

SYDNEY WESTERN CITY PLANNING PANEL

Panel No:	2018SSW002.
DA Number:	2017/1768/1.
Local Government Area:	Camden.
Proposed Development:	Entertainment facility to include a cinema with nine screens, three drive-through takeaway food and drink premises, food court with seven food and drink premises and communal seating, three indoor recreation tenancies, construction of a two storey above ground car park and associated site works.
Street Address(es):	2-64 Steer Road, Gregory Hills.
Applicant / Owner:	United Cinemas Australia Pty Ltd / Dart West Pty Ltd
Date of DA Lodgement:	21 December 2017.
Number of Submissions:	One submission received (objecting to the proposed development).
Recommendation:	Approve with conditions.
Regional Development Criteria (Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011):	Capital investment value >\$30 million. At the time of registering this DA the CIV threshold was >\$20 million. The CIV is \$22.7 million.
List of All Relevant s4.15(1)(a) Matters:	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011. • State Environmental Planning Policy (Sydney Region Growth Centres) 2006. • State Environmental Planning Policy (Infrastructure) 2007. • State Environmental Planning Policy No 55 - Remediation of Land. • Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River. • Camden Development Control Plan 2011. • Turner Road Development Control Plan 2007.
List all Documents Submitted with this Report for the Panel's Consideration:	<ul style="list-style-type: none"> • Assessment report. • Recommended conditions. • Proposed plans. • Associated reports. • Turner Road Neighbourhood and Employment Areas DCP Figure. • Correspondence from the Roads and Maritime Services. • Submission.
Report Prepared By:	Jessica Mesiti, Executive Town Planner.

Report Date:	November 2018.
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Summary of Section 4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes.
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Legislative Clauses Requiring Consent Authority Satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised in the Executive Summary of the assessment report?	Yes.
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Clause 4.6 Exceptions to Development Standards

If a written request for a contravention to a development standard (clause 4.6 of the Growth SEPP) has been received, has it been attached to the assessment report?	N/A
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions (s7.24)?	Yes.
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Conditions

Have draft conditions been provided to the applicant for comment?	Yes.
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PURPOSE OF REPORT

The purpose of this report is to seek the Sydney Western City Planning Panel's (the Panel's) determination of a development application (DA) for a mixed use development at 2-64 Steer Road, Gregory Hills.

The Panel is the consent authority for this DA as, pursuant to Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, the capital investment value (CIV) of the proposed development is \$22.7. Although the revised CIV threshold is now \$30 million, pursuant to Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, the CIV for this proposal exceeded the threshold of \$20 million for Council to determine the DA on the date of which the DA was registered with the Panel.

SUMMARY OF RECOMMENDATION

That the Panel determine DA/2017/1768/1 for a mixed use development pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* by granting consent subject to the conditions attached to this report.

EXECUTIVE SUMMARY

Council is in receipt of a DA for a mixed use development at 2-64 Steer Road, Gregory Hills.

The DA has been assessed against the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, relevant environmental planning instruments, development control plans and policies.

A summary of the assessment of all relevant environmental planning instruments is provided below with a detailed assessment provided later in the report.

The DA was publicly exhibited for a period of 14 days in accordance with the Camden Development Control Plan 2011. The exhibition period was from 23 January to 5 February 2018. One submission was received which objects to the proposal.

The issues raised in the submissions relate to:

- the DA does not include an assessment of the impact on economic viability of existing and future nearby centres; and,
- potential traffic impacts on the surrounding road network.

The potential economic impacts of the development upon surrounding centres have been considered by the applicant. The proposed development is unlikely to have an adverse impact upon the viability of surrounding centres. A discussion of this is provided in this report.

The applicant has submitted a traffic report and supporting information in support of the DA. The report and supporting information demonstrate that the proposed development will not have a significant negative impact upon the surrounding road network and the operation of surrounding intersections. Council staff have reviewed the report and supporting information and agree with their conclusions. Additionally, the RMS also raised no objections to the proposed development.

Based on the assessment, it is recommended that the DA be approved subject to the conditions attached to this report.

COMPLIANCE WITH KEY PLANNING CONTROLS

Control	Proposed	Variation
5m setback to Lasso Road.	Minimum 5m setback to Lasso Road.	None.
5m to Steer Road.	Minimum 5m setback to Steer Road.	None.
Where parking is forward of the building line, a 2m wide landscape strip shall be provided along the frontage.	Minimum 2m setback to the decked car park along Steer Road.	None.

