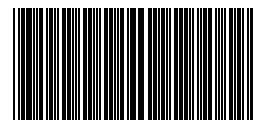




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Statement of Facts and Contentions

COURT DETAILS

Court	Land and Environment Court of NSW
Division	Class 1
Registry	Land and Environment Court Sydney
Case number	2025/00124573

TITLE OF PROCEEDINGS

First Applicant	ABA SQUARE PTY LTD ABN 34656168428
First Respondent	FAIRFIELD CITY COUNCIL ABN 83140439239

FILING DETAILS

Filed for	FAIRFIELD CITY COUNCIL, Respondent 1
Legal representative	Adam Joseph Seton
Legal representative reference	
Telephone	02 4626 5077

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Statement of Facts and Contentions (Statement of Facts and Contentions signed 200525(19072574.1).pdf)

[attach.]

Form A (version 1)

STATEMENT OF FACTS AND CONTENTIONS**COURT DETAILS**

Court	Land and Environment Court of New South Wales
Class	1
Case number	2025/124573

TITLE OF PROCEEDINGS

Applicant	ABA SQUARE PTY LTD
Respondent	FAIRFIELD CITY COUNCIL

FILING DETAILS

Filed for	Fairfield City Council , respondent
Legal representative	Adam Joseph Seton Marsdens Law Group
Legal representative reference	PCN: 21609 Ref: PDH:LEG:470323
Contact name and telephone	Peta Danielle Hudson Tel. (02) 4626 5077
Contact email	phudson@marsdens.net.au

PART A: FACTS**THE PROPOSAL**

- Development Application No. DA 25.1/2025 seeks consent for demolition of existing structures and construction of an 11 storey shop top housing development comprising two towers over a single podium, 255 car parking spaces within three levels of basement parking, ground floor uses including 12 retail premises, 1 café and 1 kiosk with total commercial floor area of 1,792.4sqm; 148 apartments on Levels 1-11, and ancillary works such as tree removal, landscaping, consolidation of lots and dedication of land to the Respondent on the land at 896-898 Woodville Road and 15 Hilwa Street, Villawood.

- Specifically, the development application proposes the following:

Commercial/retail

- 12 x retail premises and 1 x kiosk with 1,615.10sqm of floor space
- 1 x café with floor area of 177.30sqm
- 4 storage rooms for the retail tenancies are provided within the basement

- (d) The application seeks approval for the use of the building as a mix of retail premises and food shops operating between 7am to 10pm, 7 days per week however no further usage or operational details are provided.

Residential units

- (e) 148 residential units designated as follows:
- i. 27 x infill affordable units (these are on Levels 4, 5 and 6 of Building B and include Units 401B, 402B, 403B, 404B, 405B, 406B, 407B, 408B, 409B, 410B, 501B, 502B, 503B, 504B, 505B, 506B, 507B, 508B, 509B, 510B, 602B, 604B, 605B, 606B, 607B, 608B, 609B), and
 - ii. 121 x other units.
- (f) The unit mix is designated as follows:
- i. 26 x 1-bedroom units,
 - ii. 97 x 2-bedroom units,
 - iii. 25 x 3-bedroom units.

Vehicular access and Servicing

- (g) Vehicular access from Howatt Street is limited to retail access and heavy vehicles including access to the loading dock and waste storage areas.
- (h) Vehicular access from Hilwa Street is limited to residential access and for light vehicles only.
- (i) Dedicated service and loading area in Basement 1 proposed to accommodate a 12.5m Heavy Rigid Vehicle (HRV).
- (j) Waste storage and collection areas for retail and residential are primarily located in Basement 1.
- (k) Having regard to the adjoining site at 896A Woodville Road consisting of the existing service station, the plans have proposed a breakthrough wall at Basement 1 to facilitate access to future Basement 1 of the adjoining property and to reduce the need for multiple access points or isolating the site.

Parking

- (l) A total of 255 car parking spaces over 3 basement levels (including an additional mezzanine basement level) designated as follows:
- (i) 60 retail spaces including with 2 accessible spaces (12 retail spaces are stacked)

- (ii) 159 residential car parking spaces including 14 accessible spaces
- (iii) 36 visitor parking spaces including 1 accessible visitor space

Parking is distributed as follows:

- a. Basement 1 contains 36 retail customer spaces including 2 accessible spaces; and 4 retail staff spaces which are stacked.
- b. Basement 1 Mezzanine contains 12 retail customer spaces and 9 staff spaces, 8 of which are stacked.
- c. Basement 2 contains 59 residential spaces including 7 accessible residential spaces; and 36 visitor spaces including 1 accessible visitor space.
- d. Basement 3 contains 100 residential parking spaces including 7 accessible residential spaces.
- (m) 2 motorcycle spaces
- (n) 11 bicycle spaces
- (o) 1 residential car wash bay.

Landscaping and Communal Open Space

- (p) The site contains 21 trees of which 20 are proposed for removal and replacement; and 1 tree identified as T1, a Spotted Gum (*Corymbia maculata*) located at the northern corner and suitable for retention and protection.
- (q) Landscaping, paving and bench seating to the civic plaza and pedestrian walkways along retail frontage to future park.
- (r) Communal open spaces (COS) on the podium/Level 1 with an area of 1,436.9sqm and COS on the Level 10 roof with an area of 248.3sqm including landscaping, seating, play area and barbeque facilities.

Dedication of Land and Voluntary Planning Agreement

- (s) An Offer of Voluntary Planning Agreement (VPA) has been submitted with the application on behalf of the landowner which includes dedication of land partly zoned E1 Local Centre and RE1 Public Recreation pursuant to Fairfield Local Environmental Plan 2013 ("**FLEP 2013**") along the Howatt Street frontage, and the undertaking of works in kind to facilitate the extension of Hilwa Park to become the civic plaza (thereby with the intention of increasing the public domain and infrastructure in the locality). The VPA seeks to offset any developer contributions that might be payable, and a balance of value paid to the land owner prior to dedication of the land.

THE SITE

3. The site is known as 896-898 Woodville Road and 15 Hilwa Street, Villawood, and is legally described as Lot 100 DP 1070965, Lot 3 DP 208677, Lot 1 DP 217764 and Lot 13 DP 220348.
4. The site is irregular in shape and has a total combined area of 4,412.7m². The site has northern frontage to Howatt Street of 59.4m, eastern frontage to Woodville Road of 46.36m and western frontage to Hilwa Street of 14.8m. All frontages have pedestrian access and Howatt and Hilwa Street's also have vehicular access.
5. The site is burdened by an easement to drain water 1.829m wide.
6. The site has a slope to the north and east of the site by approximately 2m.
7. The site is presently occupied by a single storey commercial building formerly occupied by Gospel Pianos and 2 single storey detached dwellings.
8. An aerial photograph with the subject site outlined in red is provided below at Figure 1.
9. Part of the site is affected by low risk overland flooding as shown in Figure 2.
10. The site is mapped under the Bankstown Airport Obstacle Limitation Surfaces (OLS) 50-60m above AHD.



Figure 1: Aerial photograph of site and surrounds (Source: NSW Planning Portal SDT Explorer).



Figure 2: Low-risk overland flooding affecting 896 Woodville Road, Villawood (Source: Council mapping).

THE LOCALITY

11. The site is located within the Villawood Town Centre and approximately 275m walking distance from the Villawood Railway Station and 100 metres from bus services along Woodville Road.
12. The site and its surrounds are predominately located within Zone E1 Local Centre in the FLEP 2013. A small portion of the site is located within Zone RE1 Public Recreation. An extract from the Land Zoning Map referred to in clause 2.2 of FLEP 2013 with the site outlined in blue is provided at Figure 3:

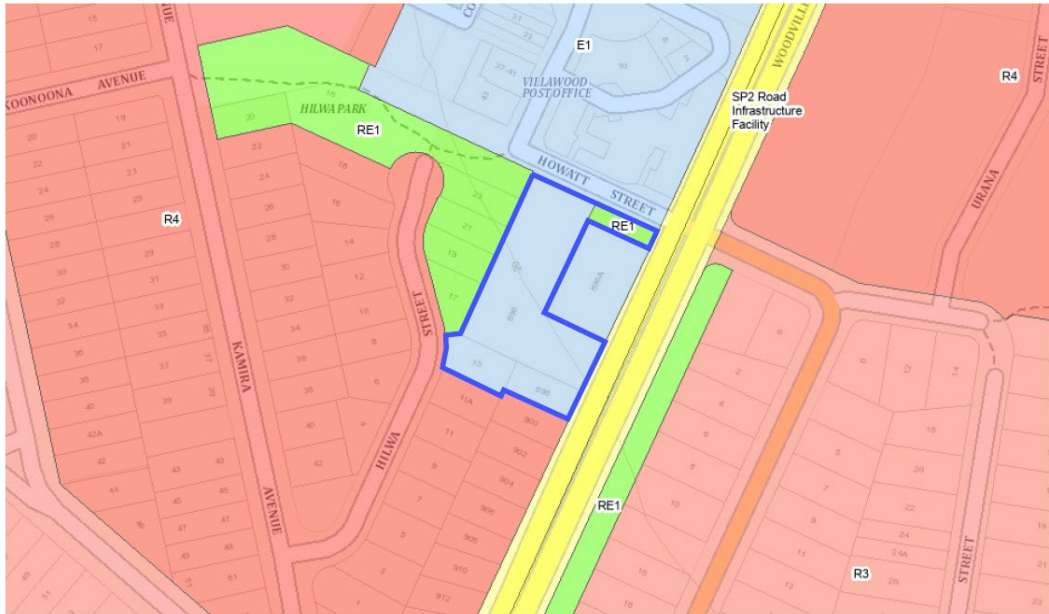


Figure 3: Land Zoning Map (Source: NSW Planning Portal Spatial Viewer).

13. The surrounding land to the east, south and west predominately comprises R4 High Density Residential Zoning and R3 Medium Density Residential Zoning pursuant to FLEP 2013. These zones are presently characterised by 1 to 2 storey residential dwelling houses of predominately traditional styles.
14. The site adjoins Hilwa Park within Zone RE1 Public Recreation pursuant to FLEP, located to the west.
15. On the opposite side of Woodville Road (to the east), is land within the Canterbury-Bankstown LGA including a further strip of land Zoned RE1 Public Recreation as identified at Figure 3.
16. The site adjoins 896A Woodville Road (to the east), which is presently occupied by Apex Petroleum.
17. To the north of the site, the land is Zoned E1 Local Centre pursuant to FLEP 2013 and presently comprises the Villawood Town Centre. The neighbouring development to the north of the site within Zone E1 comprises a shop top housing development.
18. The site adjoins Woodville Road to the east, a classified road that is zoned SP2 Infrastructure pursuant to FLEP 2013 as identified at Figure 3.

