

SYDNEY WESTERN CITY PLANNING PANEL

TO: Sydney Western City Planning Panel

REPORT: SWCPP Report

SUBJECT: 62-74 Canley Vale Road and 19-21 Phelps Street, Canley Vale

FILE No: DA 139.1/2025

Application lodged	13 May 2025
Applicant	On the Park Square Pty Ltd
Owner	On the Park Square Pty Ltd
Application No.	DA 139.1/2025
Description of Land	Lot: 2A DP: 420389 - 62 Canley Vale RD, CANLEY VALE Lot: 3 DP: 22203 - 62 Canley Vale RD, CANLEY VALE Lot: 1A DP: 420389 - 68 Canley Vale RD, CANLEY VALE Lot: A DP: 398409 - 70 Canley Vale RD, CANLEY VALE Lot: 10 DP: 969 - 72 Canley Vale RD, CANLEY VALE Lot: 1 DP: 947762 - 74 Canley Vale RD, CANLEY VALE Lot: 4 DP: 22203 - 19 Phelps ST, CANLEY VALE Lot: B DP: 398409 - 19 Phelps ST, CANLEY VALE Lot: 5 DP: 22203 - 21 Phelps ST, CANLEY VALE
Proposed Development	Demolition of existing structures, site preparation works and the construction of a three (3) storey commercial building comprising: • Supermarket; • Commercial Premises; • Food and Drink Premises; • Gymnasium; and, • Basement carpark and loading facilities. • This application also seeks consent for the supermarket anchor tenant, signage and lot consolidation.
Site Area	8,778m ²
Zoning	E1 – Local Centre under the Fairfield LEP 2013
Heritage	Yes – The subject land is located in the vicinity of an item of local heritage significance.
Issues	Car parking, lack of a residential component to the development, overshadowing of residential properties.

Assessing Officer: Glenn Apps (Consultant Planner)

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SUMMARY

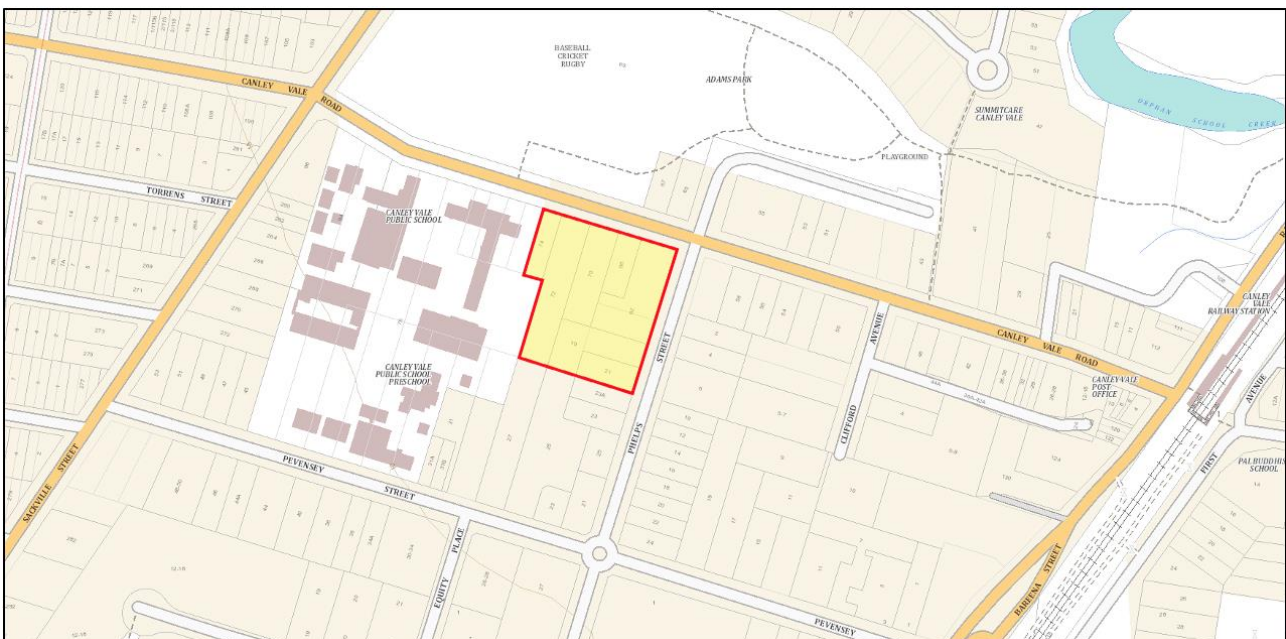
1. Development Application No. 139.1/2025 was received on 13 May 2025 for a 3 storey commercial development with basement carpark at Nos.62-74 Canley Vale Road and Nos.19-21 Phelps Street, Canley Vale.
2. The application was publicly notified to occupants and owners of the adjoining properties for a period of 14 days between 30 May 2025 and 13 June 2025. 2 submissions were received.
3. There are no variations to any development standard. The proposal involves variations to a number of planning controls contained in a Development Control Plan, particularly car parking.
4. The application is recommended for refusal on grounds as provided in the attached schedule.
5. The application is referred to the Panel as and the proposal has a Capital Investment Value of more than \$30 million.

REPORT

SUBJECT SITE AND SURROUNDING AREA

The subject land is known as 62-74 Canley Vale Road and 19-21 Phelps Street, Canley Vale and has an area of 8,778m². The site is comprised of 9 lots as illustrated in Figure 1 below:

Figure 1 – Locality Plan of subject site



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Figure 2 – Aerial view of subject site



The subject land is located within the suburb of Canley Vale and is situated on the south western corner of Canley Vale Road and Phelps Street.

Figure 3 – Street view of the site from Phelps Street



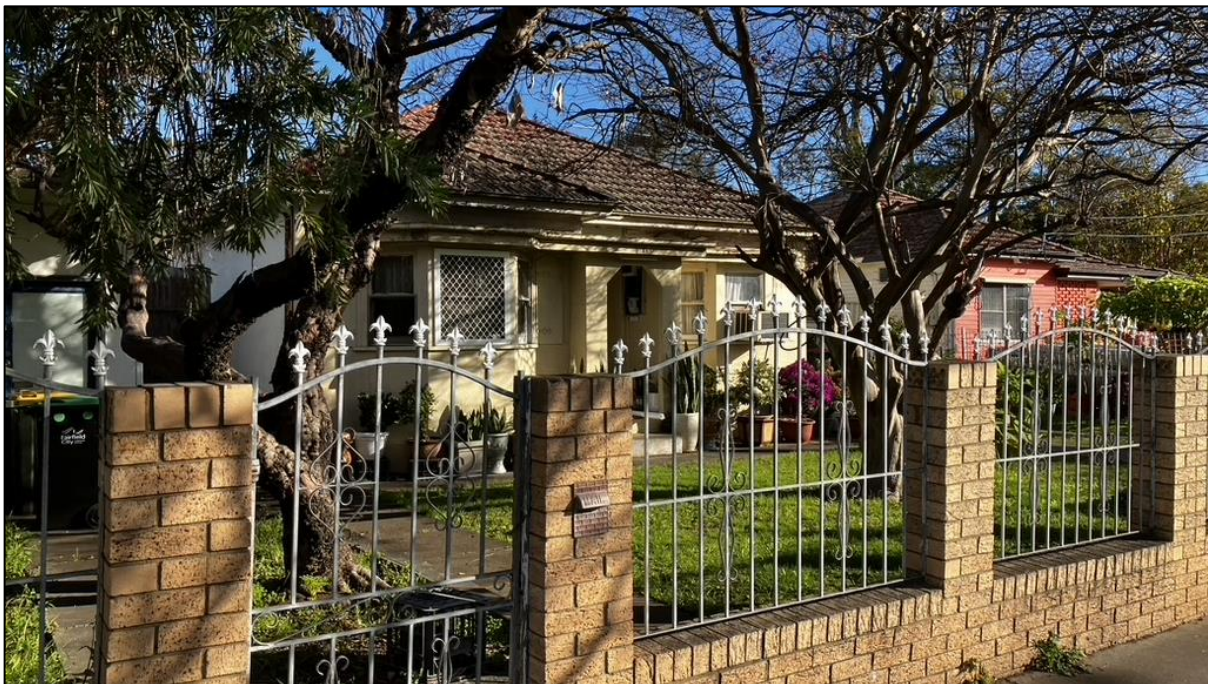
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The subject land currently supports a retail plant nursery, various single dwellings with associated outbuildings, and a small shop attached to a dwelling. All structures are proposed to be demolished and all current land uses ceased to facilitate the proposed development.