AERIAL PHOTO



THE SITE

The site is commonly known as 2-64 Steer Road, Gregory Hills and is legally described as Lot 601, DP 1157674. The site forms part of the Turner Road employment area of the South West Growth Centre.

The location of the proposed development is on the north-western portion of the site which is currently vacant. The site is irregular in shape and has an overall area of 6.425 hectares. The site has previously been subject to bulk earth works approved under separate development consents.

The surrounding area is characterised by developed and developing business premises including a mix of land uses such as bulky goods premises, food and drink premises and retail premises. To the north lies the developing business park and residential suburb of Gledswood Hills, to the east lies the developing residential suburb of Gregory Hills, to the south lies the Gregory Hills business park and the Smeaton Grange industrial estate and to the west lies the residential suburb of Harrington Park.

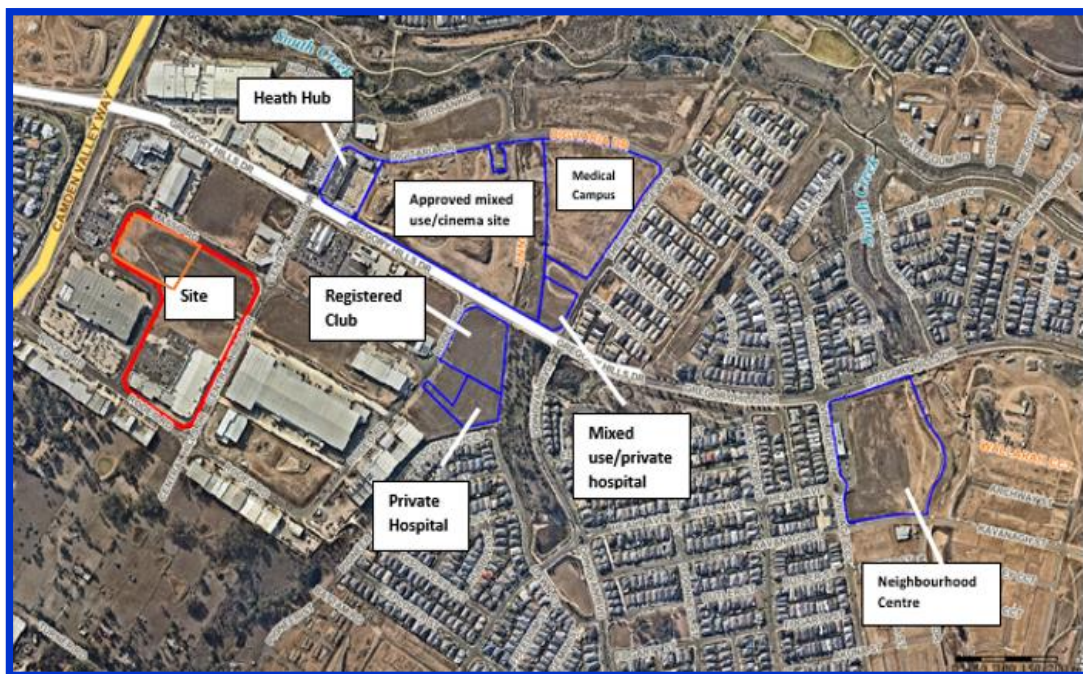
The surrounding area has been subject to a number of DAs for significant developments. These include:

- a 60 bed private hospital at 49 Rodeo Road, Gregory Hills to the east of the site approved by the Sydney West Joint Regional Planning Panel on 11 May 2015;
- a mixed use development containing medical centres, cafes, bulky goods premises, business premises and shops, known as the 'Heath Hub,' at 7 Gregory

Hills Drive, Gledswood Hills, to the north east of the site approved by the Panel on 3 August 2016;

- a State Significant development proposal for a 473 bed private hospital, known as the 'Camden Medical Campus,' to the north east of the site approved by a delegate of the Minister for Planning on 27 April 2017;
- a registered community sports club and ancillary bottle shop at 61-73 Rodeo Road, Gregory Hills, to the east of the site approved by Council at the Ordinary Council meeting of 27 June 2017;
- a mixed use development containing medical centres, a food and drink premises and a 60 bed private pediatric hospital at 1A and 1B The Hermitage Way, Gledswood Hills, to the north east of the site approved by the Panel on 27 November 2017.
- the Gregory Hills neighbourhood centre (containing a supermarket, retail premises and a service station site) at A and 33 Village Circuit, Gregory Hills, to the east of the site approved the Panel on 9 June 2017; and,
- a mixed use development including a bulky goods premises, two hotels, six indoor recreation facilities, five food and drink premises, a cinema and subdivision at 2 Digitaria Drive and A Gregory Hills Drive, Gledswood Hills, located approximately 350m by straight line distance to the north east of the site approved by the Panel on 18 December 2017.