THE STATUTORY CONTROLS

19. Environmental Planning and Assessment Act 1979 ("EP&A Act").
20. Environmental Planning and Assessment Regulation 2021 ("EP&A Regulation").

21. NSW Roads Act 1993, Section 138
22. State Environmental Planning Policy (Resilience and Hazards) 2021 (“SEPP R&H”).
 - (a) Chapter 4: Remediation of land.
23. State Environmental Planning Policy (Biodiversity and Conservation) 2021 (“SEPP B&C”).
 - (a) Chapter 2: Vegetation in non-rural areas.
 - (b) Chapter 6: Water catchments.
 - (i) The site is located within the Georges River Catchment which is a regulated catchment for the purposes of Chapter 6 of SEPP B&C.
24. State Environmental Planning Policy (Housing) 2021 (“SEPP Housing”).
 - (a) Chapter 2: Affordable Housing
 - (i) Part 1: Preliminary
 - (ii) Part 2: Development for affordable housing
 - i. Division 1 In-fill affordable housing
 - (b) Chapter 4: Design of residential apartment development
 - (i) Apartment Design Guide (“ADG”)
 - (ii) Schedule 9: Design principles for residential apartment development.
25. State Environmental Planning Policy (Transport and Infrastructure) 2021 (“SEPP T&I”).
 - (a) Chapter 2: Infrastructure, Part 2.3: Development controls.
 - (i) Division 5 Electricity transmission or distribution
 - (ii) Section 2.48: Determination of development applications— other development.
 - (iii) Division 17: Roads and Traffic.
 - (iv) Section 2.119: Development with frontage to classified road.
 - (v) Section 2.120: Impact of road noise or vibration on non-road development.
 - (vi) Section 2.122: Traffic-generating development.
 - (vii) Schedule 3: Traffic-generating development to be referred to TfNSW – Chapter 2.
26. State Environmental Planning Policy (Sustainable Buildings) 2022.

27. State Environmental Planning Policy (Planning Systems) 2021 (SEPP Planning Systems).

- (a) Chapter 2: State and regional development
- (b) Schedule 1: State significant development
 - a. The development is not State significant development as the part of the development that is residential has an estimated development cost of \$65,146,673 (excluding GST) and is less than the threshold in section 26A of Schedule 1.
- (c) Schedule 6: Regionally significant development
 - a. The estimated development cost of the whole development is \$73,560,513 (excluding GST). The estimated cost exceeds the thresholds in sections 2, 3 and 5 of Schedule 6 pertaining to general development over \$30 million, Council related development over \$5 million and private infrastructure and community facilities over \$5 million. The Sydney Western City Planning Panel (“SWCPP”) are therefore the consent authority in relation to the development application.

28. Fairfield Local Environmental Plan 2013 (“FLEP 2013”).

- (a) The site is predominately situated within Zone E1 Local Centre and partially within Zone RE1 Public Recreation pursuant to Clause 2.2 Shop top housing and commercial premises are permissible with consent within Zone E1 Local Centre but not Zone RE1 Public Recreation.
- (b) The portion of the land Zoned RE1 Public Recreation is to be dedicated to the Respondent and contain a civic plaza and pathways. The works have not been characterised in the application. A ‘recreation area’ as defined in FLEP 2013 is permissible with consent in Zone RE1 Public Recreation.
- (c) The objective of Zone E1 Local Centre are as follows:

“1 Objectives of zone

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*

- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To ensure local centres are not dominated by one type of development and have ongoing capacity to provide a mix of retail, business and community uses."*

(d) The objective of Zone RE1 Public Recreation are as follows:

"1 Objectives of zone

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes."*

- (e) The section of the site Zoned RE1 is subject to land reservation acquisition pursuant to the Land Reservation Acquisition Map in Clause 5.1 with the Respondent identified as the authority to acquire the land for public recreation and open space.
- (f) The site is within the Villawood Town Centre Precinct Map. Clause 7.8 states that the height of a building on land identified as "Villawood" must not exceed 9m unless the site area of the building is at least the minimum site area shown on the Minimum Site Area Map which for this site requires 4,000sqm. The site meets the minimum site area requirement.
- (g) Given that the site meets the minimum site area requirement, the site is subject to a maximum height of buildings of 27m pursuant to the Height of Buildings Map referred to in Clause 4.3; with the exception of the RE1 zoned part of the land.
- (h) The site is not subject to a maximum floor space ratio (FSR) pursuant to the Floor Space Ratio Map referred to in Clause 4.4.
- (i) The site is not subject to a minimum lot size pursuant to the Lot Size Map referred to in Clause 4.1 of FLEP 2013.
- (j) The site is identified on the Active Street Frontages Map referred to in Clause 6.10 and as illustrated in Figure 4, along Howatt Street. Clause 6.11 applies to the site and requires that all premises on the ground floor of the building facing the street

be used only for the purpose of business premises, medical centres or retail premises.

- (k) The land is identified as “Area G” on the Land Zoning Map under FLEP 2013, except for the part of the site within zone RE1. As the land is in Area G, Clause 6.12 (Design excellence) of FLEP 2013 applies to the proposed development.
- (l) The site is identified by FLEP 2013 as Key Site 31 and is subject to additional permitted uses pursuant to the Key Sites Map referred to in Clause 29, Schedule 1.
- (m) Additional provisions of FLEP 2013 that are relevant to the proposed development include:
 - a. Clause 4.5: Calculation of floor space ratio and site area;
 - b. Clause 4.6: Exception to development standards;
 - c. Clause 5.21: Flood planning;
 - d. Clause 5.22: Special flood considerations;
 - e. Clause 6.2: Earthworks;
 - f. Clause 6.9: Essential services; and
 - g. Clause 7.1: Objectives of Part.



Figure 4: Active Street Frontage map affecting the northern frontage of the site.

29. Fairfield CityWide Development Control Plan 2024 (“FDCP 2024”).

- (a) Chapter 1: Introduction
 - (b) Chapter 2: Development Application Process
 - (c) Chapter 3A: Environmental Management and Constraints
 - (d) Chapter 7: Residential Flat Buildings and Shop Top Housing
 - (e) Chapter 11: Flood Risk Management
 - (f) Chapter 12: Car Parking, Vehicle and Access Management
 - (g) Appendix F: Landscape Planning.
30. Villawood Town Centre Development Control Plan 2020 ("VT DCP 2020").
- (a) Section 3: Design Elements
 - (b) Section 4: Development Controls
 - (c) Section 5: General Provisions.
31. Fairfield City Council Stormwater Management Policy, September 2017.

ACTIONS OF THE RESPONDENT

32. On 27 August 2024, a Planning Proposal was gazetted resulting in the amendment to FLEP 2013 minimum site areas map, to enable the subject development site to be developed independently of the adjoining service station at 896A Woodville Road.
33. On 22 January 2025, the development application was lodged with the Respondent.
34. The development application was notified by the Respondent from 7 February 2025 to 21 February 2025. No submissions were received.
35. On 6 February 2025 the Respondent referred the application to the Fairfield Police however no submission was received.
36. On 12 February 2025, the Respondent received correspondence from Transport for NSW ("TfNSW") providing concurrence in relation to the development application subject to conditions.
37. On 26 March 2025, the Respondent received correspondence from Endeavour Energy which supports the proposal and provides comments for Council to further review. Endeavours comments have been considered but are not considered to raise any further issues that require investigation.
38. On 1 April 2025 the Applicant commenced proceedings in Class 1 of the Land and Environment Court's jurisdiction appealing against the Respondent's deemed refusal of the development application.

39. The Respondent has referred the application to Airservices Australia (ASA) and the Civil Aviation Safety Authority (CASA) for comments as the site is mapped under the Bankstown Airport Obstacle Limitation Surfaces (OLS) 50-60m above AHD.
40. The development application has not yet been determined by the SWCPP.

PART B: CONTENTIONS

Protection of Air Space

1. The development application must be refused because it has not been demonstrated that the height of the proposed buildings and associated construction impacts would not unreasonably impact the air space of the Bankstown Airport.

Particulars

- (a) The site is mapped under the Bankstown Airport Obstacle Limitation Surfaces (OLS) map as being in the 50 or 60m above AHD area. The proposed height of the building has the potential to impact the air space. The Respondent has referred the application to Airservices Australia (ASA) and the Civil Aviation Safety Authority (CASA) for comments. Any requirements identified by these agencies will need to be addressed by the applicant before the application can be determined.
- (b) Clause 5.10 of the VTC DCP states:

5.10 Protection of Air Space

Villawood Town Centre Development Control Plan 2020

The Villawood Town Centre is in close proximity to Bankstown Airport. Under the Protection of Airspace regulations, development applications that propose buildings or cranes which will penetrate this air space require a full aviation assessment to be carried out.

- (c) An aviation assessment has not been submitted with the application.

Building Height

2. The development application should be refused because the proposed height is excessive and does not comply with the requirements of section 18 of SEPP (Housing) 2021. The Court standing in the shoes of the consent authority would not be satisfied that:
 - a. compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - b. there are sufficient environmental planning grounds to justify the contravention of the development standard.

Particulars

- (a) For the purpose of determining the number and percentage of the affordable rental housing units, an updated gross floor area (GFA) calculation is required. The FSA Diagrams and Schedule of Areas do not appear to have included the retail storage spaces that are located in the basements, as GFA.
- (b) The application proposes 15% of the total residential and retail GFA 15,316.20sqm to be for the affordable housing component. This requires a minimum 2,297.4sqm of the total GFA to be provided as the affordable housing component. The proposed provision of affordable housing (identified on the plans) equates to 2,313.9sqm or 15.1% of the development and meets the requirement of the SEPP. However, this figure must be confirmed once updated GFA calculations are provided including the basement retail storage in GFA calculations.
- (c) Addressing the above particulars may result in the need to increase the number of affordable units in order to maintain the 15% requirement of the SEPP and to benefit from the bonus 30% height provision being sought under Clause 18 of the SEPP.
- (d) Subject to demonstrating that a minimum 15% affordable housing will be provided, Clause 18 of SEPP Housing permits a 30% height bonus on top of the maximum 27m height allowed in Clause 4.3 of FLEP 2013. Together the FLEP 2013 and SEPP Housing would allow a maximum height of 35.1m. The maximum height of the proposed building is 36.2m equivalent to a 3% variation to the maximum combined height allowed under the FLEP 2013 and SEPP Housing.
- (e) A written request has been submitted pursuant to clause 4.6 of FLEP 2013 in relation to the contravention of the height of building development standard in Clause 18 of SEPP Housing and Clause 4.3 of FLEP 2013. The request indicates that the breach relates solely to lift overruns and does not involve floor area.

