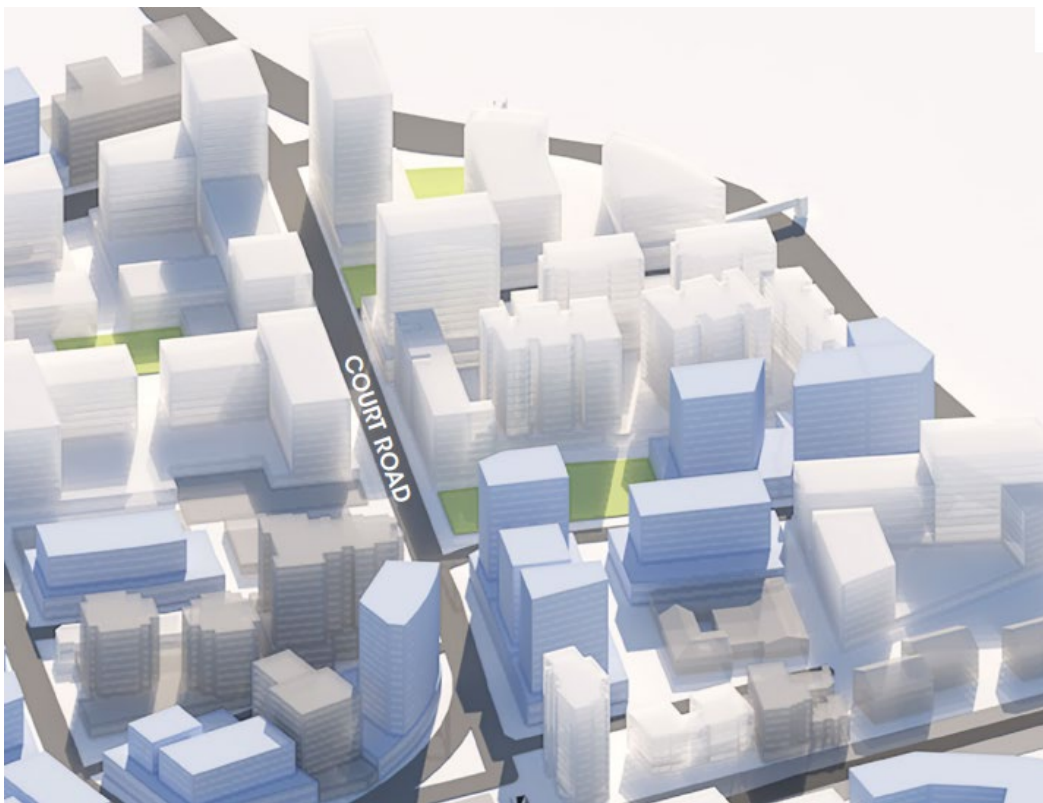


Figure 10: The subject site is inconsistent with the broader vision of the city model. This DA can provide a more consistent vision across the precinct and town centre. (Fairfield City Council)