APPROVED MAJOR DEVELOPMENT WITHIN TURNER ROAD PRECINCT

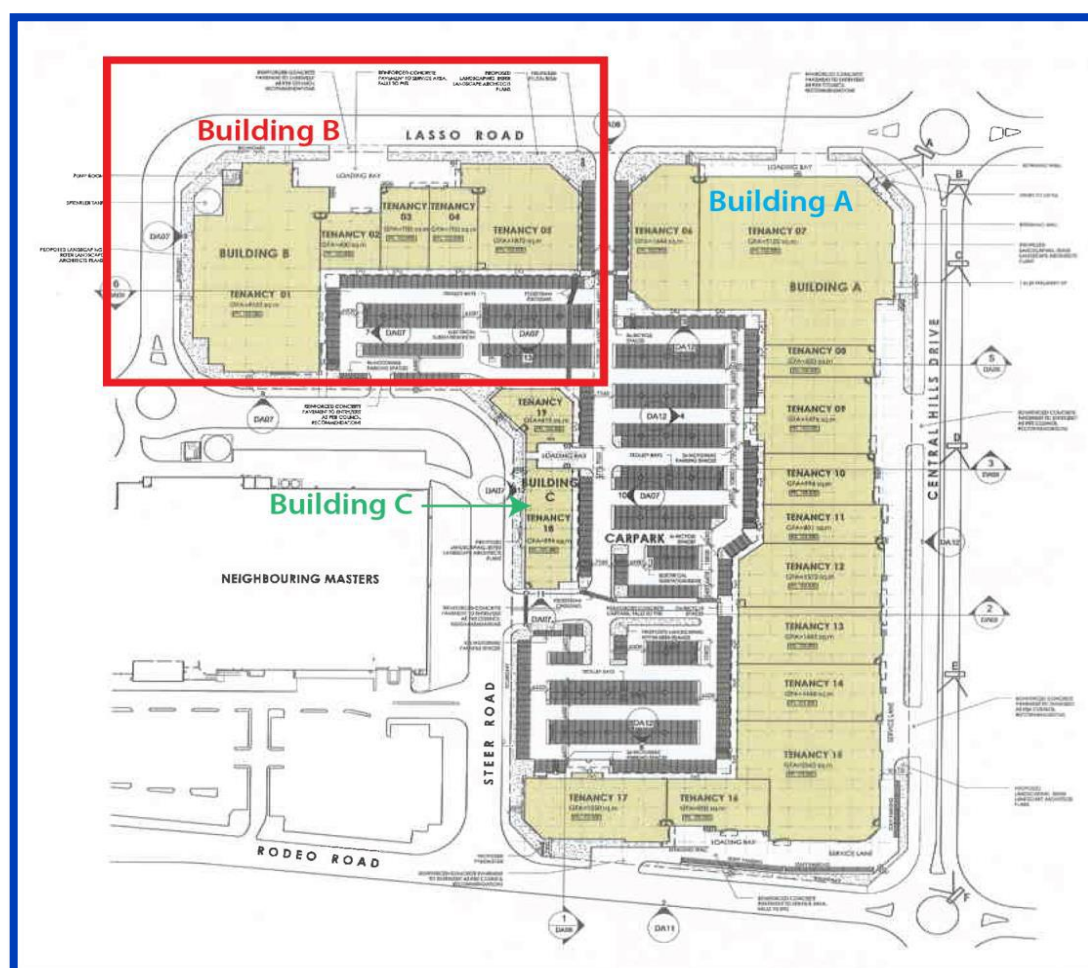


HISTORY

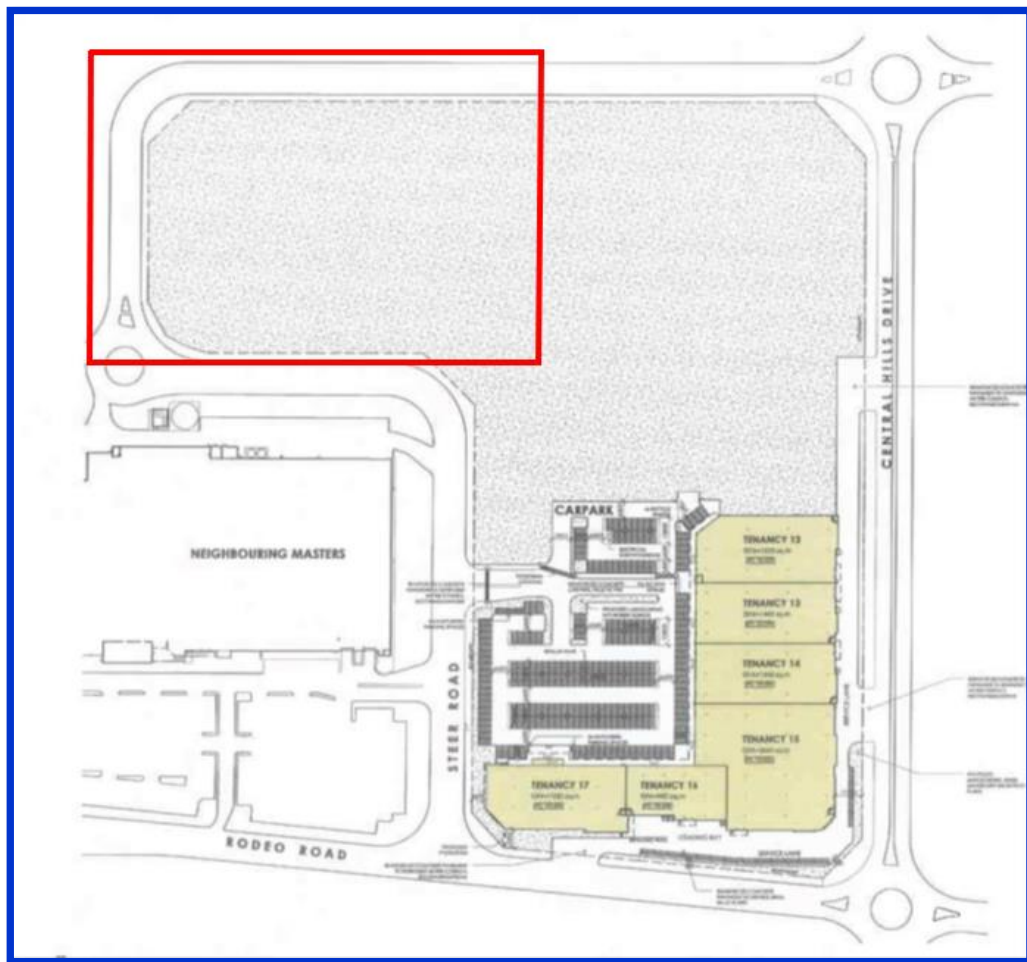
A DA was approved by the Sydney Western City Planning Panel in April 2013 for a bulky goods centre containing 19 units within three buildings (A, B and C), 665 space carpark, signage and associated site works over three stages, on the subject site. To date, only the south western half of Building A and an associated at grade car park as been developed.

Building B had an approved gross floor area (GFA) of 8,025sqm and consisted of five bulky goods tenancies and approximately 177 car parking spaces. This proposal will replace this portion of the approved masterplan. The general building footprint and carpark location will remain largely unaltered; however, due to the degree of changes proposed to the approved Building B a new development application (DA) has been lodged.

DA/2012/752/1 – SITE PLAN SHOWING LOCATION OF PREVIOUS APPROVED “BUILDING B” AND LOCATION OF CURRENT PROPOSAL



DA/2012/752/1 – SITE PLAN SHOWING LOCATION OF SOUTH WESTERN PORTION OF BUILDING A AND ASSOCIATED AT GRADE PARKING ALREADY CONSTRUCTION ON THE SUBJECT SITE



THE PROPOSAL

DA/2017/1768/1 seeks approval for the construction and use of a mixed use development.

Specifically the proposed development involves:

- construction and use of a mixed use development comprising the following land uses:
 - cinema complex with nine screens, amenity rooms, and centre management offices comprising 4,359sqm;
 - three indoor recreation facilities with a total area of 6,040sqm;
 - food court with seven food and drink tenancies and communal seating;
 - three drive through food and drink tenancies;
 - at grade and a decked car park comprising 298 car parking spaces;

- proposed operating hours of seven days a week from 9am to 12am, with a 3am closure time 12 times a year for midnight cinema screenings; and,
- associated site works including earthworks, landscaping and drainage.

The DA seeks approval for the construction and use of the buildings as described above. The internal fit outs for the food and drink tenancies and recreation tenancies will be subject to either separate DAs or complying development certificates.

Approval is not sought for the display of any signage as part of the proposed development. The signage shown on the proposed plans is indicative only and not part of this DA.