- (f) Having regard to the contentions raised, the Court standing in the shoes of the consent authority would not be satisfied that the application has demonstrated that compliance with the development standard for height is unreasonable or unnecessary in the circumstances, nor that the application has demonstrated that there are sufficient environmental planning grounds to justify the contravention of the development standard, as required by Clause 4.6 of FLEP 2013. The development application should be refused.

Landscaped Area

3. The development application should be refused because the proposed landscaped area is insufficient and unacceptable.

Particulars

- (a) Section 19(2)(b) of SEPP Housing provides the following non-discretionary development standard:

“(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—

...

(b) a minimum landscaped area that is the lesser of—

- (i) 35m² per dwelling, or*
- (ii) 30% of the site area,...*”

- (b) Landscaped area is defined in the dictionary to SEPP Housing as follows:

*“**landscaped area** means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area.”*

- (c) The proposed development provides a total of 2,051.5sqm landscaping across the ground floor, podium level and level 10 roof. However, landscaping on the podium level and roof do not qualify as “landscaped area” as defined in the Housing SEPP.
- (d) The non-discretionary development standard in section 19(2)(b) of SEPP Housing requires a minimum of 30% of the site area, this being the lesser requirement. 30% of 4,412.7sqm site area, equates to 1,323.81sqm requirement. Only 211.6sqm of landscaped area is provided at the ground level, equal to 4.80% of the site area, resulting in a breach of this standard.

- (e) A written request has been submitted pursuant Clause 4.6 of FLEP 2013 in relation to the contravention of the landscaped area development standard in Section 19(2)(b) of SEPP Housing. The request indicates that the breach arises as a result of the development being for shop top housing within a high density town centre location and utilising the ground floor for commercial development.
- (f) Whilst the site is in the town centre, the southern neighbouring properties fall outside the town centre and are zoned R4 High Density Residential and there is a need for careful consideration of the landscaping and setbacks of the development to the southern boundaries; and extent of landscaping in general. There are opportunities for increased landscaping to be explored across the site before further consideration can be given to the proposed variation.
- (g) Having regard to the contentions raised, the consent authority would not be satisfied that the application has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances; nor that the application has demonstrated that there are sufficient environmental planning grounds to justify the contravention of the non-discretionary development standard, as required by Clause 4.6(3).

Internal Areas

- 4. The development application should be refused because it has not been demonstrated that the proposed apartments have acceptable internal area.

Particulars

- (a) Section 19(2)(g) of SEPP Housing sets out the following non-discretionary development standard:

“(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—

...

- (g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,*

...”

- (b) Part 4D of the ADG specifies requirements in relation to the minimum areas and dimensions of apartments. It has not been demonstrated that the proposed development complies with the minimum requirements of Part 4D of the ADG. The applicant should provide a comprehensive list of internal areas for the proposed

apartments and any non-compliances, thus addressing the non-discretionary standard.

- (c) No written request has been submitted pursuant to clause 4.6 of FLEP 2013 in relation to the contravention of the non-discretionary development standard in Section 19(2)(g) of SEPP Housing relating to non-compliances with minimum internal areas as specified in the ADG. In this regard, there has been no justification given for the non-compliance with the non-discretionary development standard and the Respondent contends that the minimum internal areas for the residential development are not acceptable. The proposal should be refused.

Non-Compliances with Villawood Town Centre DCP 2020

- 5. The development application should be refused because the proposed development does not comply with the objectives and controls in the VTC DCP.

Particulars

- (a) **Building Height** – The site is subject to the height controls in Section 4.2.2 (2) and Figure 4 of the VTC DCP which includes height controls. Figure 4 identifies a maximum of 8 storeys permitted for the site. The proposal seeks 11-storey buildings.
- (b) **Building Setbacks**: Further detail regarding the requirements for building setbacks are provided under Contentions 6, 7 and 8 and must be addressed.
- (c) **Building Setbacks – Basement Setback to Western Boundary**: Basement 1 Floor Plan and B1 Mezzanine Floor Plan does not include dimensions to demonstrate that the setback of the basement to the western boundary (Hilwa Park) will achieve 1m minimum to comply with Section 4.6.2 (2a) of the VTC DCP.
- (d) **Building Setbacks – Basement Setback to Southern Boundary**: Basement 1, 2 and 3 Floor Plan and B1 Mezzanine Floor Plan does not include dimensions to demonstrate that the setback of the basement to the southern boundary will achieve 3m minimum at the most irregular point of the boundary, to comply with Section 4.6.2 (2b) of the VTC DCP. The plans suggest the setback is less than 3m at this point. Basement 1 Mezzanine Floor Plan does not provide any dimensions to the southern boundary.
- (e) **Active Frontages to Howatt Street, Hilwa Park and Woodville Road** – The proposal does not achieve a minimum 75% of active frontage in the form of commercial, retail, or other non-residential uses at the ground floor frontage of the development adjacent to Hilwa Park. Approximately 35% of the frontage to Hilwa Park and

approximately 14.25% of the frontage to Woodville Road appears to be for active uses. The Howatt Street frontage of the site also does not provide a sufficient active frontage with only approximately 10m of the 26m frontage having an active frontage. The following are not included as active frontages: entrances and lobbies, access for fire services, vehicular access etc. The proposal does not comply with Section 4.7.2 (5), Section 4.13.2 (1) and Section 5.8.2 (4) of the VTC DCP. Additionally, all service closets, fire hose cupboards, must not be visible from these primary streets. Having regard to the inadequate provision of an active street frontage, the application is inconsistent with clause 6.10 of FLEP 2013 which applies to the site.

- (f) Loading Bays and Servicing – Only 1 loading bay for a HRV has been provided for the development. This is insufficient to accommodate the demands of the site arising from the commercial and residential uses such as for furniture and other day to day deliveries. Adequate arrangements must be provided and the number of loading bays for a range of vehicle sizes should be incorporated into the development, including Medium Rigid Vehicles (MRVs), Small Rigid Vehicles (SRVs) and daily deliveries by vans with convenient access from residential lifts. The proposal does not comply with Section 4.8.2 (9) and Section 5.8.2 (3) of the VTC DCP.
- (g) Breakthrough basement walls – A break out wall has been provided in Basement 1 to comply with Section 4.8.2 (1) of VTC DCP which requires this development to provide for shared access to 896A Woodville Road via an easement that allows for construction of a breakthrough basement connection at the first basement level as access to 896A Woodville Road will be not permitted from Woodville Road. The information currently submitted has not adequately addressed that the neighbouring development would not be isolated from future development, independent of the subject site. The following matters are required to be addressed:
 1. The documentation has not demonstrated that the location and extent of the proposed break out wall would provide sufficient access to 896A Woodville Road, and this should be further reviewed/expanded/relocated.
 2. The breakout wall has only been provided on the commercial basement level of the development. Ideally there would be no residential access from the adjoining building via the Howatt Street basement entrance, to reduce pedestrian and vehicular conflict across the plaza area.

3. The location of the current break out wall would require a sharp manoeuvre and would increase conflict/risk between vehicles accessing the proposed and future development.
 4. The concept future layout for the adjoining site has not considered the provision of ramps to access basements on the neighbouring site via the Howatt Street access, nor via the basement levels.
 5. Further details are required of a concept future layout for the adjoining site that demonstrates how vehicles would enter and exit safely and implementation of any additional safety features to facilitate this particularly in the vicinity of where the proposed vehicle access would intercept the neighbouring future access.
 6. The architectural plans have not illustrated how the basements and at-grade parking areas of the adjoining property can be developed to provide separate retail access and separate residential access.
 7. Swept paths for HRV and passenger vehicles were not provided to demonstrate how the future adjacent basement and at-grade servicing area could be accessed by a HRV compliant with Australian Standards.
 8. The plans have not provided details or illustrated the location and extent of an associated easement such as for right of carriageway that would facilitate the delivery of this DCP requirement.
- (h) Fencing details – insufficient detailing has been provided on the plans to demonstrate the types, materials, colours, heights, and location of fencing across the site.
- (i) Facades and Building Materials – Further detail regarding the requirements for facades and building materials are provided under the Contentions in this Statement and must be addressed.
- (j) Awnings to Woodville Road and Howatt Street – The plans have not incorporated continuous awnings for development fronting Woodville Road and Howatt Street and do not comply with Section 4.13.2 (5), Section 4.16.2 (4), (6), (7), (8) and (9); and Figure 8 of the VTC DCP. The extent of the awning to Woodville Road is not fully illustrated/distinguishable on the submitted plans including but not limited to

height and setback to Woodville Road. No awning is shown to Howatt Street over the civic plaza.

- (k) Staging of frontage to future Hilwa Park – the plans have not addressed how the application proposes the two stage approach as required under Section 4.13.2 (8) and Section 4.14.2 (6) of VTC DCP with respect to the site's interface to the future Hilwa Park along the western boundary. The following matters are required to be addressed:

1. An extract from the VTC DCP below requires the following to be addressed:

6. Two stage active street frontage along with western boundary of the site, fronting the future expanded Hilwa Park.

- a. Stage one where low density residential houses are existing will include a green buffer with tree planting and pedestrian connectivity from Hilwa Street to Howatt Street.
- b. Stage two, which includes the expansion of Hilwa Park, this allows for speciality retail shops to front the park. Increasing the pedestrian connectivity between Hilwa Street and Howatt Street.

2. Stage 1 and Stage 2 plans have not been submitted addressing the controls of the DCP and demonstrating how the interface to future Hilwa Park and connections to Hilwa Street will be treated once the Respondent has acquired the private properties adjoining the western boundary and delivered Hilwa Park. The development should be designed in a way to maintain present amenity and privacy for existing residents as well as to ensure further future activation along the Hilwa Park frontage once the Respondent has acquired the properties.
3. The current plans show the required green buffer (per VTC DCP) in Stage 1 as proposed to be located over the existing privately owned properties instead of being located over the subject development site. Accordingly amended landscape plans are required that demonstrate how a green buffer will be provided within the subject site's boundaries, along the western boundary of the site.
4. A viable interim solution is required to be proposed to activate the western thoroughfare. Options to explore can include:
 - a. Public art to promote the retail;
 - b. Relocating the arcade entry/exit point that currently accesses the pedestrian thoroughfare in order to relocate

the access point further north and closer to Howat Street. This will provide greater flexibility and enable the southern retail tenancy to expand in size and have an active frontage to the thoroughfare and provide a larger café or restaurant that could deliver a night time offer.

