

DETERMINATION AND STATEMENT OF REASONS

SYDNEY WEST CENTRAL PLANNING PANEL

DATE OF DETERMINATION	Wednesday, 21 December 2016
PANEL MEMBERS	Ed Blakely (Chair), Mary-Lynne Taylor, Paul Mitchell, Paul Moulds and Brian Kirk
APOLOGIES	Paul Stein
DECLARATIONS OF INTEREST	None

Public meeting held at Cumberland Council (Merrylands) on Wednesday, 21 December 2016, opened at 12:55 pm and closed at 2:00 pm.

MATTER DETERMINED

2016SYW124 – Cumberland – DA2015/127 AT 233 & 249-259 Merrylands Road and 52-54 McFarlane Street, Merrylands (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

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

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*. The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution. The decision was unanimous.

REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

1. The Panel notes the application is for integrated development with approvals being required under the Water Management Act 2000 and from Sydney Water, and that both the affected agencies have given their General Terms of Approval (GTAs)
2. The Panel further notes that key controls for FSR and Building height in the subject area are being reviewed and may change in the near future, but the Planning Proposal concerned can not yet be considered certain and imminent.
3. The proposed development materially exceeds the permissible height limit in a number of locations but this is compensated for by large spaces between the buildings. Consequently the tall buildings do not result in excessive floor space, and the total proposed is well below the permitted FSR across the whole site.
4. The Panel received written requests to vary two development standards – building height and FSR. The Panel believes that adherence to the standards in this instance is unnecessary as no adverse impacts arise from the breaches and there are sufficient environmental planning grounds to justify the variations. Accordingly the Panel finds both clause 4.6 variation requests to be satisfactory.
5. The proposal will contribute to the variety and choice of housing in the locality. It will also add to the number and choice of retail outlets in Merrylands town centre, thus reinforcing the centre's role and reducing the need for local residents to commute to more distant centres. Therefore, the proposal is of social benefit.
6. The proposal will have no material adverse impacts on the built environment, including the capacity of the local road network and other local infrastructure.
7. The proposal is in the public interest.
8. The Panel varied certain recommended conditions of consent.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- Deferred commencement condition 1 is to be amended to read as follows:

The ground floor of the development shall make provisions for a 4 metre by 4 metre splay setback (curved or straight) within the site. The ground floor setback shall be provided for the new roads and where the new roads intersect. McFarlane St and Merrylands Road and at the corner of Treves St and McFarlane St. In this regard, the applicant shall address the following

- a) ensure no structure at ground level (excluding the awning) encroach over the splay setback
- b) the designer shall also ensure that no awning proposed is 600mm setback from the kerb return.

- Condition 2: add the Draft Plan of subdivision prepared by LTS Lockley Surveyors dated 29 February 2016 and the Holroyd Local Area Command correspondence dated 1 December 2016.
- Condition 14: to be amended to read as follows:

Prior to the issue of a Construction Certificate for the 5 separate stages as defined below, a monetary contribution imposed under section 94 of the Environmental Planning and Assessment Act 1979 and Holroyd Section 94 Development Contributions Plan 2013, for 562 units made up of, 192 x 1 bedroom units, 354 x 2 bedroom units and 16 x 3 bedroom units, 7,876m² of GFA and 43 car parking spaces, is to be paid to Council. At the time of this development consent, the current rate of the contribution is \$9,115, 756.

This contribution is to be paid on the following basis:




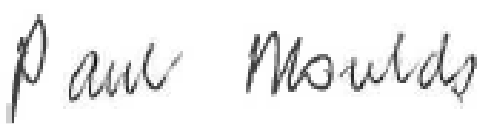
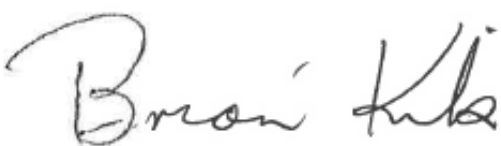
- Payment 1 (Stage 2B and 2C in staging plan – construction of ground floor retail and Building A) totally \$1,502,251 for 28 x 1 bedroom units, 86 x 2 bedroom units, 4 x 3 bedroom units, 5,217m² of retail and the credit for Lot 5 as per condition 15.
- Payment 2 (Stage 2D in staging plan – construction of Building B) totally \$1,052,046 for 30 x 1 bedroom units, 49 x 2 bedroom units and 2 x 3 bedroom units
- Payment 3 (Stage 2 E in staging plan – construction of Building C) totally \$1,0306,359 for 29 x 1 bedroom units and 69 x 2 bedroom units
- Payment 4 (Stage 3A, 3B and 3C in staging plan – construction of basement, retail and Building D) totally \$3,590,811 for 54 x 1 bedroom units, 77 x 2 bedroom units, 5 x 3 bedroom units, 2,659m² of retail and 43 car parking spaces
- Payment 5 (Stage 3D in staging plan – construction of Building E) totally \$1,664,289 for 51 x 1 bedroom units, 73 x 2 bedroom units and 5 x 3 bedroom units

The amount of the contribution will be determined at the time of payment in accordance with the relevant s94 Contributions Plan in force at that time. A copy of the Holroyd Section 94 Development Contributions Plan 2013 can be viewed on Council's website at www.cumberland.nsw.gov.au or inspected at Council's Civic Centre located at 16 Memorial Avenue, Merrylands between the hours of 8am and 4:30pm Monday to Friday.

- Condition 39: insert the words, after the end of the condition, "except where varied to maintain a 600mm set back from the kerb at all times."
- Condition 40: insert the words "or Principal Certifying Authority" at the end of the condition.
- Condition 186: after the first word "Dedication", insert the words "up to a minimum height of 5m above adjacent top of kerb level".
- Condition 189: the advisory note to have the following words after "the public road", insert "within proposed lot 4".
- Condition 205: delete the words "to enable a Council street sweeper" and replace with "to enable a street sweeper".
- Condition 208: delete reference to Lot 4.

The first eight changes were made for better technical efficiency and more certainty and clarity.

In relation to amendment to condition 208, the change was made to provide greater certainty for future ownership for proposed Lot 4 and to accommodate a Voluntary Planning Agreement, if agreed between the parties, relating to the provision of a public benefit, in lieu of other dedication.

PANEL MEMBERS	
 Ed Blakely (Chair)	 Mary-Lynne Taylor
 Paul Mitchell	 Paul Moulds
 Brian Kirk	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016SYW124 – Cumberland – DA2015/127
2	PROPOSED DEVELOPMENT	Consolidation of 15 lots and Torrens subdivision into 5 lots; construction of 5 mixed use buildings ranging in height between 10 and 17 storeys over 2 separate basements ranging between 2 and 5 levels accommodating a total of 542 residential units; 8230m2 of commercial floor; 731 carparking spaces; construction of a skybridge over McFarlane Street connecting the proposed development with the existing shopping mall across McFarlane Street; and construction of a new road.
3	STREET ADDRESS	233 & 249-259 Merrylands Road and 52-54 McFarlane Street, Merrylands
4	APPLICANT/OWNER	Stockland Merrylands Court Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (BASIX) 2004 • State Environmental Planning Policy (Infrastructure) 2007 • Holroyd Environmental Plan 2013 • Holroyd Development Control Plan 2013

		<ul style="list-style-type: none"> • Section 92 of the Environmental Planning & Assessment Regulation 2000 • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report dated 21 December 2016 • Written submissions during public exhibition: five (5) • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Object – Peter Karvon and Bassam Elfawal ○ On behalf of the applicant – Aaron Sutherland
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing meeting on 21 July 2016 • Site inspection and briefing meeting on 21 December 2016
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report