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Councillor(s) Against the Motion: Nil.

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**Min.1239 C07/21-809 Planning Proposal - 233, 249-259 Merrylands Road and 52-54 McFarlane Street, Merrylands**

**Note:** Councillors Attie and Sarkis exited the Chamber at 7:53pm prior to the consideration of this item and returned to the Chamber at 7:54pm following the consideration of this item.

**Resolved (Cummings/Garrard)**

That Council:

1. Endorse a planning proposal for 233, 249-259 Merrylands Road and 52-54 McFarlane Street, Merrylands, that seeks to amend the *Holroyd Local Environmental Plan 2013*, to:
  - a. Increase Height of Buildings (HOB) controls for:
    - i. Building D from 55m (16 storeys) to 64m (19 storeys)
    - ii. Building E from 77m (23 storeys) to 84m (25 storeys)
    - iii. Building A from 55m (16 storeys) to 77m (23 storeys).
  - b. Increase the Floor Space Ratio control for Buildings D and E from 5.5:1 to 7.5:1.
2. Endorse that the planning proposal for 233, 249-259 Merrylands Road and 52-54 McFarlane Street, Merrylands, be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination.
3. Prepare a Voluntary Planning Agreement to derive public benefit, should a Gateway Determination be received.

A division was called, the result of the division required in accordance with Council's Code of Meeting Practice is as follows:

Councillor(s) For the Motion: Campbell, Christou, Cummings, Elmore, Garrard, Huang, Lake, Rahme, Saha and Zaiter.

Councillor(s) Against the Motion: Hamed.

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**Min.1240 C07/21-810 Proposed New Eric Tweeddale Stadium Fees and Charges**

**Resolved (Cummings/Sarkis)**

That Council:

Item No: C07/21-809

**PLANNING PROPOSAL - 233, 249-259 MERRYLANDS ROAD AND 52-54 MCFARLANE STREET, MERRYLANDS**

Responsible Division: Environment & Planning  
Officer: Director Environment & Planning  
File Number: PP2021/0001  
Community Strategic Plan Goal: *A resilient built environment*

**SUMMARY**

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This planning proposal applies to land at 233, 249-259 Merrylands Road and 52-54 McFarlane Street, Merrylands, which is approved for a mixed-use precinct with five buildings (Buildings A, B, C, D and E) containing 776 apartment buildings, retail and commercial tenancies, childcare facility and basement parking.

The primary purpose of the planning proposal is to facilitate the delivery of additional residential apartments on approved Buildings D and E and to regularise the approved height control for Building A.

The Planning Proposal Request was placed on early consultation in April 2021 and reported to the Cumberland Local Planning Panel in June 2021. In response to preliminary public feedback and the Panel's advice, it is recommended that Council prepares an amended planning proposal to include additional information regarding the strategic merit of the proposal, and alternate planning controls to limit potential amenity impacts on surrounding sites and protect the supply of commercial floor space in the Merrylands town centre.

It is recommended that the amended planning proposal be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination. Should a Gateway Determination be received, Council officers will enter into discussions with the Proponent to negotiate and prepare a Voluntary Planning Agreement consistent with legislative and policy requirements.

**RECOMMENDATION**

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**That Council:**

1. **Endorse a planning proposal for 233, 249-259 Merrylands Road and 52-54 McFarlane Street, Merrylands, that seeks to amend the *Holroyd Local Environmental Plan 2013*, to:**
  - a. **Increase Height of Buildings (HOB) controls for:**
    - i. **Building D from 55m (16 storeys) to 64m (19 storeys)**

- ii. **Building E from 77m (23 storeys) to 84m (25 storeys)**
- iii. **Building A from 55m (16 storeys) to 77m (23 storeys).**
- b. **Increase the Floor Space Ratio control for Buildings D and E from 5.5:1 to 7.5:1.**
- 2. **Endorse that the planning proposal for 233, 249-259 Merrylands Road and 52-54 McFarlane Street, Merrylands, be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination.**
- 3. **Prepare a Voluntary Planning Agreement to derive public benefit, should a Gateway Determination be received.**

## REPORT

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### **Background**

In April 2021, Merrylands Investment Co Pty Ltd (the Proponent) lodged a Planning Proposal Request with Council for land at 233 Merrylands Road, 249-259 Merrylands Road, and 52-54 McFarlane Street, Merrylands (the site).