Figure 4 – Street view of the site from Canley Vale Road showing former shop



Figure 5 – Street view of the site from Canley Vale Road showing existing dwellings



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The land is situated at the western end of the Canley Vale town centre and approximately 370m to Canley Vale Railway Station.

Surrounding land uses are a mix of residential and non residential activities. Land to the west is occupied by Canley Vale Public School. Land across Canley Vale Road to the north comprises Adams Park which offers various sport and recreational opportunities. Land to the south is a mix of single dwellings and townhouses. Land across Phelps Street is a mix of low density dwellings, residential flats and community uses.

Figure 6 – Low density cottages in Phelps Street



Figure 7 – Residential flat building opposite the site in Phelps Street



DESCRIPTION OF THE PROPOSED DEVELOPMENT

Council has received a development application for a 3 storey commercial development comprising:

- i. Demolition of all structures and carrying out of site preparation works;
- ii. Construction of a 3 storey commercial over one level of basement, as follows:
 - Basement level
 - Sewer main diversion
 - 249 car parking spaces including 6 direct to boot spaces for the supermarket, 16 bicycle spaces and 6 motorcycle spaces; and
 - Plant and storage rooms
 - Ground floor
 - Commercial tenancies fronting Canley Vale Road and Phelps Street;
 - Entry lobby to gymnasium and commercial space on Phelps Street;
 - Pedestrian entrances and internal mall/common areas;
 - Full-line supermarket;
 - Services/plant rooms/waste management facilities;
 - Toilet and storage facilities;
 - Vehicular entry/exit to basement off Phelps Street; and
 - Loading dock with vehicular entry/exit to loading dock off Phelps Street
 - First floor
 - Commercial tenancies opening to terraces facing Canley Vale Road and Phelps Street;
 - Internal mall/common areas;
 - Toilet facilities;
 - Storage facilities; and
 - Plant rooms
 - Second floor
 - Food and drink tenancies opening to terraces facing Canley Vale Road;
 - Recreational facility (indoor) – Gymnasium;
 - Internal mall/common areas;
 - Toilet facilities;
 - Storage facilities; and
 - Plant rooms
 - Roof
 - Plant; and
 - Solar panels
- iii. Operation of the supermarket by an anchor tenant.

Plans of the proposal are provided below.

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Figure 8 – Proposed basement parking level

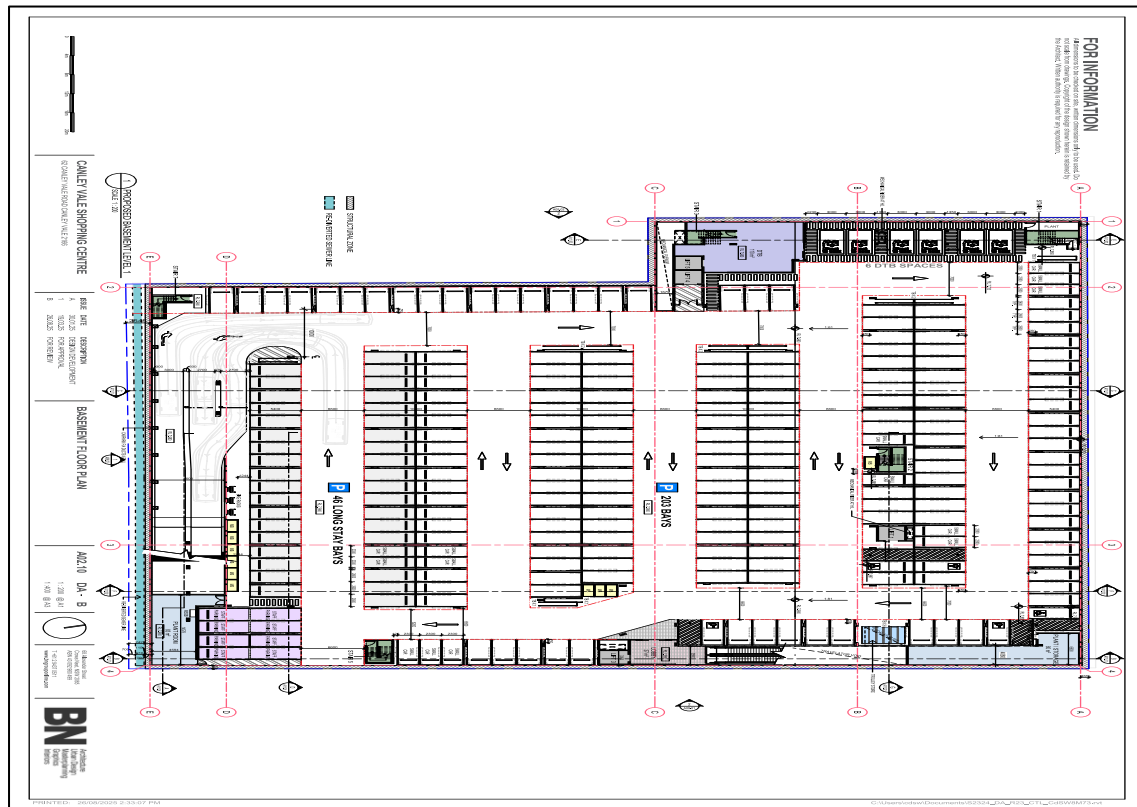
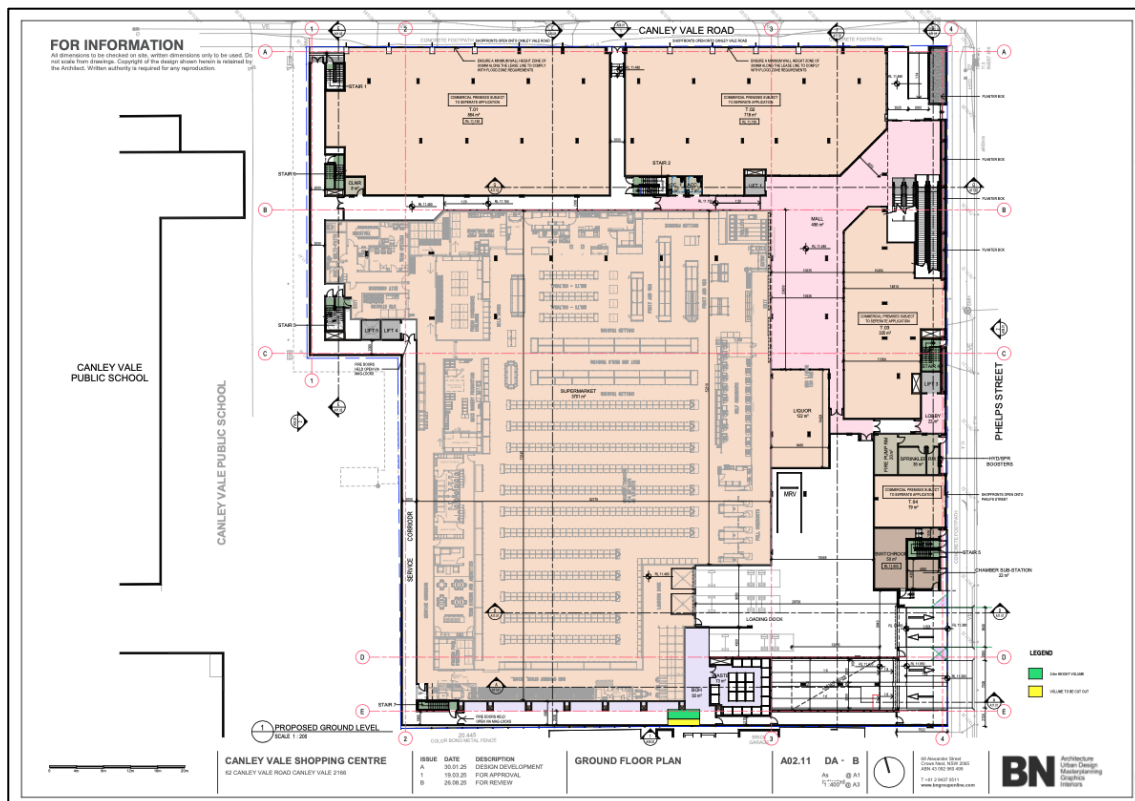