- c. Creation of a colonnade along part of the western facade to set back noise generated from outdoor dining, particularly with any night time uses and to provide necessary shade from the western sun. The design would need to recognise and prevent any hiding places and column structures would need to be considered.
 - d. The western pedestrian thoroughfare as a whole area must be designed to achieve maximum benefit. A Landscape Architect should provide a concept for the whole area and should also consider and incorporate interface seating in any level change or material surface change; landscape that allows good site lines and also environmental protection as well as awnings which may be retractable on the building façade to allow different settings for all-seasons and weather patterns. this façade should not be flat with infill glazing and ideally will have some combination of façade material depth and awnings both fixed and retractable or colonnade.
 - e. Short term amenity should be considered along the Hilwa Park frontage, such as temporary noise walls along the western boundary, with a condition for them to be removed should the open space be acquired to facilitate unimpeded pedestrian access between the site and the park. Details of the noise walls are required to be submitted for further consideration.
- (l) Signage – In order to stop signage impacting the amenity of a well-designed building, details of likely sign locations and types should be provided with the plans to meet the controls in Section 5.7 of the VTC DCP.
 - (m) Ventilation Stacks – The documentation should confirm that ventilation stacks will be utilised wherever possible to ventilate the basement and retail areas not

served with window ventilation to demonstrate compliance with Section 5.8.2 (1) of the VTC DCP.

- (n) Window Displays – Retail tenancies facing Woodville Road do not have adequate areas for window displays presenting to the street as required in Section 5.9 of VTC DCP.

Character and Context Analysis

- 6. The development application should be refused because the proposed development is not compatible with the desired future character of the Villawood Town Centre precinct.

Particulars

- (a) Section 20(3) of SEPP Housing provides as follows:

“(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—

- (a) the desirable elements of the character of the local area, or*
- (b) for precincts undergoing transition—the desired future character of the precinct.”*

- (b) Section 147 of SEPP Housing provides as follows:

“147 Determination of development applications and modification applications for residential apartment development

(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—

- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- (b) the Apartment Design Guide,*
- (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.”*

- (c) Design Quality Principles 1 and 2 in Schedule 9 to SEPP Housing are:

“1 Context and neighbourhood character

- (1) *Good design responds and contributes to its context, which is the key natural and built features of an area, their relationship and the character they create when combined and also includes social, economic, health and environmental conditions.*
- (2) *Responding to context involves identifying the desirable elements of an area's existing or future character.*
- (3) *Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.*
- (4) *Consideration of local context is important for all sites, including sites in the following areas—*
 - (a) *established areas,*
 - (b) *areas undergoing change,*
 - (c) *areas identified for change.”*

“2 Built form and scale

- (1) *Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*
- (2) *Good design also achieves an appropriate built form for a site and the building's purpose in terms of the following—*
 - (a) *building alignments and proportions,*
 - (b) *building type,*
 - (c) *building articulation,*
 - (d) *the manipulation of building elements.*
- (3) *Appropriate built form—*
 - (a) *defines the public domain, and*
 - (b) *contributes to the character of streetscapes and parks, including their views and vistas, and*
 - (c) *provides internal amenity and outlook.”*

(d) Objective 3A-1 in the ADG provides as follows:

“Objective 3A-1

Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.”

- (e) The development application was not accompanied by sufficient detail or analysis to demonstrate that the proposed development is compatible with the desired future character of the Villawood Town Centre, which is undergoing significant change. Given the proposal seeks to adopt the height bonuses permitted by Chapter 2 of SEPP ARH within the town centre, it is important that the proposed development provides an appropriate town centre response and design outcome within its project constraints.
- (f) The following matters of concern are raised:
 - a. The overall Villawood Town Centre (VTC) precinct is in transition from low scale to a much higher scale and density. It is expected that any new development will provide a specific character statement after analysis of the VTC DCP and context, to deliver a modern and considered new town centre similar to that which are now well evidenced in and around Sydney (e.g. Rouse Hill).
 - b. To this end some guidance may be sought by reviewing the recent Land & Housing Corporation (LAHC) submissions for the sites adjoining the town centre and other precedents for western Sydney. Within the LAHC development, substantial areas of brick and other natural materials are included within the building facades and clear forms of varied scales are articulated by change of pattern and form across the site. This assists in providing a variety of buildings and vistas which will enhance the town centre.
 - c. It is expected that any new development will respond to this development and Sydney-wide new models to include more defined forms, higher proportion (minimum 60%) of natural materials, articulation and detail varied within the facades that respond to key Urban Design issues such as vista and visual prominence as a gateway to Howatt Street and the new plaza, street alignments, form and setbacks and vistas for Woodville Road.
 - d. In addition, the buildings would respond effectively to the orientation and environmental performance required for the different facades, the opportunity for substantive greening for deep soil and setbacks at grade and communal open space (COS) on podiums, the opportunity to include additional pockets of green at street level and upper levels and the ability for lower levels and

street level in particular to develop connections to neighbouring sites as they develop.

- e. The material and colour palettes should be explained in the context of creating an overall character for the emerging area. This must address the issues of form generally, roof top profile, visibility from above by proposed neighbours, the current inadequacies of the newer buildings within the town centre.
- f. Key character approach would be the inclusion of natural materials and a colour palette that assists in the development of a calm environment and the reading of the site as a number of buildings rather than a large mono style building. Colour will also be able to assist in the breaking up of form.
- g. This particular site is on the southern edge of the town centre and abuts the R4 zone and as such must provide a design approach that recognises the impact upon any neighbours that may be negatively impacted. The site is also adjacent to an operating service station, future park and street widening which introduces specific design parameters which need to be addressed.
- h. There are several areas of the proposed design which are of concern and require design adjustments. These include:
 - a. The high proportion of the painted surface on the west elevation of Building A.
 - b. The impact of one large singular mass comprising Building B when viewed from south.
 - c. Reduced setbacks to the neighbouring R4 zone to the south.
 - d. Lack of visibility of landscape/COS on the public domain.
 - e. Awnings and scale of podium street fronts to future Hilwa Park and Howatt Street.
 - f. The need for sunshade and solar awareness as part of the proposal, including protection to large window areas.
 - g. The lack of detail on principal facades such as the western and eastern facades of Building A and the northern and southern facades of Building B.

- h. The extent of brickwork to facades with respect to the colour palette and the potential for some variety though material change.
- i. The impact on residences of the existing adjacent service station.
- j. Woodville Road acoustic and air quality impacts, with consideration given to natural ventilation of the apartments.

Building Envelopes

7. The development application should be refused because the proposed building envelopes are unacceptable in terms of scale and form and will result in unreasonable impacts such as amenity, solar and visual impacts.

Particulars

- (a) Building envelopes vary in length and have generally been treated in form and material to break down the length of the façade to an appropriate scale with some exceptions: Building A west elevation and Building B south elevation which does not strictly consider ADG setbacks of additional 3m (6+3, 9+3, 12+3) when adjoining land in a lower density residential zone. In this case E1 Zone adjoining R4 Zone.
- (b) The two key areas where further design consideration is required are as follows:
 - i. Central portion of Building B and reduced boundary setback impacts upon the potential solar access and compliance for the adjacent properties to the south, located within the R4 High Density Residential zone. In addition, the impact in terms of scale of a long building on properties adjacent to the southern boundary. Some reduction in central mass of top floors should be considered as well as increased setbacks.
 - ii. The overall scale and lack of detail of the west facade of Building A where large painted surfaces face the park is not acceptable. The combination of a colour shift to a warmer palette and more detailed windows through the use of projected sun shading and detail on balconies would assist in breaking up the scale of these larger building elements and providing better amenity for this very large primary facade facing the park. Alternatively additional natural material could be considered as part of the overall concept with some additional sun shading.

Amenity

8. The development application should be refused because it has not been demonstrated that the proposal will provide adequate amenity to future residents.

Particulars

- (a) Section 147 of SEPP Housing is extracted above.
- (b) Design Quality Principle 6 in Schedule 9 to SEPP Housing provides as follows:

“6 *Amenity*

- (1) *Good design positively influences internal and external amenity for residents and neighbours.*
- (2) *Good amenity contributes to positive living environments and resident well-being.*
- (3) *Good amenity combines the following—*
 - (a) *appropriate room dimensions and shapes,*
 - (b) *access to sunlight,*
 - (c) *natural ventilation,*
 - (d) *outlook,*
 - (e) *visual and acoustic privacy,*
 - (f) *storage,*
 - (g) *indoor and outdoor space,*
 - (h) *efficient layouts and service areas,*
 - (i) *ease of access for all age groups and degrees of mobility.”*
- (c) Having regard to the various matters raised below, it has not been demonstrated that the development application is consistent with key provisions of the ADG relating to amenity and Design Quality Principle 6 in Schedule 9 of SEPP Housing.

Building Separation

- (d) The building forms are stepped in a controlled manner and are generally clearly articulated within the concept through form and material. The two areas where this is not achieved are as follows and are required to be reviewed to achieve the minimum criteria of the ADG:
- a. On the south boundary at the lower levels where the boundary is stepped-in resulting in the following breaches:

- i. Levels 1 to 3 Building B habitable spaces are located within the ADGs recommended 9m (6m+3m separation to be considered adjacent to the lower density land) units 105B, 106B, 107B, 108B 109B, 209/309B, 210/310B, 204/304B, 203/303B, 211/311B, 212/312B and with only 3m-3.5m to the boundary for a number of central apartments. This breach relates to Units 107B, 108B, 203B/303B, and 211B/311B.
 - ii. Levels 4 to 7 habitable spaces are located within the ADGs required 12m ~~6m~~ setback plus. This breach relates to Units 408/508/608/708B, 409/509/609/709B, 403/503/ 603/703B; and units 410, 510, 610, and 710B.
 - iii. Level 8 to 9 where it is 15m to be considered for ADG units breach at 806/906B, 803/903B, 802/902B
 - iv. Along the southern boundary all units to level 1 have POS within the 9m setback zone. This breach relates to 105B, 106B, 107B, 108B, 109B.
- b. Between Building A and B resulting in the following breaches:
 - i. Levels 4 to 7 achieves 12m separation where 18m is required by the ADG.
 - ii. Level 8 achieves only 15.26m where 18m is required by the ADG.
 - iii. Levels 9 and 10 achieve only 15.26-15.3m where 24m is required by the ADG.
- (e) Secondary windows should be reviewed to ensure screening where there may be privacy issues. The design should include additional privacy screens on windows between Building A and Building B where overlooking may be an issue.