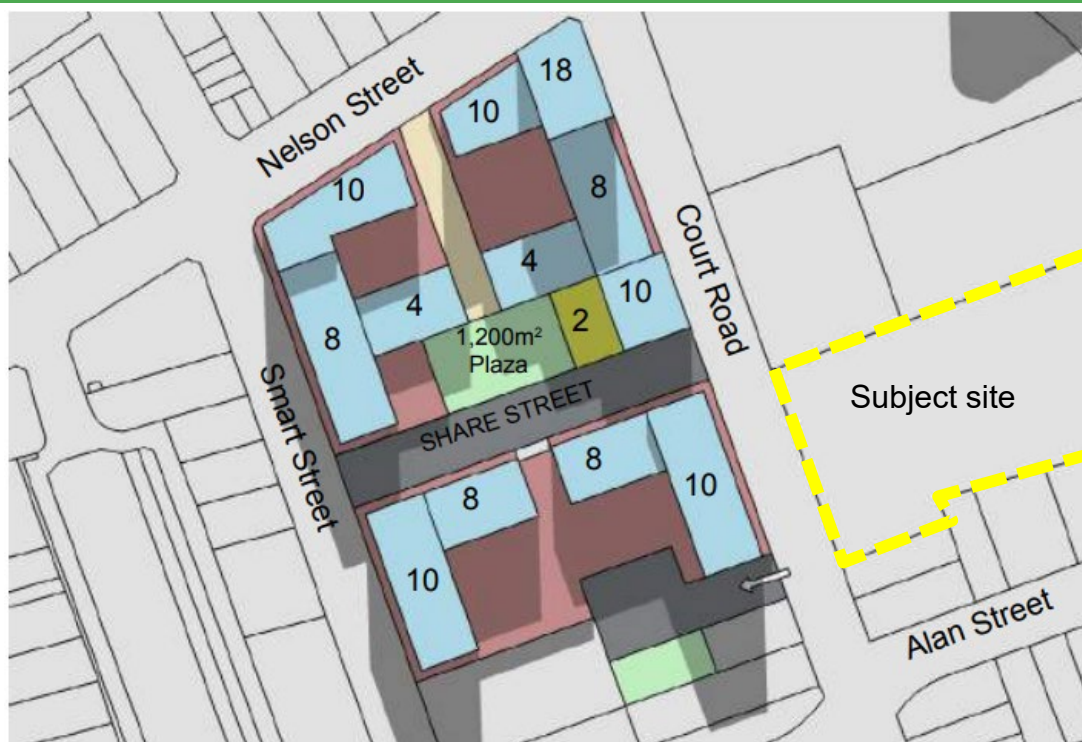
Fairfield City Centre Key Sites Urban Design Study 2018

This study sought to provide the framework for land owner initiated planning proposals for sites over 2,500 m². It did not include the subject site as it was anticipated at the time of preparation as unlikely to redevelop.

The study does advocate for a change in building form within the town centre that impacts how the city is read and experienced. In terms of building heights, this includes buildings of up to 22 storeys and a varied street frontage height in different areas of the city centre. The key change that this has made in the city centre and along Court Street is that the street frontages are now characterised by a mix of heights, rather than a consistent height. Furthermore, when 30% additional height is added to the subject site, it remains lower at 15 storeys than other nearby buildings.

Within the immediate vicinity of the subject site the Urban Design Study provides design guidelines for a future planning proposal on the 'Neeta City Site', which is shown in the figure below. Key design requirements in this precinct include a three storey podium with building heights ranging between 8 and 18 storeys along Court Road.

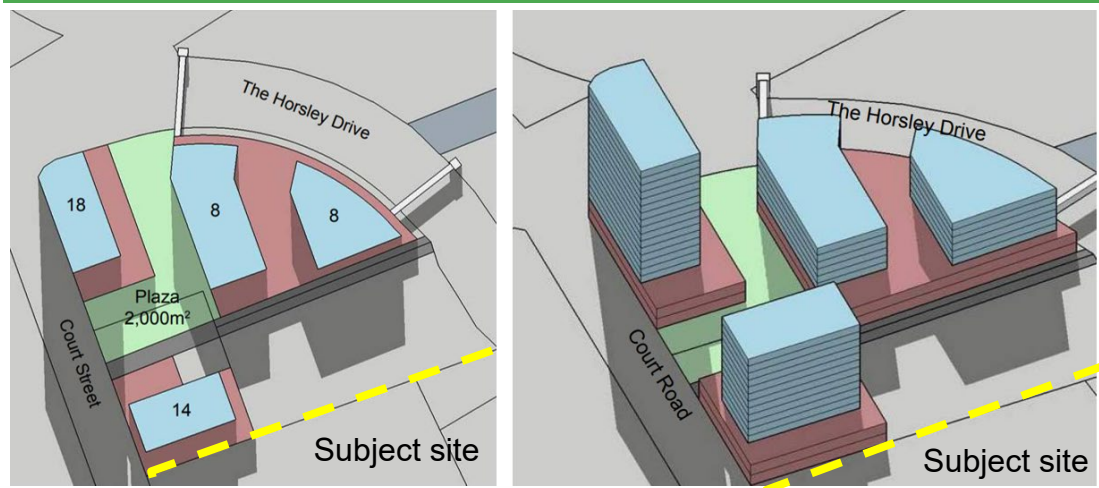
Figure 11: Neeta City Site Design Requirements with subject site shown in dashed yellow line (Fairfield City Council)





Likewise, the northern neighbouring site is also identified in the Key Sites Urban Design Study. It is described as the Aldi and McDonald's sites with an associated development opportunities plan. Within this plan, building heights along Court Street range between 14 and 18 storeys Development Opportunities Plan.