Figure 9 – Proposed ground floor plan – supermarket, retail and loading/servicing



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Figure 10 – Proposed level 1 floor plan – commercial offices

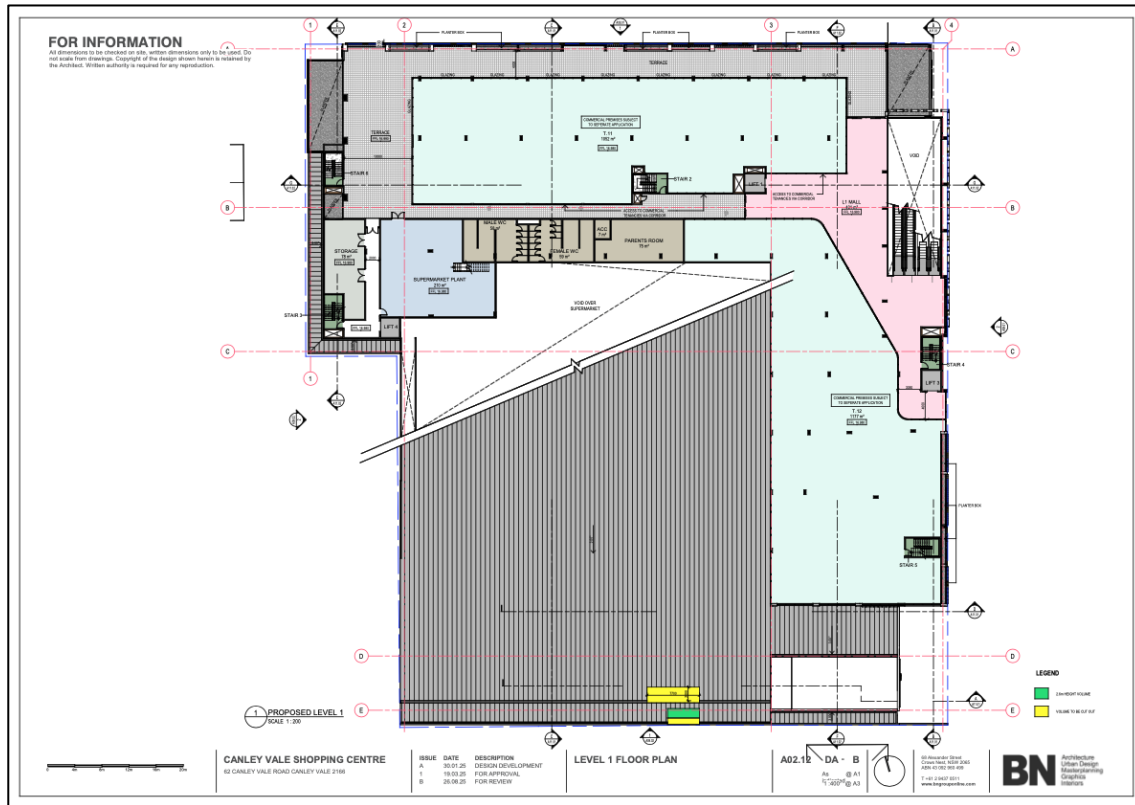
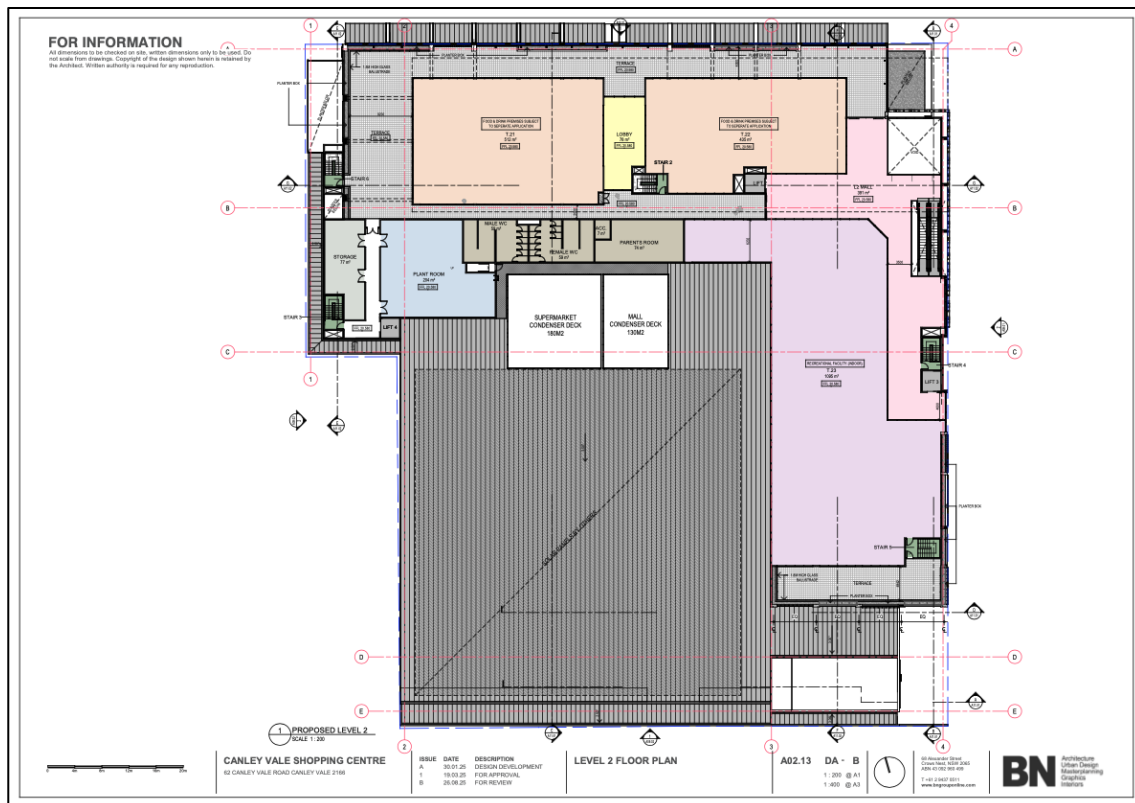