Street Setbacks

- (f) As outlined in the contentions above, side setbacks to the R4 High Density Residential Zone are compromised; and the setbacks to the existing service station site need to be reviewed in more detail to address and respond to any safety and amenity issues that arise due to this specific site use.
- (g) The application must provide specific advice with respect to any safety issues arising from the service station, storage tanks, LPG etc.

Site Analysis

- (h) The southern Building B covers a full block length and has been proposed in the application modelling to reduce bulk/scale and to reduce overshadowing to the south, however concerns remain as identified below. The longer Building A facing west adjoining the future park also provides break-ups in built form in an attempt to achieve amenity within the apartments, however concerns remain in relation to amenity impacts. The following matters are required to be addressed:
- a. The interface with the service station.
 - b. Interim impact and the options for staged implementation along the future Hilwa Park boundary and connections to Hilwa Street public domain.
 - c. The Howatt Street plaza driveway impacts and the ability for the future corner site (adjacent) development to share all loading docks and the proposed carpark without the need for additional vehicle access from Howatt Street.
 - d. The review in more detail of sun shading and the scale of Building B to the southern neighbours and the potential for modification to the top of Building B and the side setbacks.
 - e. Woodville Road is a Classified Road and the consequential impacts have not been fully addressed within the Acoustic Report and any flow on to internal planning to achieve ADG requirements.

Orientation

- (i) Reconsideration and review in more detail of the central part Building B is required to ensure the best viable outcome for future development to the southern adjoining properties.

Public Domain Interface

- (j) Awnings over the public domain are encouraged to extend 3000mm minimum and be adjusted at entries to reinforce the arcade and apartment block entry points on all elevations. This is additionally important for the longer podium facade facing Hilwa Park where some adjustment in the podium brick heights together with podium COS and entry details are required to be considered and included.
- (k) The pedestrian level footpath paving and levels interface to the streets needs to be more clearly defined and detailed to achieve a well-considered integrated design that addresses level change, stepped walls, seating, planting, apartment entries, driveways with pedestrian priority.
- (l) It is unclear from the drawings as to how the south-western corner junctions of the pedestrian zone, driveway, setbacks and Hilwa Street junctions and levels will function.
- (m) Detailed designs for large trees with good canopy cover coordinated with awnings and car and dock entry ramps is required to be provided.
- (n) Bollards and other devices for pedestrian priority and safety are to be included.
- (o) The deep soil area located within the 9m dedicated street setback on Hilwa Street should be designed to deliver high quality large scale tree canopy species as feature planting together with seating and public amenity.

Communal and public open space

- (p) Accessible COS is provided on the podium and roof to Building B. All residents are required to have equal access to all COS.
- (q) The design of Communal Open Spaces does not adequately describe a range of uses, and the quality of materials and general layout that would be expected for such a large and densely used facility. It is recommended that an assessment of the demographics for the occupants be prepared to allow adequate provision of active/passive areas and for a range of facilities such as BBQs, seating, play areas, covered and open areas matched with high quality planting and infrastructure. This should include details for required balustrades location and materials especially those that will be visible from the public domain.
- (r) More detailed landscape designs for all COS and public domain is required to be provided for further consideration.

Deep Soil Zones

- (s) Deep soil zones are required to be included at ground level as part of street setbacks for the new plaza and the southern boundary adjacent to the neighbouring R4 zone to the south. These areas must be utilised to provide good large canopy trees for the benefit of the public domain and separation to future southern neighbours.
- (t) Adequate deep soil at the podium level within flush/near flush planters with deep pocket planters within deep podium is required.
- (u) Significant trees on the roof top COS visible from street are required.
- (v) The proposed deep soil zones are insufficient. The proposal provides 216sqm equal to 4.9% of the site as deep soil where 15% or more is required for sites greater than 1,500sqm under the ADG. Increasing the minimum width of deep soil zones to 6m would be beneficial to the development and would allow the provision and support for the growth of larger, mature canopy trees. This would help compensate for the proposed loss of 20 existing trees as outlined in the submitted Arboricultural report.

Visual Privacy

- (w) Confirmation is required that secondary windows between Building A and Building B are screened.

Pedestrian Access and Entries

- (x) Lobbies are required to be recognised within varied awnings at street level.

Vehicles

- (y) Access and ramp operations for the concept future building shown at the existing service station site at 896A Woodville Road are required.

Solar and Daylight Access

- (z) Solar compliance for the minimum 2 hours solar access appears to be achieved in accordance with the ADG minimum criteria, however the number of units achieving 3 hours solar has not been demonstrated.
- (aa) A detailed impact of solar access on southern neighbours is required to ensure compliance is achievable especially for future lower level units which will not have the benefit of being raised on a podium.
- (bb) The solar diagrams indicate that certain facades of the directly adjoining southern future Units G to L4 on east, north and west facades may not achieve compliance with solar requirements of the ADG. This is also problematic due to depth of building floorplates indicated and the inclusion of zero lot alignments facing

Woodville Road for these template modelled future builds. Detailed supporting information is required to address the future development of southern sites to demonstrate solar and amenity requirements are achieved, and that these modelled blocks include minimum 6m setbacks and appropriate residential/ADG floorplates for the neighbour blocks.

Ceiling Height

- (cc) 3100mm minimum floor to floor height is the minimum and 3150mm to 3200mm is recommended especially given the width of apartments. The proposal has not demonstrated compliance with this.

Apartment Size and Layout

- (dd) A number of apartments have undersized main bedrooms i.e. 102A, 101A, 102B, 203A, 303A, 205B, 305B, 406A, 506A, 606A, 706A, 401A, 501A, 601A, 701A, 403B, 503B, 603B, 703B, 405B, 505B, 605B, 705B.
- (ee) On Level 1 Units 101B and 105B have long entry corridors which appear wasteful of space and not ideal.
- (ff) Room sizes are required to meet ADG minimum requirements and to comply with the non-discretionary development standards of SEPP (Housing) 2021: Chapter 2 Affordable Housing. This has not been demonstrated.

Private Open Space and Balconies

- (gg) Airconditioning units have not been identified on the balconies. Once AC units are identified, the plans must confirm areas shown exclude AC units, and that the size of private open spaces exclude the minimum setback areas.
- (hh) A number of apartments located on the podium level have POS which may not be minimum 15sqm and are located within required setbacks. This is required to be clarified.
- (ii) POS at podium level where facing residential zones should be located behind the required ADG setbacks. The amount of POS provided behind the setbacks located on the southern boundary for Building B is not clear and needs to be clarified.
- (jj) The POS areas use artificial turf which is not acceptable.
- (kk) It is not clear what impact POS areas will have on the public domain at podium level. Balcony height and edge detail is required to be clarified for podium POS areas.

Common Circulation and Spaces

- (ll) Confirmation is required that all lobbies are provided with natural ventilation.
- (mm) All levels (except podium) are serviced by one lift only. This is not ideal and may cause issues during maintenance and breakdown periods, as access will be

limited via stairs only during these times. Confirmation is required as to how 1 lift only in each core is acceptable for service and reliability.

Facades

- (nn) Facades require the inclusion of additional detail on windows and some adjustment to form/scale particularly as follows:
- a. Awnings over the public domain are encouraged to extend 3000mm minimum and be adjusted in design to reinforce the arcade and apartment lobby entry points on all elevations.
 - b. The use of a variety of natural materials to reduce painted surfaces should be reviewed on facades where a large percentage appears to be painted concrete i.e. Building A west facade.
 - c. The colour palette overall appears excessively grey/muted and a highlight/warmer colour should be utilised.
 - d. Larger window sizes to bed and living areas will be highly exposed to heat gain and should be protected. The use of external sun hoods and shades is recommended for both scale/detail and environmental design.
 - e. The east facade of Building A is excessive in length and a scale break with pronounced façade change/additional detail, should be centrally located.
 - f. The west facade of Building A has a balcony system facade break at the centre identified as 'finish 7' on drawing A200. This element may provide better scale change /separation through added detail on balconies and more pronounced change in colour from adjacent form blocks. This appears to be indicated on the facade generation process drawings but removed on the final design.
 - g. It is unclear how the communal room and podium interface works with odd proportioned brick upstand at the stair on the northern façade of Building A (drawing A204).
 - h. The metal element on the uppermost levels is lacking in detail and further detail/scale is required to be introduced by shading and other devices.
 - i. The COS on the roof should have some prominence when viewed from the street and would benefit from pergolas and trees/landscaping.

Landscape Design

- (oo) The extent of deep soil planting on the building is not clear and should include flush/low level planters with deep pockets for large trees in the podium and significant trees on the roof top as well as large deep soil planting at the new plaza and boundary.
- (pp) More detailed plaza and public domain inclusions are needed as this is a significant part of the development and its detail will impact greatly on its success. It is recommended that these inclusions be benchmarked against equivalent public domain in developing high density areas such as Rouse Hill TC and incorporated within a public domain strategy.
- (qq) The pedestrian level footpath paving and levels interface to the streets need to be clearly defined and detailed to achieve a well considered integrated design, including level change, stepped walls, seating, planting, apartment entries and driveways with pedestrian priority. Detailed designs for large trees with good canopy cover co-ordinated with awnings and car and dock entry ramps is required, together with the use of high quality long life materials for public domain such as granite paving and well designed seating and street furniture.
- (rr) Bollards and other devices for pedestrian priority and safety are required to be included.
- (ss) The deep soil area within the 9m setback on Howatt Street is required to be designed to deliver high quality large scale tree canopy species as feature planting together with seating and public amenity.
- (tt) The design of COS areas does not adequately allow a range of uses and quality of materials and general layout that would be expected for such a large and densely used facility. An assessment of the demographics for the occupants is required to be prepared to facilitate adequate provision of active/passive areas. This should include details for balustrade location and materials especially those that will be visible from the public domain.
- (uu) Updated and detailed Landscape Plans are required which address the matters identified.

Planting on Structures

- (vv) The inclusion of COS at the podium and roof-top requires good soil depth to ensure large scale trees are incorporated. This should be achieved by flush/near flush planting beds with recessed soil depths of up to 1500mm (or as recommended by the Landscape Architect) in a deep mezzanine to ensure that

adequate solar and visual amenity can be achieved between the two buildings, the service station and future development over the service station site.