Figure 12: Aldi and McDonald's sites Design Requirements with subject site shown in dashed yellow line (Fairfield City Council)



The following matters are relevant to the subject site:

1. A Street wall of up to 3 storeys
2. Building heights ranging from 10 to 18 storeys on the Neeta City site, considerably above the subject site located to the west on the opposite side of the road
3. Building Heights ranging from 14 to 18 storeys on the neighbouring Aldi and McDonalds site.

Conclusion

This brief analysis has considered the contextual fit of the subject site considering its immediate context and existing and future character. Design considerations, including compliance with the ADG are addressed elsewhere in this Statement of Environmental Effects. The proposed Development will strengthen the sense of place in the Fairfield City Centre by providing a high quality built form outcome and exceptional presentation to the street. Critically the scale of the proposed additions development is comparable with recently approved developments, along with Council's urban design plans to revitalise the Fairfield City Centre.

In the above context of heights along street it is clear that Court Road currently has a varied rather than consistent character, which would be continued when adjacent and nearby sites develop. This will result in the subject site being an anomaly in what would

otherwise be a relatively consistent streetscape and skyline. Likewise, it is clear that if the subject site did not have a development approval (now commenced), then having a site area of above 2,500 sqm it may have benefited from Council's large sites urban design study, or at minimum, urban analysis within the most recent UDS that recommended controls to guide its future development in a manner consistent with this important area within the town centre.

However, as this analysis has established, an amending DA to provide in-fill affordable housing on the subject site provides an opportunity to create a more harmonious streetscape and skyline through increasing the height of buildings over the subject site. This would with reference to the subject proposal apply:

- a 10 storey building height along Court Road
- a 10 storey to 14 storey transition to the McDonalds and Aldi site. This providing a more subtle and proportional transition down from the 18 storey corner building.
- a 10 storey height is appropriate, retaining the varied pattern within the street block.
- A fifteen storey building height in the centre of the site, consistent with building heights anticipated by Council on nearby sites. Importantly, even applying the Housing SEPP height bonus for infill affordable housing, the building heights are less than the 18 storeys anticipated by council.

The table below provides detail on the development standards relevant to the current proposal.

Fairfield City Centre Development Control Plan 2013			
Clause	Controls	Comments	Complies
4. Land Use and Building Envelope Controls			
4.5	Periphery Precincts	<p>Land Use: No change from approved DA</p> <p>Minimum Landscaped Area: The landscape area represents 17% of the site area. It is acknowledged that this is less than the 20% within the DCP, however it is a result of removing rooftop landscaped areas. These landscaped areas were originally included in the approved DA to provide a softer outlook from adjacent dwellings, however in they were not in practice visible due to the need for screening walls. Furthermore, these rooftop areas were not accessible as communal open space and also</p>	<p>N/A</p> <p>Consistent with intent of landscape controls</p>