The site is approved for a mixed-use precinct with five buildings (Buildings A, B, C, D and E) containing 776 apartment buildings, retail and commercial tenancies, childcare facility, and basement parking.

The Proponent's Planning Proposal Request seeks to increase the height of Buildings D and E by five storeys to accommodate an additional 90 residential apartments, which would increase the total number of apartments to 866.

The Proponent seeks to achieve the intended outcome via the following amendments to the *Holroyd Local Environmental Plan 2013*:

- Increase the height of buildings controls for:
  - Building D from 55m (16 storeys) to 71m (21 storeys)
  - Building E from 77m (23 storeys) to 93m (28 storeys)
  - Building A from 55m (16 storeys) to 77m (23 storeys) to regularise the height already approved for that building
- Increase the floor space ratio control for Buildings D and E from 5.5:1 to 7.5:1
- Remove the application of Clause 4.4(2B) from Buildings D and E, noting that the purpose of this clause is to 'cap' residential floor space to a maximum FSR of 1.7:1 for developments in the Merrylands town centre.

It is noted that, if Council was to proceed with the Proponent's requested controls, a further 10 per cent in height could potentially be achieved under design excellence provisions which would likely accommodate an additional 30 residential apartments.

The Request included a public benefit offer for the Proponent to enter into a Voluntary Planning Agreement with Council post-Gateway for construction and embellishment of a laneway and provision of storage space/community facilities to be leased to Council at a nominal rate.

The status of the proposal is provided in Figure 1 below.



Figure 1 Planning Proposal Status

### ***The site and its context***

The site is approximately 12,418m<sup>2</sup> in area and comprises 15 lots, as shown in Figure 2 and legally described as follows:

- 233 Merrylands Road, Merrylands (Lots 22, 25 and 26 Section A of DP 7916 and Lot 10 DP 814298, Lot 5 DP 17401)
- 249-259 Merrylands Road, Merrylands (Lot 27, 28 and 29 Section A DP 7916, Lots 5, 6, 7, 8, 9 and 10 DP 244047)
- 52-54 McFarlane Street, Merrylands (Lot 1 DP 1178575).

The Planning Proposal Request relates primarily to Buildings D and E. It also seeks a minor housekeeping amendment to Building A. The location of these buildings is shown in Figure 3.





Figure 2: The site (outlined in red)



Figure 3: Location of Buildings A, D and E (shown in pink)

### Regional context

The site is in Merrylands Town Centre, approximately 25 kilometres west of the Sydney CBD and 3.5 kilometres south of Parramatta CBD.

Merrylands Town Centre is Cumberland City's proposed strategic centre, providing a diverse range of higher order services and facilities, retail/commercial and residential opportunities.

The site is highly accessible to services and facilities within Merrylands Town Centre itself and other key centres and corridors in Cumberland and beyond, with Merrylands Train Station within 400 metres (to the east) and public bus services along both Merrylands Road and McFarlane Street. Major arterial roads servicing the region include Woodville Road, M4 Motorway, and the Cumberland Highway.

#### Local context

The site is on the western side of the Merrylands Station and McFarlane Precinct, bounded by McFarlane Street from the north, Treves Street from the west and Merrylands Road from the south.

