

<b>DATE OF DEFERRAL</b>	25 February 2026
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Natasha Harras, David Kitto
<b>APOLOGIES</b>	N/A
<b>DECLARATIONS OF INTEREST</b>	Ninos Khoshaba declared a perceived conflict of interest and did not participate.

Papers circulated electronically on 23 February 2026.

**MATTER DEFERRED**

**PPSSWC-562 – Fairfield – DA 139.1/2025 – 72 Canley Vale Road, Canley Vale** - 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.

**REASONS FOR DEFERRAL**

Additional material considered

The Panel has conferred after receiving and considering:

- (a) An “Independent Assessment – Parking and Access Issues” prepared at the Panel’s request by the Department of Planning through the ‘Team Leader Assessments (Transport), HDA’
- (b) Response from the Applicant by email dated 19 January 2026, and separate emails dated 9 February 2026 (and attachments) addressing traffic and parking matters and design matters respectively; and
- (c) Council response to the above material from Council’s Coordinator, Development Planning - City Development.
- (d) Additional advice from the Department’s Independent Assessor by email

Consideration of supplementary material with responding respectively to the separate issues raised by the Council

- (a) *The peer review from the Department as part of the determination by the Sydney Western City Planning panel is highly irregular and inconsistent with other Panel Processes such as the Local Planning Panel.*

Obtaining a review assessment report from the Team Leader Assessments (Transport), HAD, to allow the Panel to better understand an issue that separates the Council and the Applicant is not “irregular” and inconsistent with “other processes”.

It is one of the procedural options available to the Panel which has been engaged for other matters in the past to assist the Panel informing itself, and preferable to the expense of seeing the issue contested in Court.

The Panel does not agree it is “highly irregular” to obtain that advice, and independent advice is one of the options adopted by Regional Panels when the Panel sees that it will assist in a fuller consideration of relevant matters issues.

The Panel is not bound by the peer review assessment and will consider the Council's response to it.

- (b) The *independent* parking and traffic assessment provided by the Department of Planning fails to understand the local traffic and parking conditions and Council's DCP controls in this matter.

The Council's response has been referred to the author of the Department's assessment for a response. The Panel agrees that some issues raised by the Council require further consideration by the author of the review, noting again that it is for the Panel ultimately to decide the traffic issue as part of its assessment.

- (c) The peer review assessment's advice that the "*FDCP also enables Section 7.11 contributions toward centralised parking for retail and business premises within the Canley Vale Town Centre that cannot fully provide on-site parking, indicating that limited reliance on off-site parking is acceptable subject to appropriate contribution arrangements*" is flawed.

The Panel agrees that the review is in error in concluding that 7.11 contributions can resolve the parking shortfall, when the relevant contributions plan does not provide for contributions to be levied in Canley Vale and there is no parking project to which the contributions could be applied.

- (d) *Option of conversion of the gymnasium to office space to address the parking deficit.*

The Panel also noted the Council's advice that the Council DCP car parking rates already factor in an 85% operational capacity and includes allowance for use of on-street parking, and that on this basis, there would be a deficiency of 21.1 car parking spaces even if the proposed conversion of the gymnasium to office space is taken up.

It does seem to the Panel from the information available that either additional on site parking or a further change to the proposal is necessary to address the parking shortfall. The Panel notes that the Applicant is considering how it proposes to address the shortfall.

Given the scale of the proposal and the importance of encouraging the redevelopment of Canley Vale if a suitable project can be resolved, the Panel is minded to allow opportunity for the Applicant to address the shortfall in parking, preferably in consultation with the Council. It may be that additional basement carparking is required, or a further change to the aspects of the development generating the excessive parking demand, or a combination of the two, or as the Council puts it "*to increase the car parking onsite or reduce the overall floor area of the development*".

In relation to Council's concern that State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) might allow other changes of use in the future, further affecting parking demand, the Panel must consider the DA before it. The Panel notes that the Codes SEPP regulates what changes of use may be carried out as exempt or complying development, and what controls must be complied with. In any case, the Panel notes that clause 5A.6F of the Codes SEPP requires any complying development change of use (such as increased gymnasium floor space) to ensure car parking is provided in accordance with Council's DCP.

- (e) *Pedestrian Movement and Pedestrian Safety*

The Panel would be assisted by advice from the Council and the Applicant as to the extent to which requirements for finding, signage and line marking would potentially require further reduction in parking spaces in the design. The Panel's preference is for any revision in the plans to address these requirements.

- (f) *Decrease Performance of Intersections ~~below acceptable levels of service~~*

The Panel notes that the intersections will retain overall satisfactory levels of service and that it is only some right turn movements that will have further reduced unsatisfactory levels of service during peak times. While the Panel notes the independent assessor's recommendation for sensitivity testing in relation

to signal timing optimisation and / or minor lane reconfiguration to address this matter, the operation of the signalised intersections in question is a matter for TfNSW. TfNSW considered the traffic impacts of the proposal through the DA referral process, noted the impacts to the intersections, and advised that that “the DA will not impact the surrounding classified road network and has no further comment”. Given the advice from TfNSW, the limited impacts on intersection performance, and noting the proposed reduced size of the gymnasium would further reduce traffic generation and impacts compared to that assessed, the Panel is satisfied that the proposal would not result in unacceptable traffic impacts that require mitigation by the Applicant, and no further action is required in this regard.

*(g) Design of Driveway entry*

The Panel would prefer to see AS compliance, but if for any reason that cannot be achieved the Panel will assess this issue at the time of final determination.

*(h) Loading Bay Access Conflicts*

The independent assessment has indicated that additional sight distance assessment is required. The Panel requires this information to be supplied by the Applicant prior to determination to allow the Panel to understand this issue.