Clause	Controls	Comments	Complies
		<p>presented significant maintenance issues to inaccessibility, meaning that it is not feasible landscaping.</p> <p>Rather than provide landscaping of dubious value, the proposal seeks to provide solar photovoltaic panels on buildings C and D. This presents a significant sustainability benefit for the proposed development and a much better long term outcome in terms of lower building management costs in terms of energy efficiency and improved amenity through removal of unviable rooftop landscaping.</p> <p>All roofs also catch more water which can be recycled on the site.</p> <p>It is notable that no changes have been made to ground level landscaping, with this DA being totally consistent with the current modification DA being considered by Council.</p> <p>The slightly lower site landscaping through the removal of rooftop planting areas is therefore considered as appropriate and consistent with the overall intent of the landscape provisions in the DCP.</p> <p>Minimum Deep Soil Zone: No change from approved DA.</p> <p>Height: Complies with Housing SEPP 2021 and consistent with emerging character in the immediate vicinity, with particular reference to the neighbouring Neeta City site and Ald and McDonalds sites.</p> <p>Setback: No change from approved DA.</p> <p>Minimum Separation between facing buildings:</p> <p>The building separation distances within the approved DA are retained.</p> <p>From Level 7 on Building A to Level 10 the separation distance to Building B on site ranges from 12m to 15.965 m. Likewise between Building C and D, the internal separation is 9m and 12.4m. Whilst this does not meet the numerical guidance in the SEE,</p>	<p>N/A</p> <p>Yes, Housing SEPP 2021</p> <p>N/A</p> <p>Yes, complies with Housing SEPP 2021 (ADG)</p>

Clause	Controls	Comments	Complies
		<p>the design of the building, including placement of windows, circulation areas and non-habitable rooms means that the underlying objective of the ADG is achieved.</p> <p>Specifically with regard to:</p> <ul style="list-style-type: none"> - Block A and B: windows have been offset, along with the Building B angled with the separation distance increasing, window size has been carefully considered to facilitate solar access, but not outlook, and windows typically face non-habitable areas within apartments, along with common circulation areas and stairwells. - Block C and D: the non-habitable rooms, along with stairwells, lift cores and circulation areas. Along with the offsetting of and building articulation, adequate separation is achieved whilst maximising solar access. <p>In a recent decision, the Land and Environment Court in a recent determination (Construction Development Management Services Pty Ltd v City of Sydney (2023) NSWLEC1620) found that it is a performance based document that is focused on achieving the intent of the objectives, rather than strict numerical compliance.</p> <p>In this case, the Commissioner found that despite not achieving solar access guidelines of the ADG, the proposal did meet the relevant objective (4A-1) for solar access and was therefore compliant with the intent of the ADG.</p> <p>This principle is also relevant to this proposal where building separation distances are less than the Design Criteria of 3F. In this instance the objective is as follows:</p> <p><i>[3F-1] Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy</i></p> <p>Relevant Design Guidance Visual Privacy states the purpose of the Design Guidance is to:</p>	

Clause	Controls	Comments	Complies
		<p><i>Separation between windows and balconies is provided to ensure visual privacy is achieved</i></p> <p>Relevant Design Guidance includes using the site layout and building orientation to minimise visual privacy impacts, with reduced separation distances advocated when a non-habitable room faces a habitable rooms,</p> <p>As has been highlighted, the proposal clearly has been designed to provide exceptional levels of external and internal visual privacy. This has been achieved through a number of mechanisms including:</p> <ul style="list-style-type: none"> - Vertical, movable louvers to the north and south on building B and C - On Block A and B: windows have been offset, along with the Building B angled with the separation distance increasing, window size has been carefully considered to facilitate solar access, but not outlook, and windows typically face non-habitable areas within apartments, along with common circulation areas and stairwells. - On Block C and D: the non-habitable rooms, along with stairwells, lift cores and circulation areas. Along with the offsetting of and building articulation, adequate separation is achieved whilst maximising solar access <p>In applying the above performance based solutions, the proposal clearly achieves the intent of 3F with visual privacy achieved.</p> <p>Depth: Consistent with existing approved envelope and ADG. Therefore the continued variation from the DCP guidance is appropriate.</p> <p>Floor to ceiling heights: Complies</p> <p>Heritage: N/A</p>	<p>Complies with Housing SEPP 2021 (ADG)</p> <p>Yes</p> <p>N/A</p>
4.5.2	Periphery – Court road Sub-Precinct	The footprint of the subject site has been established in the approval of DA687.1/2014 (as amended). This proposal is consistent with that footprint, making modification only to	Yes