Figure 11 – Proposed level 2 floor plan – gym and food and beverage



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Figure 12 – Proposed north and east elevations

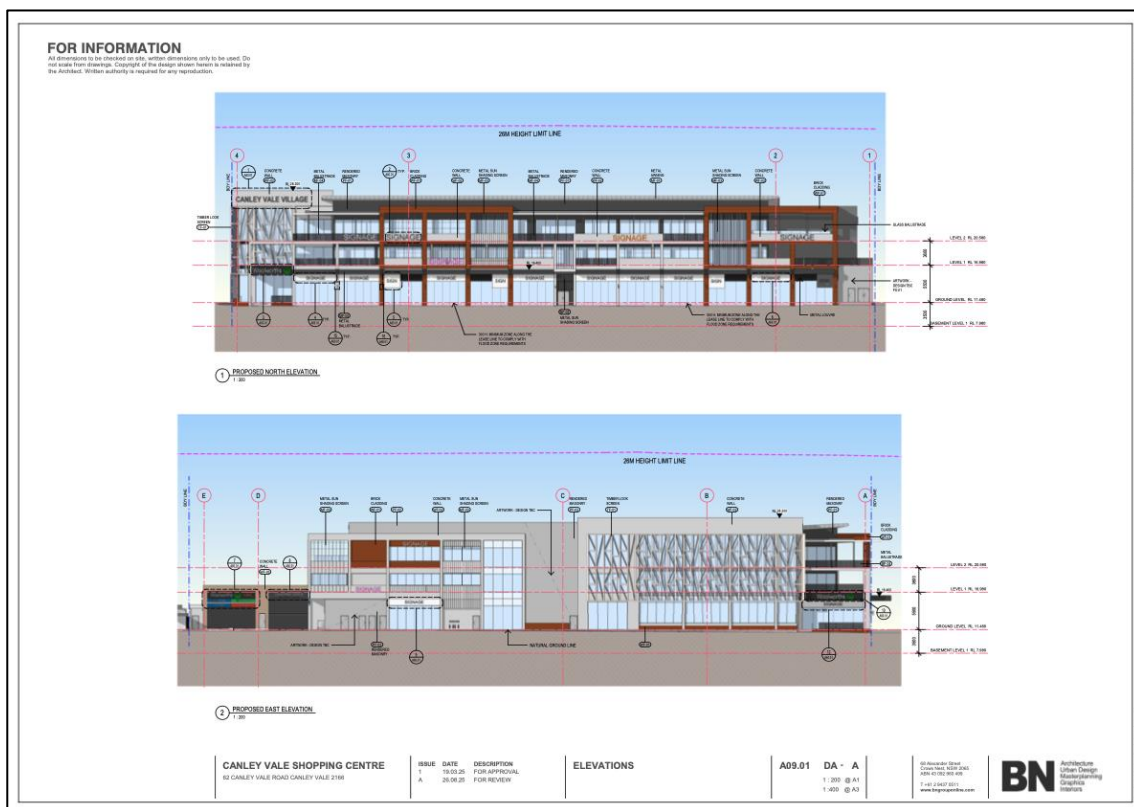
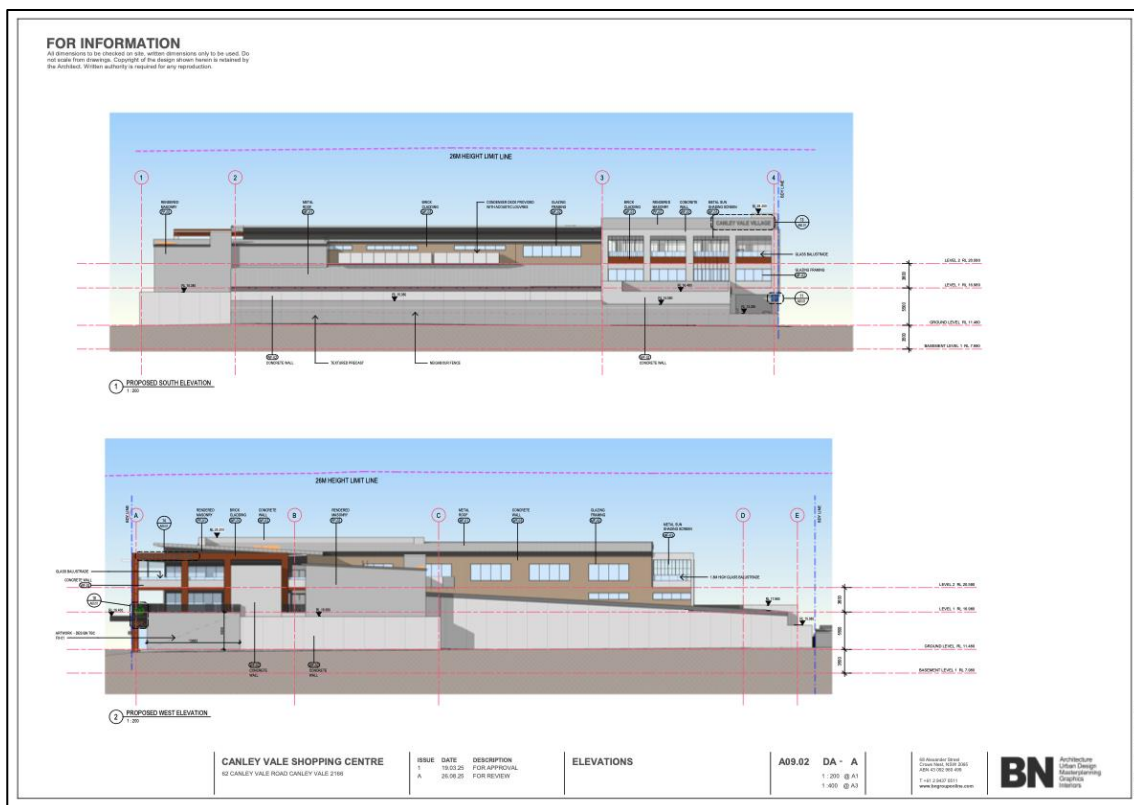


Figure 13 – Proposed south and west elevations



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Hours of operation are proposed as follows:

Supermarket:	6:00am to 12:00 midnight, 7 days a week
Supermarket Direct to Boot:	6:00am to 10:00pm, 7 days a week
Supermarket loading dock:	6am to 10pm, 7 days a week
Shops:	6:00am to 10:00pm, 7 days a week
Food and Beverage:	7:00am to 12:00 midnight, 7 days a week
Gymnasium:	Initially 5:00 am – 11:00 pm 7 days a week from opening but after an initial period 24 hour operation
Commercial Offices:	7:00am to 10:00pm, Monday to Friday

The supermarket seeks 24-hour access to the development to facilitate the development's operation such as stocking and cleaning.

All tenancies will be leased and subject to separate applications as necessary, except the supermarket. The supermarket operation forms part of the subject DA.

HISTORY

Date	Action
07/12/2023	Pre Development Application Advisory meetings held with Council.
05/12/2024	Pre Development Application Advisory meetings held with Council.
13/05/2025	The Development Application was lodged.
27/05/2025	The Development Application was referred to internal departments and external agencies for review.
30/05/2025 to 13/06/2025	Application placed on public notification for 14 days. The notification resulted in the receipt of 2 submissions.
10/07/2025	A Request for Further Information was forwarded to the Applicant.
19/08/2025	The Applicant met with Council and the Consulting Planner assessing the application to discuss the Request for Further Information.
16/09/2025	The Applicant submitted additional material in response to the Request for Further Information.
01/12/2025	Application referred to SWCPP for determination following completion of assessment.