Currently, the Merrylands Station and McFarlane Precinct is characterised by a mix of retail/commercial uses, including Stockland Shopping Centre (to the north), a small-scale strip retail (along Pitt Street, Merrylands Road, Treves Street and McFarlane Street), near new mixed-use high-density residential developments, coupled with older style (circa 1970s to 1990s) three level walk-up apartment complexes. The site itself has been cleared and is undergoing site remediation work and construction.

The local area is well-served by a range of active and passive recreational facilities of various scales, including Central Gardens, Memorial and King Parks, Ted Burge Reserve, Merrylands Park, Merrylands Swimming Centre, and Granville Park. The proposed new Merrylands Civic Square is located 50m east of the site (coloured green in Figure 3).

#### ***Approved development scheme***

The site is approved for a mixed-use precinct with five buildings (Buildings A, B, C, D and E) containing 776 apartment buildings, retail and commercial tenancies, childcare facility, basement parking (DA2016/127, DA2020/0220, MOD2021/0123). The number of approved residential apartments and commercial and retail tenancies are shown in Table 1 below.

It is noted that the development scheme was modified to satisfy conditions of a Design Excellence Certificate issued by Council on 6 August 2020. Notably, Condition (a) required the Proponent to amend the architectural plans to demonstrate greater variety in utility, size, and character of communal open spaces throughout the development.

The modified scheme is based on a review of the scheme by Project Architect, Woods Bagot, which resulted in a reduction in the amount of gross floor area (GFA) allocated to residential uses and an increase in GFA for all other uses (Table 2). The loss of GFA for residential uses, equates to approximately 14 apartments.

Building	Description
A	25 storey building containing 229 residential apartments with six ground floor and six first floor commercial tenancies.
B	17 storey building containing 105 residential apartments with one ground floor retail tenancy and first floor childcare centre for 60 children with outdoor play area.
C	13 storey building containing 100 residential apartments with three ground floor retail premises, one ground floor

	commercial tenancy and four first floor commercial tenancies.
D	17 storey building containing 135 residential apartments with four ground floor retail tenancies including a supermarket.
E	25 storey building containing 207 residential units and two ground floor retail tenancies.

Table 1: Approved development scheme

Use	Gross Floor Area (m2)		
	Approved DA	Approved MOD	Difference
Residential	60,554	59,460.30	-1,093.70
Commercial	3,724	3,797.90	73.90
Retail/supermarket	4,687	5,067.30	380.30
Child Care Centre	752	789.8	37.80
Communal	685	952.9	267.90
Total GFA	70,402	70,068.30	-333.70

Table 2: Modified GFAs

### Planning Controls

#### Existing Planning Controls

The site is subject to planning controls contained in *Holroyd LEP 2013*. The following key controls apply to the site:

- Land Zone: B4 Mixed Use and SP2 Local Road
- Height of Buildings: 55m (Z), 77m (AA3)
- Floor Space Ratio: 5.5:1 (Z2).

The site is also identified on Land Reservation Acquisition and Design Excellence mapping. Figure 4 to Figure 8 contain LEP mapping extracts for the above controls.



Figure 4: Land Zoning

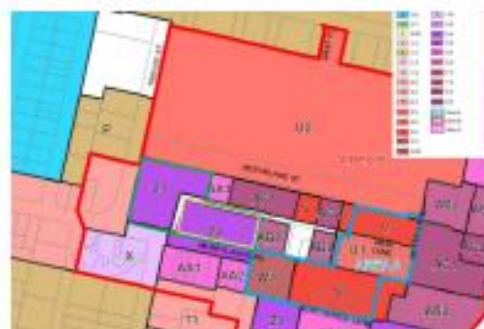


Figure 5: Floor Space Ratio





Figure 6: Height of Buildings



Figure 7: Land Reservation Acquisition



Figure 8: Design Excellence

#### Requested Planning Controls

The Proponent's requested amendments to *Holroyd Local Environmental Plan 2013* include:

- Height of Building increases, as shown in Figure 9 and summarised below.
  - Building D: increase from 55m (16 storeys) to 71m (21 storeys)
  - Building E: increase from 77m (23 storeys) to 93m (28 storeys)
  - Building A: increase from 55m (16 storeys) to 77m (23 storeys) – this is a minor housekeeping amendment to regularise the building height approved under DA 2020/0220.
- Floor space ratio increases for Buildings D and E (5.5:1 to 7.5:1), as shown in Figure 10.
- Removal of Buildings D and E from 'Area B' on Floor Space Ratio mapping (see Figure 5), thus removing the application of Clause 4.4(2)(B) to those buildings. It is noted that the purpose of the clause is to limit residential accommodation in the Merrylands town centre to the maximum FSR (1.7:1). The clause was introduced to increase the supply of non-residential uses in the town centre, promoting economic development and employment opportunities.





Figure 9: Proposed height of buildings controls

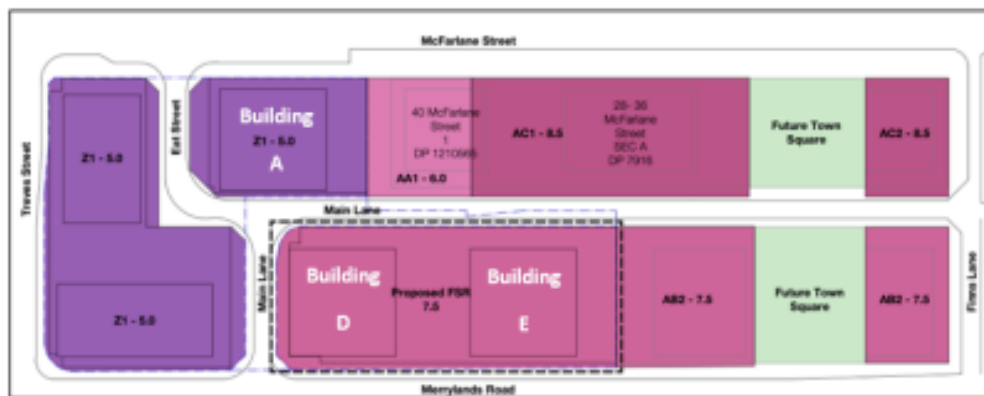


Figure 10: Proposed floor space ratio control

#### Recommended Planning Controls

It is recommended that Council proceeds to Gateway with an amended planning proposal containing alternate planning controls, as outlined in Table 3. Compared with the requested planning controls, the recommended planning controls would deliver an additional 60 residential apartments (down from 90), increasing the total number of apartments to 856 (down from 886). It is noted that, if the recommended controls are endorsed, the Proponent could potentially achieve a further 10 per cent in height at development application stage, under design excellence provisions, which would likely accommodate an additional 30 residential apartments.

Planning control	Building	Existing	Requested	Recommended
Height of buildings	D	55m	71m	64m
	E	55m	93m	84m
	A	55m & 77m	77m	77m
Floor space ratio	D & E	5.5:1	7.5:1	7.5:1
Clause 4.4(2)(B)	D & E	Applies	Remove	Applies

Table 3: Recommended planning controls

### **Cumberland Local Planning Panel Advice**

The Cumberland Local Planning Panel considered a report on the Planning Proposal Request and the outcomes of the preliminary community consultation on 9 June 2021. The Panel's advice is reproduced below:

1. *...the Cumberland Local Planning Panel (CLPP) are not convinced that the Planning Proposal has sufficient strategic merit to proceed.*
2. *The Cumberland Local Planning Panel (CLPP) is of the opinion that the removal of Clause 4.4(2B) should not be removed without detailed consideration of the implications of such a removal.*
3. *If the proponent desires to proceed with the Planning Proposal the issue of strategic merit needs to be clearly demonstrated.*
4. *The Panel notes that the proponent accepts the Council officer's proposal to modify the planning proposal to reduce the recommended height of the building controls by 10 percent from those sought by the proponent.*

The following sections of this report respond to the concerns raised by the Panel.