*(i) Hours of operation inconsistent with Gym*

The Panel understands that the gym will either be deleted or substantially reduced in size. The Council is correct however that the Applicant should supply detail as to how parking will be managed for a 24 hour use if one is proposed. Issues of patron safety should be considered. Without that information 24 hour trading would not likely be approved.

*(j) Motorcycle and Bicycle parking proposed in the public domain and conflicts with pedestrian pathways*

The Panel agrees that this issue should be resolved in the DA design prior to determination.

*(k) Location of Accessible Spaces*

This issue could be resolved by condition, but given the opportunity allowed to the Applicant to supply additional documentation, the Panel would hope to see the Applicant supply information to resolve the matter.

*(l) Tandem Spaces*

The Panel notes the 8 tandem spaces are shown on the plans as being allocated to staff parking and are not for use by the public. The Panel considers this is appropriate but as part of the information package to be provided, requests further information as to which specific use / uses the tandem spaces would be allocated to, and how it is envisaged they would be managed.

*(m) Southern Elevation*

This is an issue that the Panel will consider in its final determination. The Panel considers it has sufficient information to make a determination on this matter. The updated wall treatments should be included as part of the final package to be submitted for determination, and would need to be covered by a suitable condition.

*(n) Contamination*

Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience SEPP) regulates this issue.

#### **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.*

The Resilience SEPP also requires the Panel to consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines, and the Panel “may” require a detailed site investigation that satisfies the contaminated land planning guidelines.

There is no dispute the site is contaminated.

The DSI supplied dated 30 January 2026 by EI Australia (reviewed and signed by Pedro Balbachevsky - Principal Environmental Engineer SC-CEnvP Cert. No: SCC41198) reports that a Hazardous Materials Survey (HMS) has been completed at the site by a suitably qualified consultant. Furthermore, the authors of the DSI confirm that a visual inspection, on site testing and ground water testing have all been undertaken. The existing structures prevent inspection of all parts of the site, but the DSI recommends that a clearance inspection should be completed by a suitably qualified professional (SafeWork NSW Licensed Asbestos Assessor) after their demolition which should be conditioned.

Notably, the DSI records recommendations of an “Environmental Investigation (2024a) Preliminary Site Investigation:

- A Detailed Site Investigation (DSI) should be undertaken following demolition of structures.
- Prepare a Remediation Action Plan (RAP) to address the following:
  - The RAP should address the management of impacted soils that will be removed from the site (asbestos impacted soils at BH4 and on the ground surface near
  - BH6 and BH7).
  - Any additional contamination identified during the DSI.
  - Appropriate waste management procedures to be followed, including prior-disposal waste classification assessments, in accordance with the relevant NSW EPA guidelines.
  - Site validation requirements following management of identified contamination.
  - Should any material be removed offsite, a waste classification and disposal to appropriately licensed waste landfill facilities will be required. Any soils to be retained on the site should be validated to meet the ecological criteria, if they are to be located in proposed open space/planting/landscaping areas
- An Asbestos Management Plan (AMP) should be prepared for the removal of any asbestos impacted material.
- Demolition of the structures should be conducted in compliance with the EI Hazardous Materials Survey (2024)

Despite this, the DSI contains no recommendation for a RAP which is not explained. The Panel would expect the recommendations in the 2024 Environmental Investigation to be followed without sufficient justification to the contrary, and that deficiency should be corrected in an updated DSI. The updated DSI should be clear as to the parts that are presently known of the remediation strategy, methodology and validation requirements, having regard to the NSW EPA Consultants Reporting on Contaminated Land (May 2020)

In this case, and subject to seeing the updated DSI, it is possible that the requirement for a RAP could be included in the conditions taking into account the findings of the Detailed Site Investigation, specifically that the site can be made suitable for the proposed development, subject to certain recommendations.

## **ACTIONS**

To allow for the progression of the Development Application to determination, the Panel directed that:

1. The Applicant is to lodge the final version of its DA on the NSW planning Portal within 21 days together with a Schedule of all documents to be relied upon as constituting the final version of DA to be considered (by 18 March 2026).
2. The Council is to supply an addendum determination report including draft conditions of consent to be imposed if the Panel is minded to approve the DA 21 days thereafter (by 8 April 2026).

The Panel will likely determine the DA thereafter based upon the material then before it.

The decision to defer the matter was unanimous.

<b>PANEL MEMBERS</b>	
Justin Doyle (Chair)	Natasha Harras
David Kitto	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-562 – Fairfield – DA 139.1/2025
2	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.
3	STREET ADDRESS	72 Canley Vale Road, Canley Vale
4	APPLICANT/OWNER	Applicant: On the Park Square Pty Ltd Owner: On the Park 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 (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy (Planning Systems) 2021</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ State Environmental Planning Policy (Industry and Employment) 2021</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 Development Control Plan 2024</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: 24 November 2025</li> <li>• Written submissions during public exhibition: 2</li> <li>• Total number of unique submissions received by way of objection: 2</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Final briefing to discuss council's recommendation: 1 December 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Natasha Harras, David Kitto, Ninos Khoshaba</li> <li>○ <u>Council assessment staff</u>: Liam Hawke, Sunnee Cullen</li> <li>○ <u>Applicant representatives</u>: Robert Canceri, Daniela Atelj, Theo van Veenendaal, Gilbert B. de Chalain, Stephen Blaxland, Mike Fairhurst</li> </ul> </li> <li>• Panel Only Discussion: 23 February 2026 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Natasha Harras, David Kitto</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Refusal

10	DRAFT CONDITIONS	Not Applicable
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