APPLICANTS SUPPORTING STATEMENT

The application has been supported by the following plans and reports:

DOCUMENT	PREPARED BY	DATED
Plans		
Architectural Plans	BN Architecture	7 April 2025
Civil Works Plan	B G and E	27 February 2025
Landscape Plan	Greenland Design	24 March 2025
Photomontages	BN Architecture	Undated

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Survey	R S Canceri	20 March 2025
Reports		
Statement of Environmental Effects	Haskew De Chalain Planning	22 May 2025
Access Design Review	Jensen Hughes	11 April 2025
Acoustic Assessment	Renzo Tonin and Associates	18 February 2025
Arboricultural Assessment	Anderson Environmental	22 November 2023
BCA Assessment	McKenzie Group	27 March 2025
CPTED Assessment	Haskew De Chalain Planning	16 April 2025
Design Excellence Report	BN Architecture	3 April 2025
Economic Impact Assessment	Hill PDA	21 February 2025
Flood Impact Assessment	BMT Commercial	26 March 2025
Flood Risk Management Report	FloodMIT	March 2025
Flora and Fauna Assessment	Anderson Environmental	20 November 2023
Geotechnical Investigation	Geotechnique Pty Ltd	19 June 2024
Hazardous Materials Survey	E I Australia	1 July 2024
Heritage Impact Statement	Heritage 21	March 2025
Mechanical Services Air and Odour	Benmax	28 February 2024
NABERS Report	SetQS	24 March 2025
Operational Management Plan	On the Park Square	March 2025
Preliminary Crime Prevention Strategy	Haskew De Chalain Planning	16 April 2025
Preliminary Site Investigation Report	E I Australia	1 July 2024
Regulatory Compliance Report	McKenzie Group	27 March 2025
Residential Add-On Scheme	BN Architecture	20 March 2025
Sustainable Design Report	On the Park Square	March 2025
Stormwater Report	B G and E	March 2025
Traffic and Parking Impact Assessment	McLaren Traffic	8 April 2025
Waste Management Plan – Construction and Demolition	Elephants Foot	21 March 2025
Waste Management Plan – Operational	Elephants Foot	21 March 2025

CONTACT WITH RELEVANT PARTIES

The assessment of the Development Application and preparation of this report has been undertaken by an external planning consultant in conjunction with Council's Development Assessment officer.

A site inspection was carried out by the consulting planner on 17 June 2025.

INTERNAL REFERRALS

Development Engineer

The development application was referred to Council's Development Engineer for comment who has reviewed the relevant environmental reports and advises that the proposal is unable to be supported on grounds of traffic, parking and access.

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The following comments have been provided.

- Stormwater drainage

Stormwater is generally satisfactory, subject to minor design amendments to the OSD system and the provision of a basement pump out pit. Additional OSD calculations are also required to be provided.

- Flooding

The site is identified as being within a Low Flood Risk precinct, with a small portion of the site, bordering Canley Vale Road, located within a "Medium Flood Risk" precinct.

A freeboard level of 0.3m is achieved for most of the building except for the retail stores fronting Canley Vale Road which are below the 0.3m freeboard. Retail tenancies T.01 and T.02 would need to be raised to a floor level of RL11.18 to meet the 0.3m freeboard requirement.

The basement car park is protected by a crest which is adequate to prevent the ingress of floodwater in an estimated 1% flood event.

- Traffic and parking

The design of the access driveway is not satisfactory in terms of entry and exit widths and driveway separation. The driveway width to the loading facility is insufficient to accommodate a heavy rigid vehicle.

Traffic Engineer

The development application was referred to Council's Coordinator Traffic for comment who has advised that the proposed development cannot be supported for the following reasons:

- i. The proposal does not provide sufficient parking.
- ii. Insufficient detail has been provided around pedestrian movements and pedestrian safety within the carpark;
- iii. Decrease in performance of nearby intersections including Canley Vale Road with Railway Parade, and Canley Vale Road with Sackville Street;
- iv. Design of the entry driveways is not compliant with AS2890.1;
- v. Loading bay access conflicts with the driveway to the basement;
- vi. The hours of operation of the carpark of 7am to 10pm is inconsistent with the 24hr operation of the gym and the grace period after night trading of restaurants has ceased;
- vii. Location of the motorcycle and bicycle parking is not satisfactory. Bicycle parking has been provided in the public domain which is not supported. Any bicycle parking must be on the site;
- viii. Accessible parking spaces need to be relocated to be proximate to the lift; and
- ix. Tandem spaces for staff are not supported due to difficulties in managing the use of those spaces in busy periods.

Parking is a key issue which is discussed in detail elsewhere in this report.

Building Control

The development application was referred to Council's Co-Ordinator Building Control for comment who has advised that the development proposal can be supported subject to recommended conditions of consent. A number of BCA issues arise which can be resolved at the Construction Certificate stage.

Assets

The development application was referred to Council's Infrastructure and Assets team for comment who have reviewed the relevant material and advise that the application can be supported subject to the imposition of conditions of consent.

Place Manager - Cabramatta

The development application was referred to Council's Place Manager for Cabramatta. The Place Manager notes that the proposal activates the street frontage and will contribute to the night-time vibrancy and the economy of the centre.

The Place Manager has given support to the proposal however subject to other experts being satisfied as to the management of the intersection of Phelps Street with Canley Vale Road and the shortfall in parking provided on site.

The Place Manager also noted that providing a residential component in the development would assist in contributing to the vibrancy of the Canley Vale town centre.

Public Health and Environment

The development application was referred to Council's Co-Ordinator Public Health and Environment for comment who has reviewed the relevant environmental reports and advises that the proposal is unable to be supported on grounds of contamination and waste management.

The following comments have been provided.

- Site contamination

The Preliminary Site Investigation (PSI) submitted with the DA identifies that the site is potentially contaminated and therefore requires a Stage 2 Detailed Site Investigation (DSI).

The applicant has not submitted a DSI as requested.

The applicant claims that the soil testing results from the PSI indicate the site does not pose a risk to human health however this conclusion cannot be supported as the initial sampling was limited and has not met the minimum requirements set out in the *NSW EPA's contaminated Land Sampling Design Guidelines*. The limited sampling that has been undertaken cannot be relied upon to properly determine the site's suitability for the proposed development or adequately assess potential contamination risk. Deferring the DSI until after demolition may potentially cause undetected contamination to be disturbed or dispersed.

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The applicant further notes that existing structures and concrete slabs may restrict the ability to carry out soil sampling across the site. While this constraint may result in some data gaps, this does not remove the requirement to conduct a DSI across all accessible areas of the site to support the DA. Any remaining gaps may be addressed through supplementary investigations following removal of structures however, this cannot substitute for completing the DSI prior to demolition or any other works.

Allowing demolition to proceed in the absence of a DSI would be inconsistent with *SEPP (Resilience and Hazards) 2021*, *EPA Managing Land Contamination* and *Fairfield City Wide DCP 2024*.

In accordance with Chapter 4 of *SEPP (Resilience and Hazards) 2022*, a consent authority cannot consent to the development of the land unless it has considered whether the land is contaminated. If the land is contaminated, the consent authority must be satisfied that the land is suitable in its contaminated state (or would be suitable after remediation) for the proposed development.

Council does not have sufficient certainty around these matters at this time in the absence of a DSI.

- Acoustic impacts

An updated acoustic report has been provided in support of the DA which demonstrates that predicted noise levels will not impact sensitive receivers.

The information provided in the updated acoustic report is sufficient to demonstrate the impacts of mechanical plant and equipment will remain compliant at the nearest sensitive receiver and appropriate conditions of consent can be imposed.