Clause	Controls	Comments	Complies
		the height and FSR as permitted by the Housing SEPP 2021 for in-fill affordable housing.	
		Complies with Housing SEPP 2021 and consistent with emerging character in the immediate vicinity, with particular reference to the neighbouring Neeta City site and Ald and McDonalds sites. Refer to earlier discussion preceding this DCP on the emerging character of this precinct with reference to the aforementioned sites.	
5.0 Design Controls			
5.1	Private Open Space	<p>(a) Complies with ADG requirements for private open spaces. Balcony sizes achieve required minimum dimensions and area.</p> <p>(b) Noted.</p> <p>(c) Balcony depths comply with minimum depth requirements.</p> <p>(d) Balconies are recessed and partially enclosed where impacted by noise sources</p> <p>(e) Balconies have been designed and oriented to take advantage of views, solar access and to minimise overlooking of adjoining dwellings within the subject site. Furthermore, balconies are oriented to the sites dual frontages to maximise opportunities for passive surveillance.</p> <p>(f) Where appropriate, screened drying cupboard area is to be provided as part of the balcony. It is also noted that balconies, especially balconies fronting the sites dual frontages are designed a mix of materials.</p> <p>(g) Appropriate mechanism to reduce noise impacts from the Horsley Drive are included and are consistent with the approved DA.</p> <p>(h) Provided on balconies and can be included as a condition of consent.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
5.1.2	Communal Open Space	<p>(a) 58% of the site area is provided as communal open space.</p> <p>(b) Provided in approved DA</p> <p>(c) Provided in approved DA</p> <p>(d) Noted and addressed in original DA</p> <p>(e) Noted and addressed in original DA</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>

Clause	Controls	Comments	Complies
5.1.3	Landscape Design	Addressed in Parent DA, with no changes other than removal of roof top areas proposed under this DA.	N/A
5.1.4	Fences and wall	N/A	N/A
5.2. Site access, parking and servicing			
5.2.1	Access for all	Access remains consistent with the approved DA, relevant Australian Standards and the NCC. There is no change to the access to the site at ground level, or to lift cores, or to the car parking areas or commercial suites as part of this DA.	Yes
5.2.2	Pedestrian Links and Arcades	Not relevant	N/A
5.2.3	Bicycle Facilities	## spaces are provided.	Yes
5.2.4	Street Network and vehicular access	No change from approved DA	N/A
5.2.5	On site parking	<p>No change to commercial parking spaces.</p> <p>Car parking is provided in accordance with:</p> <ul style="list-style-type: none"> the RMS guideline as permitted by Chapter 4 of the Housing SEPP 2021 (non-affordable housing component) the rates within Chapter 2 of the Housing SEPP for affordable in-fill housing. <p>Refer to discussion under Chapter 2 of the Housing SEPP 2021 for additional details and the attached traffic report.</p>	Yes
5.2.6	Site Servicing	<p>No change from approved parent DA.</p> <p>Waste can be accommodated within the existing areas without need for any amendments to waste storage areas.</p>	N/A
5.3	Environmental Management		
5.3.1	Solar Access, Overshadowing and Natural Daylight	The proposal has been designed to reduce the potential for overshadowing of neighbouring properties. It is considered that appropriate solar access is to be provided on site and for neighbouring properties to the south and this is supported by shadow diagrams. The proposal does not prejudice future redevelopment of any surrounding properties from achieving appropriate solar access	Yes

		As discussed earlier, the proposal complies with ADG requirements for solar access and cross ventilation.	
5.3.2	Energy Conservation	The proposed development incorporates design elements to increase energy efficiency and reduce the consumption of natural resources. A complying BASIX Report is attached as part of this application. See BASIX Report for detail.	Yes
5.3.3	Water Conservation	A complying BASIX Report is attached as part of this application. See BASIX Report for detail.	Yes
5.3.4	Natural Ventilation	Complies – 62.25	Yes
5.3.5	Stormwater Management	A Stormwater Management Plan has been prepared and is attached as part of this application. The proposed development incorporates Water Sensitive Urban Design (WSUD) principles that seek to minimise and manage the impact of stormwater on site and within the area. The proposed development appropriately addresses the unique characteristics of the site and will allow for the efficient management of stormwater. The proposal incorporates appropriate landscaping and deep soil zones within a commercial context that will permit stormwater penetration and will reduce runoff and the impact of stormwater on site and in the area. It is noted that the existing approval appropriately addresses the flood risk of the site with no further assessment required in this Development Application.	Yes
5.3.6	Material Selection	All materials are appropriate and have been selected to increase energy efficiency and reduce the consumption of natural resources.	Yes
5.3.7	Visual Amenity	Previously addressed. See discussion on building separation within ADG summary table and DCP summary table above. Acoustic and Vibration Amenity Appropriate noise attenuation measures have been incorporated into the proposed development as per the recommendations of the Acoustic Report submitted with the parent DA.	Yes