Mixed Use

- (ww) Some refinement of detailing is required as outlined earlier in this contention for entries and access.
- (xx) Any services to be provided within the podium retail are assumed to be ducted to the top of building and not to the podium. Confirmation is required that any service discharges are to the roof.

Awnings and Signage

- (yy) All awnings to the public domain are to have a minimum 3000mm width over the new plaza and walkways and to vary in design to identify entries to arcades, apartment lobbies and the like All signage and wayfinding is to be designed to enhance the place making.

Energy Efficiency

- (zz) Extensive solar panels are provided on the roof however it is not clear that anything other than minimal compliance with the ADGs criteria for energy efficiency has been achieved. More detailed information is required in this regard.

Water Management and Conservation

- (aaa) It is not clear that anything other than minimal compliance with the ADGs criteria for water management and conservation has been achieved. More detailed information should be provided addressing this.

Other Matters

- (bbb) The perspective and the ground level plan facing Hilwa Park do not match. A large area of the western facing podium wall will be non-activated due to services, substation, escapes and driveways, which is not acceptable. The design should review the extent of non-activated walls and adjust the perspective. All service areas are to be recessive.

Design Excellence and Active Street Frontage

9. The development application must be refused because the consent authority would not be satisfied that the proposed development exhibits design excellence and addresses the matters for consideration in clause 6.12(3) of FLEP 2013 or that the building will have an active street frontage.

Particulars

(a) Clauses 6.10 and 6.12 of FLEP 2013 state:

“6.10 Active street frontages

- (1) *The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone E1 Local Centre, Zone E2 Commercial Centre and Zone MU1 Mixed Use.*
- (2) *This clause applies to land identified as “Active street frontage” on the Active Street Frontages Map.*
- (3) *Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.*
- (4) *Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following—*
 - (a) *entrances and lobbies (including as part of mixed use development),*
 - (b) *access for fire services,*
 - (c) *vehicular access.*

6.12 Design excellence

- (1) *The objective of this clause is to ensure that development exhibits design excellence that contributes to the natural, cultural, visual and built character values of Fairfield.*
- (2) *This clause applies to development involving the construction of a new building or external alterations to an existing building on the following land*
 - (a) *land in Zone R4 High Density Residential, Zone E2 Commercial Centre or Zone MU1 Mixed Use,*
 - (b) *land identified as “Area G” on the Land Zoning Map.*
- (3) *Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.*
- (4) *In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—*

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) *whether the form and external appearance of the development will improve the quality and amenity of the public domain,*
- (c) *whether the development detrimentally impacts on view corridors,*
- (d) *how the development addresses the following matters—*
 - (i) *the suitability of the land for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*
 - (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) *bulk, massing and modulation of buildings,*
 - (vi) *street frontage heights,*
 - (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
 - (viii) *the achievement of the principles of ecologically sustainable development,*
 - (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*
 - (x) *the impact on, and any proposed improvements to, the public domain,*
 - (xi) *the interface with the public domain,*
 - (xii) *the quality and integration of landscape design.”*
- (b) The site is identified on the Active Street Frontages Map referred to in clause 6.10 and as illustrated in Figure 4, along Howatt Street.
- (c) Having regard to the contentions raised in this Statement, the consent authority would not be satisfied that the proposed development exhibits design excellence or that the building will have an active street frontage as required by clauses 6.10 and 6.12(3). The development application must be refused.

Stormwater Drainage

10. The development application should be refused because adequate arrangements are not proposed for the management of stormwater.

Particulars

- (a) The site is within the Georges River Catchment which is a regulated catchment for the purposes of Chapter 6 of SEPP B&C.

- (b) Clause 6.9 of FLEP 2013 states:

“6.9 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

...

(d) stormwater drainage or on-site conservation,

...”

- (c) Details of an architectural cross section at the location where the 450mm outlet pipe discharges from the OSD are required to show its level with regard to the ceiling level where it is proposed to be concealed. Such details shall be incorporated within the OSD Section – A.
- (d) The Drains model used in the design of the OSD system is required to be submitted to enable a proper assessment.
- (e) Surface areas bypassing the OSD system shall be clearly shown on the catchment plan.
- (f) Natural surface flows from the upstream properties shall be allowed to enter and leave the site for major rain events. In this regard, adequate surface levels shall be shown along the southern and western setback to allow for the overland flow path.
- (g) Having regard to the above, the Court standing in the shoes of the consent authority would not be satisfied that the application proposes adequate stormwater management and must refuse the application having regard to clause 6.9 of FLEP 2013. The matters for consideration in Chapter 6, Part 6.2, Division 2 of SEPP B&C have also not been addressed.

Existing Council Pipe and Easement

11. The development application should be refused because it has not been demonstrated that the proposed development will not impact nor conflict with existing easements and infrastructure.

Particulars

- (a) A Fairfield Council stormwater pipe runs through Lot 3 in DP 208677 and Lot 13 in DP 220348 which captures runoff from Hilwa Street and conveys this to Woodville Road. The proposed basement layout conflicts with this pipe and no details have been shown on the Stormwater Plans for the realignment of the pipe. Details of the realignment as well as works required in the road reserve are required to be documented in the Stormwater Plans.
- (b) An easement that benefits the Respondent is required to be created over the proposed pipe and shown on both the Architectural Plans and Stormwater Plans. The building must be clear of the proposed easement.

Consolidation of Lots

12. The development application should be refused because it has not been accompanied by sufficient information to address the consolidation of the lots into one combined parcel.

Particulars

- (a) The application was not accompanied by Consolidation Plans, clearly outlining the consolidation of No's. 896 Woodville Road, 898 Woodville Road and 15 Hilwa Street into one combined parcel.
- (b) To further facilitate the proposed planning agreement and the dedication of land to the Respondent, a Draft Subdivision Plan is required that clearly illustrates the land proposed to be dedicated to the Respondent.
- (c) The Consolidation Plan is required to show all details of new proposed easements to facilitate the development.

Existing Sewer Line

14. The development application should be refused because it has not been demonstrated that the proposed development will not impact on existing Sydney Water infrastructure.

Particulars

- (a) The application was not accompanied by written approval from Sydney Water for the diversion/relocation of the existing sewer line affecting the site, to ensure that the basement layout will not be impacted by the proposed works.

Parking Demand and Provision

15. The development application should be refused because it has not been demonstrated that the proposed development will provide adequate car parking to accommodate the demands of the development and having regard to the adjacent classified road. The application is inconsistent with the provisions in SEPP T&I and the parking controls in Chapter 12 of Fairfield CityWide DCP 2024.

Particulars

- (a) The proposed café with a floor area of 177sqm requires parking at a rate of 1 space per 7sqm, which equates to 25 parking spaces. The café is only provided with 20 spaces. The shortfall of 5 spaces is required to be provided on-site.
- (b) The 4 x retail storage units located in the basement do not appear to be included in the retail floor area calculations for the purpose of calculating car parking demand in accordance with Chapter 12 Fairfield CityWide DCP 2024. Additional parking spaces at a rate of 1 space per 40sqm of floor area will need to be provided for the storage units.
- (c) The purpose and tenancies that will benefit from the 4 x retail storage units located in the basement is unclear and should be confirmed.
- (d) 12 stacked retail staff spaces are incorporated into the development. This is not an acceptable outcome and the design is required to be amended to remove stacked spaces to ensure the uses can function properly.
- (e) The proposed 148 residential units require 37 visitor parking spaces however the basement plans indicate there are only 36 visitor spaces available. One additional parking space must be allocated as a visitor space by reducing the residential space which currently is in surplus.
- (f) Parking spaces within the basements are not numbered according to unit allocation nor the parking count and any turning bays or non-parking spaces are not delineated.
- (g) The bicycle and motorcycle parking provision is inadequate for 148 residential units and 14 retail tenancies and should be increased accordingly.
- (h) The following discrepancies have been identified with the plans:

- i. The Basement 3 plan shows 1 narrow space that appears to be counted in the total parking count for Basement 3. However, there are no dimensions provided to verify that the space complies with Australian Standards. The space is located generally opposite Lift B2.
- ii. The Basement 2 plan annotations have the following discrepancies:
 - a. 8 accessible residential parking spaces where the layout indicates 7;
 - b. 50 residential parking spaces where the layout indicates 59;
 - c. 37 visitor spaces where the layout indicates 36.
- iii. The Basement 1 plan annotations state there is 1 retail accessible space where the layout indicates 2.
- iv. Clarification/relocation of the pit proposed over residential car parking spaces in Basement 3 is required.

Traffic and Vehicular Access

16. The development application should be refused because the proposed development will have unreasonable impacts on the local and classified road network and inadequate vehicle access arrangements are proposed.

Particulars

- (a) Clause 6.9 of FLEP 2013 states:

“6.9 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

...

(e) suitable vehicular access....”

- (b) Division 17 (Roads and traffic) of SEPP T&I is relevant insofar as the proposed development has a frontage to a Classified Road (Woodville Road) and the impacts of the development on that road and vice versa must be considered, including impacts of road noise and vibration (sections 2.119 and 2.120). The proposed development is also traffic generating development and section 2.122 is relevant. Section 2.119 states:

“2.119 Development with frontage to classified road

(1) The objectives of this section are—

(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.”

- (c) SIDRA analysis was not provided for pre and post development scenarios, including for a 10-year scenario to demonstrate whether the development will impact on surrounding intersections and the local and classified road network, and whether or not mitigation measures need to be implemented as part of this application.
- (d) The access driveway for Ramp B off Howatt Street has not been clearly shown on the architectural plans. The width of the driveway must allow for a HRV and B99 vehicle to pass, which has not been demonstrated. Swept path diagrams for a HRV and B99 passing simultaneously at the Howatt Street driveway are required to be submitted to demonstrate appropriate vehicle access can be achieved.
- (e) The ramp gradient of 1:4 for a length of 35m as proposed does not comply with Clause 2.5.3 (b) of AS2890.1:2004. The ramp gradient shall be designed to comply with AS requirements.