- Waste management

Insufficient detail is provided to identify the supermarket waste storage areas. The Supermarket Waste Management Plan also fails to address the cleaning and maintenance of the supermarket garbage storage areas.

Economic Development and Major Events

The development application was referred to Council's Manager Economic Development and Major Events for comment who has reviewed the relevant reports and supports the development on the basis that it will act as investment stimulus for Canley Vale and will create local jobs. The proposed development would not threaten the viability of the existing Canley Vale centre.

Strategic Planning

The development application was referred to Council's Co-ordinator Strategic Planning for comment who has identified the shortfall in parking as a key issue and advises that Council's Local Infrastructure Contributions Plan 2023 does not currently provide for the opportunity to provide car parking within the Canley Vale Town Centre by way of infrastructure contributions.

Natural Resources

The development application was referred to Council's Team Leader – Natural Resources for comment who has advised that the proposed development can be supported subject to the imposition of conditions of consent.

Heritage Advisor

The development application was referred to Council's Heritage Advisor for comment as the site is in proximity to an item of environmental heritage listed in Schedule 5 of the Fairfield LEP 2013, being a Victorian era cottage, which is situated in the grounds of Canley Vale Public School.

Council's Heritage Advisor has advised that the proposed development will not result in impacts to the heritage item.

EXTERNAL REFERRALS

Transport for NSW

The development application was referred to Transport for NSW who responded on 11 June 2025 and advise as follows:

- The development has access off Phelps Street (local road), which connects to Sackville Street, Canley Vale Road and Railway Parade (unclassified Regional Roads) where Council is the relevant roads authority.
- It is noted that right-turn movements at the intersections of Canley Vale Road with Railway Parade and Sackville Street are projected to experience delays and significant queue lengths under future post-development conditions.
- The proposal will not adversely impact the surrounding classified road network which comprises Hume Highway and Cumberland Highway.

Endeavour Energy

The development application was referred to Endeavour Energy who responded to Council on 29 May 2025.

No objection has been raised to the development subject to the imposition of conditions of consent.

PLANNING COMMENTS

The provisions of any Environmental Planning Instruments (EP& A Act s4.15 (1)(a)(i))

State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies:

(a) State Environmental Planning Policy (Planning Systems) 2021

The application is accompanied by a Capital Investment Value Estimate report which has determined the approximate value of the development to be \$71,356,102.

As the capital investment value of the proposed development will be greater than \$30 million it meets the criteria for Regionally Significant Development (RSD). Accordingly, the DA will be determined by the *Sydney Western City Planning Panel*.

(b) State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* requires a consent authority to be satisfied that the site is suitable, or can be made suitable, to accommodate the proposed development. Relevant matters have been considered in the assessment of the development application as per the following table:

Figure 14 – Remediation of Land Compliance Table

Matter for Consideration	Yes/No
Does the application involve re-development of the site or a change of land use?	☒ Yes ☐ No
In the development going to be used for a sensitive land use (e.g.: residential, educational, recreational, childcare or hospital)?	☐ Yes ☒ No
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	☒ Yes ☐ No
Is the site listed on Council's Contaminated Land database?	☐ Yes ☒ No
Is the site subject to EPA clean-up order or other EPA restrictions?	☐ Yes ☒ No
Has the site been the subject of known pollution incidents or illegal dumping?	☐ Yes ☒ No
Does the site adjoin any contaminated land/previously contaminated land?	☐ Yes ☒ No

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Matter for Consideration	Yes/No
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	☐ Yes ☒ No

A *Preliminary Site Investigation* (PSI) was undertaken by EI Australia which identified contamination on site asbestos fragments in fill material, nickel and zinc, and pesticides from the use of the land.

The PSI submitted with the DA identifies that a Stage 2 Detailed Site Investigation (DSI) is required.

The applicant has not submitted a DSI.

The PSI has been reviewed by Councils Co-Ordinator Public Health and Environment, whose comments are provided elsewhere in this report.

In summary, and in accordance with Chapter 4 of *SEPP (Resilience and Hazards) 2022*, a consent authority cannot consent to the development of the land unless it has considered whether the land is contaminated. If the land is contaminated, the consent authority must be satisfied that the land is suitable in its contaminated state (or would be suitable after remediation) for the proposed development.

Council does not have sufficient certainty around these matters at this time in the absence of a DSI.

(c) State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 of *State Environmental Planning Policy (Industry and Employment) 2021* applies to signage that is visible to any public place. Clause 3.6 of the SEPP requires that a consent authority not grant consent for signage until it has considered the consistency of the proposed signage with the signage objectives and the assessment criteria at Schedule 5 of the SEPP.

The architectural plans provide details of the signage associated with this application.

An assessment of the proposed signage against the assessment criteria in Schedule 5 of the SEPP has been undertaken and demonstrates that the signage is consistent with the relevant provisions and assessment criteria of *State Environmental Planning Policy (Industry and Employment) 2021*.

(d) State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 3 of *State Environmental Planning Policy (Sustainable Buildings) 2022* applies to this proposal and requires the Consent Authority to consider whether the proposal has adopted sustainability measures in its design.

The SEPP requires a Net Zero Statement be included in a development application for large commercial developments. The Net Zero Statement included as part of the application outlines ESD measures that will support the ability for the office component of the proposal to operate with net zero carbon emissions in operation by 2035.

The development will implement sustainable design principles which include initiatives designed to mitigate the development's environmental impact and is capable of achieving a minimum 5-star Green Star Buildings rating.

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Further, the SEPP requires the quantification of embodied emissions and accordingly, a NABERS assessment has been provided.

(e) **State Environmental Planning Policy (Transport and Infrastructure) 2021**

Chapter 3 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* applies to traffic generating developments and requires referral to TfNSW.

The application was referred to TfNSW and their comments have been considered elsewhere in this report.

(f) **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

Chapter 6 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* applies to water catchments and includes the Georges River catchment. The land is within the Georges River catchment.

As such, the proposed development raises no issues as no adverse impact on the catchment is envisaged.

Local Environmental Plans

Fairfield LEP 2013

The Fairfield LEP 2013 is applicable to the development proposal. The land is zoned *E1 Local Centre* under that instrument.

It is noted that the development achieves compliance with the key statutory requirements of the Fairfield LEP 2013 and the objectives of the *E1 Local Centre* zone.

The objectives of the *E1 Local Centre* zone are:

- 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.

The proposed development is consistent with the zone objectives in that it contributes to the range of commercial services and employment opportunities in the Canley Vale town centre. Further, the development will contribute to the vibrancy of the Canley Vale town centre.

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The proposed development comprises floor space for retail and business premises, recreational facility (indoor) and food and drink premises. Each component of the development is permissible with consent in zone E1.

The relevant matters to be considered under the Fairfield LEP 2013 for the proposed development are summarised below.

Figure 15 –Fairfield LEP 2013 Compliance Table

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.1 Minimum subdivision lot size	N/A	The proposed development does not seek the creation of new lots.
4.3 Height of Buildings	Yes	A maximum building height of 26m is prescribed for the land. The proposed development is within the maximum 26m height plane.
4.4 Floor Space Ratio	N/A	No maximum FSR is prescribed for the land.
4.6 Exceptions to development standards	N/A	The proposed development does not require consideration of any exceedance of a development standard.
5.10 Heritage Conservation	Yes	The land does not contain an item of environmental heritage and is not located within a heritage conservation area. The land is within proximity of an item of environmental heritage (Item 26) being a Victorian era cottage located within the grounds of Canley Vale Public School. The proposed development does not impact the heritage item or interpretation of that item.
5.21 Flood Planning	Yes	The proposed development is satisfactory with regard to its flood impacts.
6.1 Acid Sulfate Soils	N/A	The land is not mapped as being affected by acid sulfate soils.
6.2 Earthworks	Yes	The DA seeks consent for earthworks. The extent of earthworks and its impacts are reasonable in the context of the development.
6.3 Maximum gross floor area for certain development in Zone E1	N/A	The subject land is not mapped as being affected by this clause.

