

**DETERMINATION AND STATEMENT OF REASONS**  
SYDNEY WESTERN CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	7 July 2025
<b>DATE OF PANEL DECISION</b>	7 July 2025
<b>DATE OF PANEL BRIEFING</b>	30 June 2025
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Louise Camenzuli, David Kitto, Kevin Lam, Ninos Khoshaba
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 17 June 2025.

**MATTER DETERMINED**

PPSSWC-531 – Fairfield – DA 25.1/2025 – 896 Woodville Road and 15 Hilwa Street, Villawood - The application proposes 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 (27 x Infill affordable units and 121 units not for affordable housing) under SEPP (Housing) 2021 on Levels 1-11, and ancillary works such as tree removal, landscaping, consolidation of lots and dedication of land to the Council.

**PANEL CONSIDERATION AND DECISION**

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

**Development application**

The Panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

**REASONS FOR THE DECISION**

The Panel was briefed by Council on 2 June 2025 and 30 June 2025 in relation to this DA. The Applicant's Chief Executive Officer attended the first of those briefings, but the second was not attended. The Panel was not assisted by the design team at the briefings so it could better understand how its concerns might be resolved.

The Applicant has appealed to the Land & Environment Court against the deemed refusal of the DA. The Panel has been briefed with a copy of the Statement of Facts and Contentions (SOFAC) filed with the Court by Council on 20 May 2025 which raises at least 25 criticisms of the DA, many of which are also taken up in the determination assessment report on the DA supplied to the Panel.

The Panel had not been briefed on the DA by the date that the SOFAC was due to be filed, and the Panel does not adopt all of the criticisms of the proposed development contained in the SOFAC. For example, on the issue of contamination, the DA is accompanied by a DSI which involved soil sampling, testing and expert site attendances. While the Panel will ultimately be guided by expert advice obtained by the Council, it would be surprised if any remaining concern could not be conditioned.

While the Panel does not adopt the whole of the Council report, it agrees with the Council that the location of this site on the southern edge of the town centre demands careful consideration as to how any buildings will transition to the adjoining residential area, albeit that the adjacent sites have also been rezoned to R4 to encourage redevelopment.

Associated issues are more pressing because the DA proposal relies upon the bonus provisions of the Housing SEPP in relation to height available for developments which incorporate affordable housing. The effect of those bonus provisions is to allow a potential 30% increase in height. The lift overruns, plant and solar panels of the proposal marginally exceeds the permitted height, even allowing for that bonus.

Of themselves, those exceedances are unlikely to be determinative. However, as the Council points out the planning for the town centre has adopted a careful modulation, nominating specific maximum heights for different sites, with the tallest buildings planned along Villawood Road. While permissible, a 30% exceedance of the height on one site – particularly on the outside edge of the town centre – will present design challenges warranting special attention to ensure the building can still accord with the desired future character of the locality.

Ultimately however, the Panel did not see the height of this proposal alone as determinative, if other issues of design could be resolved.

The determinative issues of particular concern to the Panel were:

#### **Design for the ground plane of the development.**

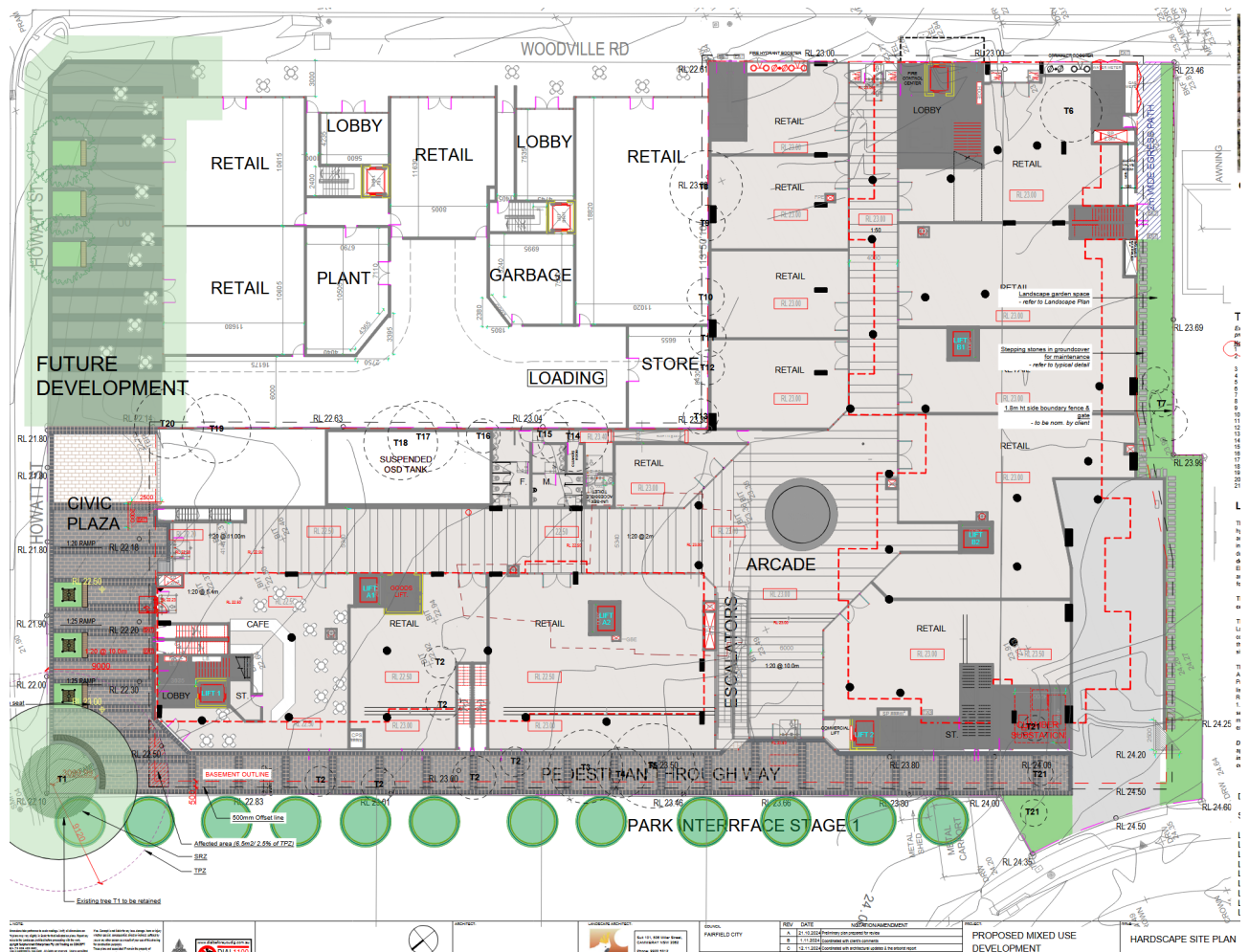
It is an objective of the E1 Local Centre Zone under Fairfield LEP 2013 that development should contribute to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. To do so, the zoning objectives say the development should encourage business, retail, community and other non-residential land uses on the ground floor of buildings.

The proposal takes up those directives by locating substantial retail development on the ground level. However, the design of that part of the development does not grapple well with the difficulties presented by the sequencing of the planned growth for the Town Centre.

In particular, the proponents of the DA have been unable to secure amalgamation into the site of the adjacent service station to the southeast fronting Woodville Road. The service station may continue to trade for decades. At the same time planned future land acquisition to enable a planned "civic plaza" to the north west to run through to Hilwa Street Fairfield has not yet progressed at all. Council has no funded plan for that acquisition, and in the absence of funding, it may also not proceed for many years. These are not problems of the Applicant's making, but they present major difficulties for a successful design for this site. The Panel agrees with the Council that they are not sufficiently resolved with this proposal.

The extract below from the Landscape Site Plan forming part of the DA is used for reference in that regard, noting that the row of trees along the bottom (northwestern) edge of the proposal is where a park is proposed. One can see from that extract that, until the park proceeds, only three shops will have a road frontage, and at least half of those frontages are taken up with infrastructure for the building. The retail shop which might otherwise present out towards Hilwa Street instead presents only a substation and lift core.

The Panel concluded for those reasons that the design was not of sufficient "design excellence" being a mandatory consideration arising under clause 6.12 of Fairfield LEP.



## Landscaping

The design for landscaping does not assist resolution of those issues.