- (f) The swept paths submitted with the application show simultaneous movement of B85 and B99 vehicles on the ramp conflicting between vehicles at the curved section of the ramp. The reliance on a vehicle giving way to allow another vehicle to pass is unacceptable and results in safety concerns. Furthermore, swept paths demonstrating a vehicle stopping to give way is an unacceptable arrangement and would result in vehicles conflicting with very little clearance. The car parking layout is required to be amended such that ramps and bends can accommodate simultaneous turning movement of B99 and B85 vehicles without any conflicts.
- (g) It has not been demonstrated that the two stacked 'retail staff' parking spaces west of 'lift B1' in Basement 1 have adequate head height clearance from the soffit of the mezzanine ramp.
- (h) A turning bay is required to be provided for the parking space proposed that is located south of Lift B1 in Basement 3.
- (i) An Operational Management Plan detailing how the peak traffic generation will be managed within the site without creating internal manoeuvring issues or without impacting traffic flows on the adjoining external road network must be submitted to enable a proper assessment of the application. The Plan must include information related to how vehicles entering and exiting the site will be managed if all the car parking spaces within the site are fully occupied. The Plan must also identify how pedestrian movements will be managed within the car park and demonstrate that access to the residential parking spaces are controlled and not used by patrons of the café or commercial premises.
- (j) Retail and café car parking spaces in the basement should be distinctly line-marked to avoid any confusion between the two types of parking areas.
- (k) Having regard to the above, it has not been demonstrated and the Court would not be satisfied that:
 - a. Suitable vehicular access is proposed as required by clause 6.9 of FLEP 2013.
 - b. The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development and the requirements of section 2.199 of SEPP T&I have been addressed.
 - c. That the requirements of section 2.122 of SEPP T&I have been addressed.

Land Contamination

17. The development application must be refused because it has not been demonstrated that the site is or can be made suitable for the development.

Particulars

- (a) Section 4.6 of SEPP R&H states:

4.6 Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless—

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

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose....”

- (b) A site inspection conducted by officers of the Respondent on Wednesday 12 March 2025 revealed that the site is currently leased to a business storing oil drums, materials and vehicles. The submitted Detailed Site Investigation Report has not confirmed whether or not the assessment has considered the current business activities on site.
- (c) Having regard to the above, it has not been demonstrated that the land is not contaminated. Section 4.6 of SEPP R&H has not been addressed and the development application must be refused.

Acoustic and Vibration Impacts

18. The development application should be refused because it has not been demonstrated that adequate acoustic amenity is achieved for residents and that there would not be unreasonable noise and vibration impacts to and from the development, including from noise sources within the vicinity of the site which include traffic noise and vibration from the classified Woodville Road, noise and vibration from the rail line and activity in the Villawood Town Centre.

Particulars

- (a) Noise monitoring that has been recently undertaken is required to be submitted to demonstrate the noise impacts associated with the proposed development. In Appendix C of the Acoustic Report submitted in support of the application (**the Acoustic Report**), noise logger results are dated Monday, 1 February 2016 to Monday, 8 February 2016.
- (b) All sensitive receivers must be identified to demonstrate that the receiver locations are representative of the locations most likely to be impacted by potential noise impacts.
- (c) An acoustic assessment has not been undertaken in relation to proposed mechanical plant (air conditioning units, extraction/supply fans mechanical ventilation etc). A typical preliminary acoustic assessment (where assumptions are made on typical mechanical equipment to be installed and the approximate noise level dB(A) of equipment) is required to be submitted to demonstrate that compliance can be achieved for the proposal. The location of mechanical plant installation should also be assessed.
- (d) An acoustic assessment has not been undertaken regarding noise generated by vehicles entering and exiting the proposed basement carpark for the development. This is required to enable a comprehensive assessment of all acoustic impacts associated with the development.
- (e) Section 3.6 of the Acoustic Report mentions hotel tenancies. This is not identified in the Statement of Environmental Effects. Further clarification is required.
- (f) Proposed trading hours for retail uses are inconsistent in the Statement of Environmental Effects and the Acoustic Report. The Acoustic Report states trading hours as being between 9am and 5pm daily. The Statement of Environmental Effect states trading hours as being between 7am – 10pm daily. Clarification is required to enable a proper assessment.
- (g) The Statement of Environmental Effects states that the Acoustic Report addresses the vibration impacts of the major road and train line on the development, which is not correct. A vibration assessment report is required to enable further consideration of this matter.
- (h) The Acoustic Report should address the requirement for measures to minimise impacts associated with Woodville Road, such as window closures to address noise impacts. The design will need to assess and provide any corresponding flow on impact to fresh air provision and cross ventilation.

- (i) Having regard to the above, the Court standing in the shoes of the consent authority would not be satisfied that sections 2.119 and 2.120 of SEPP T&I have been addressed in relation to acoustic and vibration impacts and the application must be refused.

Air Quality

- 19. The development application should be refused because it has not been demonstrated that the proposed development would not be unreasonably impacted by vehicle emissions from the adjoining classified Woodville Road

Particulars

- (a) The Statement of Environmental Effects states that the Acoustic Report addresses the noise, vibration and air quality impacts of the major road and train line on the development. However, air quality has not been addressed in the Acoustic Report and an Air Quality Report is required to enable further consideration of this matter.
- (b) Mechanical ventilation air inlet ports should be sited to maximise the distance from the road to reduce inflows of air pollutants.

Use of commercial premises

- 20. The development application should be refused because the impacts associated with the proposed non-residential tenancies have not been demonstrated and cannot be properly assessed.

Particulars

- (a) Inadequate information has been provided regarding the uses of each tenancy other than hours of operation and an assessment of the impacts associated with those uses cannot be undertaken.
- (b) No details regarding the proposed café have been provided. Full operational details including but not limited to the nature of the use, operational details, method of cooking, type of food etc. is required to be provided including detailed floor plans and demonstrated consistency with Australian Standards food premises requirements.
- (c) Details are required on how services such as grease traps, exhaust systems, mechanical ventilation will be integrated into the design of the building, to facilitate

the future uses of the proposed tenancies and avoid the need to retrofit the development.

Playground

21. The development application should be refused because it has not been demonstrated that a high-quality playground can be provided to ensure adequate amenity afforded to children residing at the development.

Particulars

- (a) The quality of the proposed playground as illustrated for Level 1 of the development is inadequate. The following is required:
- i. Multi-play unit with opportunities for ground level and multi-sensory play; and inclusion of minimum of 1 slide; 2 slides within the one multi-play unit (of varying heights is preferred to allow for different age groups).
 - ii. Double swing sets – if space does not allow, a single ‘nest’ style swing is preferred as it allows children with different physical abilities as well as multiple children to swing at once and is available from many suppliers.
- (b) Further details of the playground area and common open space areas are required in the Landscape Plans. A detailed Landscape Plan is required to be submitted which includes a separate material and play schedule for the play items; furniture and safety surfacing in the playground and surrounds; a detailed planting plan; and construction detail sheets.
- (c) The detailed Landscape Plan should be accompanied by a certificate from an *independent play certifier* (a suitably qualified professional with qualifications in Playground Certification Inspections) certifying that the design of the proposed playground complies with relevant Australian Standards including but not limited to AS4685 and AS4422. Other matters such as the surrounding fencing and shaded seating around any active play zones should also be reviewed by the inspector.

Civic Plaza and Public Domain

22. The development application should be refused because it has not been demonstrated that a high quality civic plaza and public domain will be provided.

Particulars

- (a) The paving and planting proposed in the public domain areas is required to be consistent with the Respondent's Public Domain Plan – Villawood, Public Domain guidelines materials framework. This has not been demonstrated.
- (b) Seating in line with the Respondent's Public Domain Manual should be provided in the streetscape to provide public amenity.
- (c) Methods to help provide a higher level of soil volume to ensure sustainable and long-term success in the urban environment for the trees located along the Civic Plaza area and any other public domain area, are required. The method utilised by the designer should be detailed and included in an amended Landscape Plan.

Asset Management

23. The development application should be refused because sufficient details have not been provided in relation to works to land proposed to be dedicated to the Respondent.

Particulars

- (a) Vehicular Crossings – the vertical alignment of the driveway is required to be checked to avoid cars scraping when entering and exiting the building. Additionally, the surface finish at Ramp B is required to be confirmed.
- (b) New Footpath Pavement –
 - i. Where trees are proposed to be planted around any concrete footpath the pavement slab is required to be strengthened, including provision of gutter guard and tree stop joints.
 - ii. As per the current Public Domain Manual document (QMPR-CA-003), part of the proposed development is located within Villawood Town Centre's Primary Treatment area and hence requires a Primary footpath treatment for the full width of footpath, including on Woodville Road.
 - iii. Pavers are required to be minimum 40mm thick.
- (c) Trees/Landscaping – Provide tree pit details to include Stratacell or Stratavault or similar on the plans.
- (d) Street Furniture – Any pedestrian fencing, seats, tables and bollards are required to be properly designed having regard to safety of pedestrians and road users.
- (e) Street Lighting – Any requirement for street lighting is to be provided to meet Australian Standards (AS/NZS 1158) for Street Lights.

Waste Management

24. The development application should be refused because it has not been demonstrated that the proposed development will provide adequate arrangements for waste management, storage and collection.

Particulars

(a) Integrated on-site waste collection:

The development is required to be designed to permit integrated on-site waste collection by the Respondent's standard 10800mm heavy rigid waste collection vehicle (HRV). A detailed swept path analysis supported by scaled architectural plans is required to enable a detailed assessment. The swept path model is required to:

- i. Demonstrate compliance with Australian Standards (AS) 2890.2.
- ii. On-street parking to be provided on both sides of the road to demonstrate a business-as-usual model responsive to local traffic and parking available within the locality.
- iii. A minimum 500mm clearance from all obstructions is required to be demonstrated throughout all required vehicle manoeuvres to permit scheduled collections.

The submitted plan does not demonstrate 500mm unobstructed clearances throughout all manoeuvres proposed to permit safe and efficient scheduled collections.

(b) Council's Waste Streams

The Respondent's waste and recycling streams are required to be allocated to the site in accordance with waste generation rates (bin allocation rounded up to next whole number):

- i. Garbage = 27 x 660L Bins (120L per dwelling/week) collected weekly.
- ii. Recycling = 50 x 240L Bins (80L per dwelling/fortnight) collected fortnightly.
- iii. Organics = 50 x 240L Bins (80L per dwelling/fortnight) collected alternate fortnightly.

(c) Waste Chute System

A waste chute system is required to be provided, accessible and available to residential dwellings on each level. Detailed architectural plans are required that demonstrate:

- i. The infrastructure is to provide safe, efficient and accessible access for all users.

- ii. Acoustic attenuation to adjacent dwellings on each residential level and a supporting report is required to be provided compiled by a qualified acoustic consultant.

(d) Bin Cupboard

A designated bin cupboard is required to be provided adjacent to the chute cupboard/s on each residential level. To accommodate Council's assigned waste and recycling streams the bin cupboard is to incorporate the following infrastructure:

- i. Minimum internal dimensions of 1000mm width by 1000mm depth per 240L bin proposed or dimensioned as prescribed by Council.
- ii. Accessed via 180-degree, outwards opening, self-closing, sealed doors.
- iii. Bin path of travel from the cupboard to the central elevator core is to be tiled to permit scheduled cleaning.
- iv. Doors are to be unlocked to permit unobstructed resident access.