### **Strategic Merit Assessment**

Following the Panel meeting, the Proponent submitted a Strategic Merit Assessment, further demonstrating the proposal's consistency with the strategic planning framework and policy context.

Council officers are satisfied that the proposal has sufficient strategic and site-based merit to proceed to Gateway, subject to certain amendments as recommended in this report. If endorsed, the recommended planning controls will facilitate the delivery of additional housing supply on one of the largest sites in the Merrylands Station and McFarlane Street Precinct; an area that is highly accessible to a wide range of existing services and facilitates and is identified in Cumberland City's Local Strategic Planning Statement as a key location for future growth.

### **Building Heights and Built Form**

The recommended controls for Buildings D and E will allow for some uplift (up to 2-3 storeys instead of the requested 5), while protecting local amenity and promoting good

urban design outcomes. The requested height control for Building A is supported as it will regularise the height limit that is already approved, with no further impacts on surrounding properties.

The Urban Design Analysis submitted with the Planning Proposal Request states that the requested height and floor space ratio controls for Buildings D and E would result in a more desirable urban design outcome and would not result in an unacceptable level of overshadowing or other impacts on surrounding sites. However, the analysis does not take into consideration the additional height and floor space ratio increases achievable by the Proponent as part of any future DA for the uplift. The site is affected by clause 6.11 'Area 2' design excellence provisions of the *Halroyd LEP 2013*. This enables the Proponent to apply for an additional 0.5:1 floor space ratio and 10 per cent maximum building height, which would likely result in an additional 30 apartments.

To better determine the potential impacts of the proposal, Council officers carried out built form testing on the requested controls, including additional height and floor space ratio controls achievable under design excellence provisions. This analysis concluded that the requested controls would most likely result in an unacceptable level of overshadowing for properties to the south along Merrylands Road, particularly during mid-winter. In terms of urban design outcomes, the requested controls are also likely to result in an undesirable height transition between the site and properties to the south, especially when viewed from the east.

#### Heritage

The site is not a heritage item or is located within a heritage conservation area. The heritage impact statement provided in support of the approved DA confirms that the overall development is unlikely to impact on nearby heritage items. No further heritage impacts are likely to occur as a result of the proposal.

#### Social and Economic Benefits

The additional housing supply will be delivered in the immediate future, in an approved development that has achieved Design Excellence certification from Council. It is likely that the overall development will help to further establish Merrylands town centre as a desirable place to live, work, dine and shop. The development is likely to serve as a catalyst for other large-scale redevelopments that will help to revitalise the town centre, contributing to economic development and jobs creation, and a more liveable and attractive built environment. The construction phase will create temporary employment opportunities and economic stimulus.

The overall development contains a mix of dwelling types, including smaller studio and one-bedroom apartments, to meet the needs various market segments including students, couples, singles and first home buyers. In addition to adding to the stock of owner-occupied dwellings, the proposal will help to satisfy the high and sustained demand for rental properties in Merrylands. It is note that many of the apartments in the approved development are proposed to be retained by the Proponent, leased out and professionally managed. Build-to-rent models such as this provide a secure and desirable alternative to home ownership for long-term renters.



### Traffic and Transport

The Planning Proposal Request is supported by a traffic analysis which concludes that traffic and parking impacts associated with the requested 90 additional dwellings are likely to be only minor in nature. The recommended controls would result in a reduction of dwellings and therefore reduced traffic and parking impacts.

The broader traffic and transport impacts and mitigation measures were addressed as part of Council's Planning Proposal for the McFarlane Street, and Council further considered these issues as part of its assessment of the approved DA for the subject site. If Council resolves to prepare a planning proposal for the site, the matter will be referred to relevant public agencies for their consideration and comments as part of the Gateway process. The matter will also be considered as part of any future DA for the proposal.