5.3.8	Waste Management	The proposal amends the waste storage room to include additional bins associated with the proposed additional infill affordable housing units.	Yes
5.4	Building Design		
5.4.1	Architectural Character	<p>A design verification statement is included. The proposal represents an attractive and well-designed series of buildings with heights that are comparable to those within the immediate and broader context of the Fairfield City Centre.</p> <p>Refer to attached Design Verification Statement, noting that this relates to the additions only.</p>	Yes
5.4.2	Awnings	Addressed in parent DA	N/A
5.4.3	Active Street Frontages	Addressed in parent DA	N/A
5.4.4	Entrances	Addressed in parent DA	N/A
5.4.5	Materials and Finishes	<p>The development represents a modern mixed use building that addresses its two frontages with facades that are well articulated with a mixture of vertical and horizontal features including windows, projecting and receding walls and balconies, planter boxes and louvers. The external finishes adopt a variety of paint, rendered and textured/patterned concrete, brick and rail balustrades and timber panels.</p> <p>The proposed balconies represent an extension of internal living areas and the development provides an interface with the public domain in a visually prominent location. Materials and finishes used are consistent with that existing in the area while being contemporary in character.</p> <p>The range of materials significantly contributes to the articulation of the building and reducing the overall bulk and mass of the building. See attached plans for detail.</p>	Yes
5.4.6	Residential Unit Mix, Area and Room Size	<p>The apartment mix corresponds with the approved unit mix on the subject site. Under the parent DA, the following percentage mix is provided:</p> <ul style="list-style-type: none"> - Studio/ 1 bedroom: 100 (35%) - 2 bedroom: 152 (52%) - 3 bedroom: 37 (13%) <p>The proposed apartment mix is:</p> <ul style="list-style-type: none"> - Studio/ 1 bedroom: 118 (31%) 	Variation, consistent with parent DA and market demand

		<ul style="list-style-type: none"> - 2 bedroom: 217 (57%) - 3 bedroom: 46 (12%) <p>The proposal will provide a variety of unit sizes and types to provide a diversity of choice and pricing points to increase affordability as well as the sustainable local housing stock within Fairfield Town Centre.</p> <p>40 Liveable units, inclusive of 38 adaptable units are provided, representing a total of 10% of the housing and therefore is consistent with the DCP.</p>	Yes
5.4.7	Storage	The proposal complies with minimum storage volumes of the ADG. Refer to attached plans.	Yes
5.4.8	Safety and Security	Addressed in parent DA, with this proposal not making any substantive changes at ground level, other than the waste storage room.	Yes
5.4.9	Signage	Addressed in parent DA and not relevant to this proposal	N/A
6 Public Domain Issues			
6.1	Public Art	Not relevant to this proposal	N/A
6.2	Outdoor Dining	Not relevant to this proposal	N/A
6.3	Public Footways	Not relevant to this proposal	N/A

CONCLUSION

It is concluded that following a review of the relevant planning controls, the proposed development is consistent with the objectives, planning strategies and detailed controls of these planning documents.

Consideration has been given to the potential environmental and amenity impacts that are relevant to the proposed development and this report addresses these impacts.

Having regard to the benefits of the proposal and considering the absence of adverse environmental, social or economic impacts, the application is submitted to Council for assessment and granting of development consent. Think Planners Pty Ltd recommends the approval of the application, subject to necessary, relevant and appropriate conditions of consent.