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6.5 Terrestrial Biodiversity	N/A	The subject land is not mapped as “biodiversity”.
6.6 Riparian Land and Watercourse	N/A	The subject land is not mapped as “riparian area”.
6.9 Essential Services	Yes	All necessary essential services are provided to the subject land.
6.10 Active street frontages	N/A	The subject land is not mapped as being affected by this clause.
6.11 Ground floor business premises, medical centres and retail premises	N/A	The subject land is not mapped as being affected by this clause.
6.12 Design excellence	Yes	The subject land is mapped as being affected by this clause. The proposal is of a high standard of architectural design and materiality appropriate to the purpose and location of the building. However the proposal is not considered to result in an appropriate interface with the adjoining dwellings to the south in terms of visual impact and overshadowing and thus fails to satisfy Clause 6.12(4)(d)(iv) - <i>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</i> and Clause 6.12(4)(d)(vii) - <i>environmental impacts such as sustainable design, overshadowing, wind and reflectivity</i>.
7.5 Canley Vale – Height of buildings		The height of a building on the land must not exceed 9 metres unless the site area is at least 8,000m². The subject land is 8,778m² and may therefore benefit from the 26m height limit prescribed by Clause 4.3.

The provisions of any draft Environmental Planning Instruments (EP& A Act s4.15 (1)(a)(ii))

Draft State Environmental Planning Policy (Environment)

There are no draft planning instruments applicable to the land or to the development.

The provisions of any Development Control Plans (EP& A Act s4.15 (1)(a)(iii))

The proposed development has been considered against the objectives and provisions of the Fairfield Citywide DCP 2024 ("FCWDCP"), particularly the *Canley Corridor Local Town Centres DCP No.37* and the *Fairfield City Centres Policy 2015*.

Canley Corridor Local Town Centres DCP No.37

In summary, the proposed development fails to satisfy a number of key areas of the DCP as outlined below.

- Parking

The proposal generates a demand for 352 parking spaces. 249 spaces are provided on site spaces, resulting in a shortfall of 103 spaces. While shared trips and the Direct to Boot facility would account for a minor variation, the shortfall is too significant to warrant a variation of this scope.

The shortfall in parking would need to be met by on-street parking, parking within Adams Park and the commuter parking. On street parking in nearby streets will impact street parking for the surrounding flats and medium density developments. The car park for Adams Park would be at or near capacity during Saturday sports and also provides for school pick up parking on weekdays. The commuter parking is located approximately 350m away and is not considered to be within proximity to provide parking for the proposed development. Further, the commuter car park is provided for rail commuters as well as the main street commercial strip which is unable to provide off street parking.

The *Traffic and Parking Impact Assessment* report provided with the DA notes that the proposal includes multiple uses that may not coincide with each other, making it unreasonable to assess parking needs for each tenancy individually.

While it is not expected that all tenancies on the site will operate at full capacity independently at the same time, the *Traffic and Parking Impact Assessment* acknowledges the proposed parking provision does not fully meet the demand on site during certain periods being 4:00PM – 9:00PM on weekdays and 11:00AM – 2:00PM on weekends.

The *Traffic and Parking Impact Assessment* has carried out parking surveys of the surrounding road network within 200m of the site which determined a minimum of 54 available spaces during weekday peak times and 12 spaces on weekends and suggests the overflow from the development can be absorbed without negatively affecting local parking availability.

While there may be availability of parking on-street in the vicinity of the land, the development should not be reliant on that capacity to take up overflow parking when the availability of on street parking should be maintained for the surrounding residential uses.

Where a development that is likely to generate a significant demand for parking and is located at a zone interface with residential land uses, it is critical that the parking demand be met by that development rather than impose any burden of overflow onto the residential streets.

The *Traffic and Parking Impact Assessment* notes that overflow can be accommodated in the nearby Canley Vale Train Station commuter car park, which is located approximately 350m from the site and is underutilised during evening and weekend hours.

Given the distance of the commuter car park from the development, it is unlikely that the commuter car park will contribute to managing overflow. There is nothing to compel patrons of the proposed facility to park in the commuter car park and it is likely that overflow parking will therefore be directed to local streets or Adams Park.

The proposal has not sufficiently met the parking needs of the development, having regard to the range of facilities provided within the development. Further, there is nothing to prevent the provision of an additional basement level to accommodate additional parking to meet the demand.

Motorcycle parking has been provided within the basement however is not in a convenient, legible location. Motorcycle parking should be in a designated area which is convenient and obvious. Further, stacked parking is provided for staff however is not supported on the basis that it can be difficult to manage the use of those spaces in peak times.

- Building form

The DCP anticipates a shop top housing development for the site with a deeper setback to the south to provide separation to the adjoining residences. The siting and massing anticipated by the DCP was formulated to manage issues of privacy and overshadowing to the residences to the south.

The building form is not one that is anticipated by the DCP controls, while it is acknowledged that the development is permissible within the E1 - Local Centre zone.

While the proposed development does not result in privacy impacts, the development results in impacts to the neighbours to the south by way of overshadowing and visual impact.

The FCWDCP provides that dwellings in a multi-dwelling housing development should achieve at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June to all north facing living area windows and more than two-thirds of the private open space.

The architectural plans provide 2D and 3D shadow diagrams which indicate that private open space of adjoining dwellings to the south will not achieve 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.

Further, the development proposes a 3.6m high wall along the southern boundary finished in a textured precast. The unrelieved expanse of wall along the boundary is not satisfactory with regard to its visual impact. This impact could be alleviated with a greater setback, a reduced wall height at the boundary and improved materiality.

- Design matters

Other than the issue of the southern boundary wall discussed above, the design and materiality is satisfactory.

The proposal properly addresses and activates the street with glazing to the shopfronts, full awnings to the street and opportunities for public art.

Fairfield City Centres Policy 2015

The Fairfield City Centres Strategy seeks to implement a framework for consideration of retail and commercial proposals which have potential to affect the economic well-being of centres in the Fairfield local government area.

Canley Vale is a local centre within the Fairfield City Centres Strategy.

Local Centres are characterised by various attributes including the presence of a medium scale to full-line supermarket. The proposal is consistent with this.

Local centres also contain between 5,000 – 10,000m² of retail floor space and provide retail services to one or more suburbs. The proposal would add approximately 10,000m² of floor space to Canley Vale, approximately 7,000m² of which is retail. The supermarket is supported as an anchor tenant to attract trade to Canley Vale.

EVALUATION CRITERIA	COMMENT	CONSISTENT
That any expansion proposal not alter the role of the local centre within Fairfield City's retail system	The expansion to include a supermarket is consistent with the role of the local centre.	Yes
That any expansion proposal not unacceptably affect the range of services available in nearby sub-regional centres or neighbourhood centres	The expansion is not likely to affect the range of services offered in nearby centres.	Yes
That any proposed development does not rely on an expansion of the existing trade area of a neighbourhood centre for its viability	The trade area is expanded into what is already land zoned for that expansion and currently supports a commercial function (i.e. the plant nursery).	Yes
That a development proposal will result in an outcome consistent with the current role of the centre	The expansion to include a supermarket is consistent with the role of the local centre.	Yes
That a development proposal will strengthen the viability of a centre, particularly its core function of providing supermarket services.	The proposal will strengthen the viability of Canley Vale by providing supermarket services.	Yes

Any planning agreement that has been entered into under part 7.4, or any draft planning agreement that a developer has offered to enter into under part 7.4, (EP& A Act s4.15(1)(a)(iiia))

There is no planning agreement or draft planning agreement associated with the subject Development Application.