### Consistency with the Greater Sydney Region Plan and Central City District Plan

The planning proposal is consistent with the directions of the *Greater Sydney Region Plan: A Metropolis of Three Cities*, namely:

- City supported by infrastructure – the site is well connected to public transport infrastructure. The site and surrounds have been identified for increased density of commercial and residential development with the Merrylands Station and McFarlane Street Precinct Planning Proposal which has since been gazetted.
- City for its people – the future development will facilitate active uses and opportunities for social interaction. The landmark building will assist people to navigate through the town centre and proposed strategic centre.
- Housing in the City – the proposal will provide new affordable private housing options within walking distance for students, couples, smaller families from Merrylands railway station and set within a network of new roads and pathways.
- An efficient City – the proposal has potential to reduce transport costs and emissions by increasing the resident population with access to public transport and within walking distance of an established town centre and proposed strategic centre.

The proposal is also consistent with the priorities and actions in the Central City District Plan, particularly:

- C2 Planning for a city supported by infrastructure – the proposal seeks to increase principal development controls close to key public open space, existing infrastructure such as the Merrylands Transport Interchange.
- C5 Housing the city – The planning proposal will provide housing supply, choice, and affordability with access to jobs, services, and public transport.
- C6 A city of great places – The planning proposal will assist with renewing proposed Merrylands Strategic Centre by facilitating urban renewal and re-development at the given site acting as a catalyst for the broader precinct.

- Planning Priority C9 Delivering integrated land use and transport planning and a 30 minute city: the proposal will facilitate the provision of additional housing in close proximity to the Lidcombe train station and associated railway lines. These railway lines access strategic centres, giving more people access to services via public transport within 30 minutes.
- C10 Jobs and skills for the community – The planning proposal will facilitate and contribute to the redevelopment of site 9 within the McFarlane Street precinct and proposed Merrylands Strategic Centre, increasing housing and generate small amount of temporary job opportunities in the area in addition to what has been approved by the DA.

#### Consistency with Cumberland 2030: Our Local Strategic Planning Statement

The proposal delivers in a key strategic area for housing identified in the structure plan for Cumberland City. The proposal is also consistent with the priorities and actions in *Cumberland 2030: Our Local Strategic Planning Statement*, namely:

- Local Planning Priority 5 - Deliver housing diversity to suit changing needs.
- Local Planning Priority 6 – Deliver affordable housing suitable for the needs of all people at various stages of their lives, as the future redevelopment will incorporate a number of accommodation options to enable people from a variety of backgrounds and socio-economic status to age in place.
- Local Planning Priority 11 - Promote access to local jobs, education opportunities and care services.

#### Consistency with Cumberland Local Housing Strategy

The planning proposal is generally consistent with the Cumberland Local Housing Strategy recently adopted by Council. The Merrylands Town Centre is Cumberland City's 'proposed strategic centre'. The area is identified as a prime location for housing in the Strategy, which will contribute to Cumberland's housing target of 28,000 to 28,500 additional dwellings between 2016-2036. The proposal request is likely to provide between 60 and 90 additional dwellings as a result of this uplift.

#### Consistency with Cumberland Employment Lands and Innovation Strategy

The planning proposal is generally consistent with the above Strategy, which has been adopted by Council. The Merrylands Town Centre is Cumberland City's 'proposed strategic centre'. The area to which the site is located is identified as one of the largest commercial/retail precincts for jobs in the Strategy, which is likely to contribute to Cumberland's job target of 20,500 jobs between 2016-2041. The subject proposal is likely to generate a small amount of employment/jobs temporarily through construction of the proposed additional floors for proposed buildings D and E. This is in addition to retail/commercial uses and job opportunities approved for the broader site.