(e) Organics Waste Storage Room

A communal Organics Waste Storage Room is required to be provided adjacent to the bin cupboard on ground floor within each building. To accommodate the Respondent's Organics waste stream the room to incorporate the following infrastructure:

- i. Minimum unobstructed internal dimensions to be provided using one of the following calculations:
 - Single Sided = (2200mm) width by (Bin Allocation x 600mm) depth,
 - Double Sided = (3200mm) width by (Bin Allocation x 300mm) depth
- ii. Accommodate the buildings anticipated waste volumes.
- iii. Minimum 1200mm wide doorway opening.
- iv. Bin path of travel from the room to central elevator core to be tiled to permit scheduled cleaning.

(f) Chute Room

A chute room is required to be provided within the basement to accommodate the Respondent's assigned bin infrastructure below each of the respective chute outlet/s. The room to accommodate the following infrastructure:

- i. A circular carousel system under each of the chute outlets large enough to accommodate 4x 660L bins.
- ii. A chute offset and dampener to be provided prior to material discharging into Council's bin infrastructure.

- iii. Accessed via dual, 180-degree, outwards opening, self-closing sealed doors with a minimum opening of 1800mm.
- iv. Room enclosed, walled and through access not permitted to other on-site infrastructure.
- v. Adequate lock infrastructure to restrict resident access.

(g) Waste Collection Room

A waste collection room is required to be located within close proximity to the integrated on-site waste loading bay. The room is required to accommodate the following infrastructure:

- i. Be large enough to accommodate the entire bin allocation with 200mm clearance between each bin for manoeuvrability.
- ii. Bunded bin wash bay to permit scheduled cleaning of Council's assigned bin infrastructure.
- iii. Accessed via dual, 180-degree, outwards opening, self-closing sealed doors with a minimum opening of 1800mm.
- iv. Room enclosed, walled and not permit through access to other on-site infrastructure.
- v. Adequate lock infrastructure to restrict resident access.

(h) Bulky Waste Collection Room

A bulky waste collection room is required to be located within close proximity to the integrated on-site waste loading bay. The room is required to accommodate the following infrastructure:

- i. Minimum unobstructed internal area in accordance with the following calculation:
 - Bulky waste area (m²) = total dwellings x 0.25m²
- ii. Accessed via dual, 180-degree, outwards opening, self-closing sealed doors with a minimum opening of 1800mm
- iii. Minimum unobstructed internal width of 1800mm
- iv. Room enclosed, walled, and not permit through access to other on-site infrastructure.
- v. Adequate lock infrastructure to restrict resident access.

(i) Bin Tug and Trailer

A bin tug device and trailer are required to be provided to facilitate the safe and efficient transport of the Respondent's bin infrastructure within the development. The room to accommodate the following infrastructure:

- i. Accessed via dual, 180-degree, outwards opening, self-closing sealed doors with a minimum opening of 1800mm.
- ii. Sufficient size to accommodate the tug device and trailer responsive to the site's anticipated waste volumes.
- iii. Room enclosed, walled, and not permit through access to other on-site infrastructure.
- iv. Electrical charge capabilities to permit scheduled charging.
- v. Adequate lock infrastructure to restrict resident access.

(j) Integrated on-site waste and recycling storage and collection infrastructure

All integrated on-site waste and recycling storage and collection infrastructure outlined above is required to incorporate the following infrastructure:

- i. Integrated wholly within the development's built form to support an enhanced urban design outcome.
- ii. Rooms to be free of pylons, obstructions and other external services.
- iii. Permit safe, efficient and unobstructed work practices for assigned users and waste collection staff.
- iv. Mechanical ventilation.
- v. Automated lighting.
- vi. Hot and cold-water taps.
- vii. Drainage connected to the sewer.
- viii. Minimum unobstructed internal height clearance of 2700mm.
- ix. Water proofing throughout all intersections and extend 1200mm high on walls.
- x. Doors locked through Council's bi-lock system. Council's key specifications will be provided upon request.

(k) Caretaker room

For developments of five or more storeys, a designated caretaker room is required to be provided on the ground floor and integrated wholly within the development's built form. The room is to accommodate the following infrastructure:

- i. Small seating area proportional to the anticipated building managers required to manage the site.
- ii. Kitchenette facilities.
- iii. Access to wash facilities and toilets.
- iv. Adequate storage for cleaning chemicals, infrastructure and supporting items to complete their daily roles.

(I) Non-residential tenancies

Separate, enclosed and designated waste and recycling storage and collection rooms are required to be provided from non-residential tenancies proposed within the development. The co-location of residential and commercial waste streams is not permitted. The following infrastructure to be provided:

i. Waste storage and collection room (retail):

A designated waste storage and collection room is required to be provided for each tenancy and located within close proximity to the integrated on-site waste loading bay. The room/s to accommodate the following infrastructure:

- Be of sufficient size to accommodate the entire bin allocation responsive to the volumes of the anticipated waste and recycling streams.
- Accommodate the infrastructure and area requirements to support a maximum service frequency of three times weekly.
- Accessed via dual, 180-degree, outwards opening, self-closing sealed doors with a minimum opening of 1800mm.
- 200mm clearances to be provided between bins for manoeuvrability.
- Room enclosed, walled, and not permit through access to other on-site infrastructure.

ii. Bulky storage and collection room

A bulky waste storage and collection room is to be located within close proximity to the integrated on-site waste loading bay. The room to accommodate the following infrastructure:

- Minimum unobstructed internal area based on the following:
 - 2m² for developments up to 100m²
 - 4m² for developments up to 1000m²
 - 8m² for developments over 1000m²
- Accessed via dual, 180-degree, outwards opening, self-closing sealed doors with a minimum opening of 1800mm.
- Minimum internal width of 1800mm.
- Room enclosed, walled, and not permit through access to other on-site infrastructure.

iii. Integrated on-site waste and recycling storage and collection infrastructure

All integrated on-site waste and recycling storage and collection infrastructure outlined in sections (I)i. and (I)ii. (outlined above) to incorporate the following infrastructure, including but not limited to:

- Integrated wholly within the development's built form to support an enhanced urban design outcome;
- Room to be free from internal pylons, obstructions and other external services.
- Permit safe, efficient and unobstructed work practices for assigned uses and waste collection staff whilst restricting unauthorised access.
- Mechanical ventilation.
- Automated lighting.
- Hot and cold-water taps.
- Bunded wash bays.
- Drainage connected to the sewer.
- Minimum unobstructed internal height clearance of 2700mm.
- Water proofing through all intersections and extended 1200mm high on walls.
- Doors locked through a restricted key arrangement.

Insufficient Information

25. The development application should be refused because inadequate information has been submitted to enable a proper assessment of the development application.

Particulars

(a) Landowners Consent

- i. The owner's consent for lodgement of the application letter does not verify if all land owners have provided their written consent. An ASIC report was not submitted to verify whether or not there are additional land owners who have not provided their written consent for the lodgement of the application. An ASIC report is required to address this matter. If the ASIC report identifies that the company owning the land has multiple directors/owners, the written consent of the additional owners must be provided to Council.

(b) Architectural Plans

The following discrepancies identified in the Architectural Plans should be amended:

- i. Existing easements affecting the land have not been illustrated on the plans and no details are provided regarding how any easements are proposed to be addressed as construction over an easement is not permitted.
- ii. The notations on the plans incorrectly label the addresses of the southern adjoining properties. For example, immediately adjoining southern properties are notated as 15 Hilwa Street and 898 Woodville Road however these are part of the development site. All the address labels on the plans need to be updated to reflect the correct addresses.
- iii. The overshadowing analysis titled "Performance Analysis Conclusion" appears to reference the wrong property addresses. For example, analysis of 15 Hilwa Street and 898 Woodville Road are provided where both these sites are part of the proposed development, not neighbouring impacted properties. The full table is required to be rechecked and corrected.
- iv. Dimensions for all parking spaces in Basement 3 are required.
- v. The following units have been labelled as 3 bedroom units but the floor layout indicates these are 2 bedroom units: 802A/902A and 1002A. The labels on Levels 8-10 plans need to be rectified. Based on this adjustment, the mix as per the floor layouts is as follows, but is not reflected in the Schedule of Areas in Drawing Number A801 and should be amended:
 - a. 26 x 1-bedroom units,
 - b. 97 x 2-bedroom units,
 - c. 25 x 3-bedroom units.

(c) Landscape Plans

The following discrepancies identified in the Landscape Plans should be amended:

- i. Tree Survey legend on Page number LP01 identifies Tree No. 1 to be removed, however this tree requires retention and protection under the Arboricultural Report and must be shown to be retained.

(d) Stormwater Plans

The following discrepancies identified in the Stormwater Plans should be amended:

- i. Existing easements affecting the land have not been illustrated on the plans and no details are provided regarding how the easements are proposed to be addressed as construction over an easement is not permitted.

(e) Traffic Impact Assessment

The following discrepancies identified in the Traffic Impact Assessment should be amended:

- i. The bedroom mix does not align with the architectural plans which show:
 - a. 26 x 1-bedroom units,
 - b. 97 x 2-bedroom units,
 - c. 25 x 3-bedroom units.

- (f) The Applicant has not provided the registration details of evidencing that a Registered Community Housing Provider will manage the affordable housing component of the development.

(g) Groundwater

The application form has not identified the development as being for Integrated under the Water Management Act 2000. However, the Statement of Environmental Effects in reference to the Geotechnical Report by EI Australia states that *“Given that groundwater is likely to be encountered at a depth between 5.0 and 6.0m below existing ground level (BEGL) and since excavation for the proposed 3-level basement is expected to reach approximately 10m BEGL, encountering groundwater is probable. Depending on the extent of interference, a tanked basement design may be necessary including dewatering which may require an Aquifer Interference Approval from WaterNSW which could trigger an Integrated Development application under section 91 of the Water Management Act 2000.”*

The Geotechnical Report submitted in support of the development application does not address ground water impacts and further information is required in this regard.

Confirmation is also required as to whether Integrated Development is sought to enable the application to be referred to the relevant external agency for approval under the Water Management Act 2000.

Public Interest

- 26. The development application should be refused because approval of the proposal is not in the public interest.

SIGNATURE

Signature



Capacity

Manager Development Planning

Date of signature

20/05/ 2025