The provisions of the Regulations (EP& A Act s4.15 (1)(a)(iv))

The proposed development raises no concerns as to the relevant matters arising from the EP&A Regulations 2021.

The Likely Environmental, Social or Economic Impacts (EP& A Act s4.15 (1)(b))

It is considered that the proposed development will have no significant adverse environmental impacts. The development has been demonstrated not to impact on flood behaviour.

However, the proposal does not meet the parking demand generated by the development which will impact the neighbourhood by pushing the shortfall into local streets and other nearby parking.

The proposed development is not anticipated to create adverse social or economic impacts in the locality.

The proposed development will contribute to the vitality of the Canley Vale town centre and is considered to provide benefits to the local community.

The proposed development will also result in additional employment opportunities both during the construction phase as well as long term employment in the retail and hospitality sectors through the operation of the proposal.

The *Canley Corridor Local Town Centres DCP No.37* predicates a shop top housing development over the subject land. The proposal does not avail itself of this opportunity.

This is considered to be a lost opportunity with regard to contributing to population density in the Canley Vale centre in proximity to existing public transport and to support local businesses.

A Planning Proposal for Canley Vale and Canley Heights has been approved to create a Special Entertainment Precinct (SEP) in those centres, although the SEP does not extend to the subject land. The SEP aims to support a night time economy and balance the vibrancy of the centre with the amenity of residents. The subject land could contribute residential development within the Canley Vale centre to support restaurants and facilities within the SEP.

It is acknowledged that the application is accompanied by a residential add-on option, however in the absence of sufficient parking to support a residential component, it is unclear how any future residential development on the land can be carried out.

The Applicant has provided justification as to why a residential development is not feasible for the land, particularly that residential land uses would conflict with the SEP, that the land is subject to flooding, and that the development as proposed remains permissible in its own right.

While on its own, the lack of a residential component might not be determinative. However, there remain other key issues that need to be resolved such as parking. In the absence of other issues being properly resolved, it is considered that the lack of a residential component remains a relevant matter for consideration.

The suitability of the site for the development (EP&A Act s4.15 (1)(c))

The subject site is subject to flooding. The proposed development is capable of being flood free subject to a change to the floor level of 2 tenancies. Otherwise the site is not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development.

Accordingly, the site can accommodate the proposal. The proposed development has been assessed with regard to its environmental consequences and it is considered that the development would be suitable in the context of the site and surrounding locality should key issues such as parking and the interface with the adjoining low density residential zone be addressed.

Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

Advertised (newspaper) ☒

Mail ☒

Not Required ☐

In accordance with Council's Notification Policy requirements contained within Appendix B to the FCDP, the proposal was publicly exhibited for a period of 14 days between 30 May 2025 and 13 June 2025.

The notification resulted in the receipt of 2 submissions. The matters raised in the submissions are considered below.

- *Increased Flood Risk to my property*
- *Parking entry location directly adjacent to my property- non-compliance with DCP and associated safety risks, increased noise, light and air pollution for my property*

Comment: The proposed access point is appropriately located away from the intersection of Phelps Street with Canley Vale Road. A screen wall provided along the southern boundary will assist in mitigating noise and light impacts.

- *Car park exhaust location non-compliance to Australian Standards and associated air quality impact concerns*

Comment: The exhaust location has been considered by Council's Environmental Health Unit and found to be appropriate.

- *Southern Boundary Fencing/Building Height - potential non-compliance with DCP and associated negative impacts to my property*
- *Reduction of Solar Access to my property and associated negative impacts (including potential non-compliance with DCP)*

Comment: As discussed in the section dealing with the DCP, the proposed development does not seek to adopt the scheme anticipated for the land by the DCP which sought to mitigate impacts at the zone interface.

The proposal has adopted a textured precast finish to the wall on the southern boundary which will have a height between 3.1m and 3.6m. The proposal seeks to set the bulk of the building back from the southern boundary however the supermarket and the

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boundary wall are still considered to result in unreasonable overshadowing of the open space areas of the dwellings adjoining to the south of the site, particularly the townhouses at the rear of 25-27 Pevensey Street.

- *Relocation of proposed Demolition Bin Storage areas away from residential dwellings*

Comment: If the development was recommended for approval, a condition of consent could be imposed seeking a demolition management plan which addressed this issue.

- *Parking provision non-compliance to DCP and inability of local parking network to handle overflow*

Comment: Insufficient parking is a key issue in the consideration of this DA. As discussed elsewhere in this report, the shortfall in the provision of parking cannot be supported and this is a ground for refusal of the DA.

The public interest (EP& A Act s4.15(1)(e))

The public interest is served by permitting the orderly and economic development of land, in a manner that is sensitive to the surrounding environment and has regard to the reasonable amenity expectations of surrounding land users.

In view of the foregoing analysis, it is considered that the development is unsatisfactory with regard to matters of parking, overshadowing and a lack of a residential component to the development.

Approval of the development would be contrary to the public interest.

SECTION 7.12 CONTRIBUTIONS TOWARDS PROVISION OR IMPROVEMENT OF AMENITIES OR SERVICES

Section 7.12 of the Act enables a consent authority to impose a condition on a development consent for the payment of a monetary contributions from applicants for use in the provision, extension or augmentation of public amenities or public services. That contribution is based on a percentage of the capital investment value of the development.

Comments:

As it is recommended that the DA be refused, a condition of consent imposing Section 7.12 Contributions is not sought.

CONCLUSION

The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979, and the provisions of relevant State Environmental Planning Policies, Fairfield LEP and the Fairfield DCP and is not considered to be satisfactory.

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While it is acknowledged that the proposed development is appropriately located within the E1 Local Centre zone under the relevant provisions of Fairfield LEP 2013 and will strengthen the role of the Canley Vale town centre, the proposal fails to provide sufficient parking to meet the demand generated by the proposed uses and their floor space.

The development is not considered to perform adequately in terms of its relationship to adjoining land particularly with regard to solar amenity and the treatment of the zone interface.

Finally, the Applicant has been encouraged to investigate options for carrying out a residential component as part of the subject Development Application. While the Canley Corridor Local Town Centres DCP No.37 envisages a shop top housing development over the subject land, it is acknowledged that the proposed development is permissible on the land.

If the lack of a residential component was the only remaining issue, this report would likely recommend the granting of conditional consent. However, in the absence of other key issues being addressed, such as parking and solar amenity of neighbouring properties, the proposed scheme is not considered to be a properly resolved development and the option for a residential component remains a live issue that should be considered in any future scheme for the site.

For these reasons, it is considered that the proposal is unsatisfactory having regard to the matters of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, and the development should be refused on the grounds outlined in the draft Notice of Determination annexed to this report.

RECOMMENDATION

1. **That Development Application No. 139.1/2025 for the Demolition of existing structures, site preparation works and the construction of a three (3) storey commercial building on land at Lot 2A, DP 420389, Lot 3, DP 22203, Lot 1A, DP 420389, Lot A, DP 398409, Lot 10, DP 969, Lot 1, DP 947762, Lot 4, DP 22203, Lot B, DP 398409 and Lot 5, DP 22203, Nos. 62-74 Canley Vale Road and Nos. 19-21 Phelps Street, Canley Vale be REFUSED on the grounds set out at Attachment 1.**
2. **Objectors be notified of the Panel's decision.**

ATTACHMENTS

1. Draft Notice of Determination
2. Architectural Plans