Consistency with the Merrylands Station and McFarlane Street Precinct vision and objectives

Council introduced new planning controls for the Merrylands Station and McFarlane Precinct in 2019, based on a strategic urban design and planning study prepared by SJB Architects. The recommended planning controls are consistent with the overall vision and objectives for the Precinct. In particular, the recommended height controls for Buildings D and E are appropriate as these buildings are in one of two locations in the Precinct identified as suitable for taller buildings (see areas circled in red in Figure 13).



Figure 13: Area for height (red circles)

**Removal of LEP Clause 4.4(2B)**

Based on the Panel's advice and further consideration of the issue by Council officers in consultation with the Proponent, it is recommended that Council does not proceed with the Proponent's request to remove the application of clause 4.4(2)(B) from Buildings D and E. The clause was introduced to increase the supply of non-residential uses in the town centre, promoting economic development and employment opportunities. Given the strong and sustained demand for commercial/office space in Merrylands town centre, it is not appropriate to remove this clause from the site. Removal of the clause could set an undesirable precedent for other developments in the Merrylands town centre and could potentially also result in further modifications to the approved development to reduce the commercial/retail components on the site.



**Public Benefit Offer**

As part of their Planning Proposal Request, the Proponent submitted a Public Benefit Offer indicating that they may enter into a Voluntary Planning Agreement with Council which may include the following public benefits:

- Construction of the east/west Main Lane, including both physical works and embellishments
- Provision of storage space and/or community facilities within the development site, to be leased to Council at a nominal rate.

Should the proposal proceed to a Gateway Determination, Council officers will further negotiate with the Proponent to ensure the public benefit offer is consistent with Council's Planning Agreements Policy and Guideline.

It is noted that, as a condition of development consent (DA2020/0220), the Proponent must dedicate Main Lane to Council free of charge for the purpose of a laneway. The land is zoned SP2 and marked for acquisition on the Holroyd LEP 2013 Land Reservation Acquisition map. In addition, Council's Manager Engineering Services confirmed that Main Lane is to act as service lane for vehicles only, with embellishments anticipated to be consistent with a standard road treatment.

**COMMUNITY ENGAGEMENT**

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The proposal and supporting documentation were exhibited for a period of 29 days, from 21 April 2021 to 20 May 2021, as required by the Cumberland Planning Proposal Notification Policy. A total of five community submissions were received, including one in support and four objections. A summary of submissions is attached to this report.

Key issues raised in objections were taken into consideration by Council officers as part of their assessment and resulted in the formulation of alternate controls, which address many of the concerns raised and minimise the impact of the proposal on surrounding sites.

**POLICY IMPLICATIONS**

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Policy implications for Council are outlined in this report.

**RISK IMPLICATIONS**

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There are minimal risk implications for Council on the proposal outlined in this report.

**FINANCIAL IMPLICATIONS**

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Should the proposal proceed to Gateway Determination, Council officers will further negotiate with the Proponent to ensure the public benefit offer is consistent with Council's Planning Agreements Policy and Guideline.

## CONCLUSION

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This report recommends that Council proceeds to Gateway with an alternate planning proposal that addresses concerns raised by the Cumberland Local Planning Panel and community in relation to the strategic merit of the proposal and potential impact on surrounding sites. The alternate controls will provide increased housing supply in the immediate future, close to a wide range of higher order services and facilities, including public transport.

Should the proposal proceed to a Gateway Determination, negotiations regarding the public benefit offer will be progressed and captured through a Voluntary Planning Agreement in accordance with Council's Planning Agreements Policy and Guideline.

## ATTACHMENTS

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1. Planning Proposal Request [📄](#)
2. Letter of Offer (confidential)
3. Panel Report and Advice [📄](#)
4. Proponent's Strategic Merit Assessment [📄](#)
5. Urban Design Report [📄](#)
6. Economic Impact Assessment [📄](#)
7. Traffic Analysis [📄](#)
8. Overview of Shadow Models [📄](#)
9. Building Height Transition [📄](#)
10. Summary of Submissions [📄](#)