There is a development control in clause 19 of the Housing SEPP 2021 for landscaping which is defined to exclude any part of the site covered by a building, parking or driveways.

With the development intending to take advantage of the SEPP to seek a 30% increase in height, attention to such standards adopted in the instrument which allows for the bonus just 4 years ago would seem to be more pressing.

The clause reads relevantly as follows:

### 19 Non-discretionary development standards—the Act, s 4.15

(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) 35m<sup>2</sup> per dwelling, or
- (ii) 30% of the site area,

(c) a deep soil zone on at least 15% of the site area, where—

- (i) each deep soil zone has minimum dimensions of 3m, and
- (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site...

The proposed development provides a total of 2,051.5sqm landscaping treatment across the ground floor, podium level and level 10 roof, except above ground landscaping is explicitly excluded from the calculation under the SEPP.

The clause 4.6 written request made by the Applicant that the standard not be strictly applied states that 30% of the site is 1,323.8m<sup>2</sup>, but only 211.6m<sup>2</sup>, or 4.8% of the site area is proposed at ground level – a variation of more than 80%. A significant portion of that 4.8% is a strip of land which in fact fronts the service station on Howatt Street.

While the site will one day be adjacent to a park, inclusion of additional non-built upon area at ground level would assist in improving the interface with the public domain. It would also potentially assist in softening the presentation of the proposed building, and in improving the interface with the adjacent residential housing until such time as it is redeveloped.






Because the Panel could not be satisfied that the Application sufficiently addressed those two matters, it concluded it was not in the public interest to approve the DA. Given the pending Court proceedings, the absence of any substantive response to the above concerns and the other outstanding matters discussed below, the Panel determined further adjournment of its determination to be inappropriate, and voted to refuse the DA.

Other significant issues which the Panel considered would have to be resolved before the DA could be approved include:

- a) Matters arising under the Airports Act 1996 and Regulation due to the exceedance of the Bankstown Airport Obstacle Limitation Surfaces (OLS) height limit of 50-60m AHD.
- b) Parking provision and traffic and vehicular access arrangements assessed having regard to the Council DCP and Ausroads standards and guidelines.
- c) Compliance with the minimum internal area requirements under the ADG arising under Section 19(2)(g) of the Housing SEPP.

#### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
Justin Doyle (Chair) 	Louise Camenzuli 
David Kitto 	Kevin Lam 
Ninos Khoshaba 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-531 – Fairfield – DA 25.1/2025
2	PROPOSED DEVELOPMENT	The application proposes 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 (27 x Infill affordable units and 121 units not for affordable housing) under SEPP (Housing) 2021 on Levels 1-11, and ancillary works such as tree removal, landscaping, consolidation of lots and dedication of land to the Respondent.
3	STREET ADDRESS	896 Woodville Road, Villawood and 15 Hilwa Street, Villawood Lot 100 DP 1070965, Lot 3 DP 208677, Lot 1 DP 217764 and Lot 13 DP 220348
4	APPLICANT/OWNER	Applicant: NW-Group Owner: ABA Square Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Housing) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>Apartment Design Guide</li> <li>Fairfield Local Environmental Plan 2013</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Fairfield CityWide Development Control Plan 2024</li> <li>Fairfield City Council Stormwater Management Policy, September 2017</li> <li>Villawood Town Centre Development Control Plan 2020</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 13 June 2025</li> <li>Clause 4.6 variation requests: Height of Buildings, Landscaped area Standard</li> <li>Written submissions during public exhibition: 0</li> </ul>

<b>8</b>	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Briefing: 2 June 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Kevin Lam, Ninos Khoshaba</li> <li>○ <u>Council assessment staff</u>: Venetin Aghostin, Liam Hawk</li> <li>○ <u>Applicant representatives</u>: Ahmad Diab</li> </ul> </li> <li>• Final briefings to discuss council's recommendation: 30 June 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Kevin Lam, Ninos Khoshaba</li> <li>○ <u>Council assessment staff</u>: Venetin Aghostin</li> <li>○ <u>Planning Panels Team</u>: Sharon Edwards, Tim Mahoney</li> </ul> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Refusal
<b>10</b>	<b>DRAFT CONDITIONS</b>	Not Applicable