The CIV of the proposed development is \$22.7 million.

ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15(1)

In determining a DA, the consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the DA:

(a)(i) the provisions of any environmental planning instrument

The environmental planning instruments that apply to the proposed development are:

- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy (Sydney Region Growth Centres) 2006;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No 55 – Remediation of Land;
- Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River;
- Draft Environment State Environmental Planning Policy.

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

Pursuant to Schedule 7 of the SRD SEPP, the Panel is the determining authority for development with a CIV which exceeds \$30 million. The CIV for this proposal exceeded the threshold of \$20 million for Council to determine the DA on the date of which the DA was registered with the panel.

State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth SEPP)

Site Zoning

The site is zoned B5 Business Development pursuant to Appendix 1, Clause 2.2 of the Growth SEPP.

Land Use Definitions

The proposed development is defined as a “mixed use development” comprising an “entertainment facility,” “food and drink premises,” and “recreation facilities (indoor),” by the Growth SEPP.

Permissibility

All of the proposed development is permitted with consent in the zones in which it is proposed pursuant to the land use table in Appendix 1 of the Growth SEPP.

An assessment table in which the proposed development is considered against the Growth SEPP is provided as an attachment to this report.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

Roads and Maritime Services (RMS)

The DA was referred to the RMS for comment pursuant to Clause 104 of the ISEPP as, pursuant to Schedule 3 of the ISEPP, as the proposed development is classed as traffic generating development.

The RMS requested additional information including traffic surveys of the current traffic conditions on the surrounding road network, traffic surveys of the Camden Valley Way/Gregory Hills Drive intersection, and traffic generation/trip distributions of service vehicles. The applicant provided a response to the RMS request which was subsequently re-referred to the RMS for further comment.

RMS reviewed the additional information and raised no objection to the proposal. It was advised that Council should be satisfied the traffic generation from the proposed development will not have any impact on the surrounding road network.

Council staff reviewed the traffic report submitted by the applicant and supporting information and are satisfied that the proposed development will not have a significant negative impact upon the surrounding road network and the operation of surrounding intersections.

State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

SEPP 55 requires the consent authority to be satisfied that the site is suitable for its intended use (in terms of contamination) prior to granting consent.

A phase 2 contamination assessment was undertaken under DA/2012/752/1 which identified that there were no areas of environmental concern on site. The site is therefore suitable for its intended uses.

A standard contingency condition is recommended which requires any contamination found during construction to be managed in accordance with Council's Management of Contaminated Lands Policy.

Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (SREP 20)

The proposed development is consistent with the aim of SREP 20 (to protect the environment of the Hawkesbury-Nepean River system) and all of its planning controls.

There will be no detrimental impacts upon the Hawkesbury-Nepean River system as a result of the proposed development. Appropriate erosion and sediment control measures and water pollution control devices have been proposed as part of the development.

(a)(ii) the provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)

Draft Environment State Environmental Planning Policy (Draft Environment SEPP)

The Draft Environment SEPP concluded public exhibition on 31 January 2018. The purpose of the SEPP is to consolidate seven (7) existing SEPP's into a consolidated document to simplify the rules for a number of water catchments, waterways, urban bushland and the Willandra Lakes World Heritage Property. Within this SEPP, the only relevant SEPP is Deemed State Environmental Planning Policy No. 20 Hawkesbury – Nepean River.

As the Draft Environment SEPP is not considered imminent or certain, no significant weight to this proposed planning instrument has been given in this instance.

(a)(iii) the provisions of any development control plan

The development controls plans that apply to the proposed development are:

- Camden Development Control Plan 2011; and,
- Turner Road Development Control Plan 2007.

Camden Development Control Plan 2011 (Camden DCP)

An assessment table in which the proposed development is considered against the Camden DCP is provided as an attachment to this report.

Turner Road Development Control Plan 2007 (Turner Road DCP)

An assessment table in which the proposed development is considered against the Turner Road DCP is provided as an attachment to this report.

(a)(iiia) the provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

No relevant agreement exists or has been proposed as part of this DA.

(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

The *Environmental Planning and Assessment Regulation 2000* prescribes several matters that are addressed in the conditions attached to this report.

(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Adverse Impacts Upon the Locality

Centres in the Precinct

The Turner Road Precinct is planned to contain a number of centres and employment areas which are identified in Figure 4: Neighbourhood Centres and Employment Areas of the Turner Road DCP.

The site is located within Figure 4's Turner Road Business Employment Area which is planned to provide a range of business development, bulky goods retail, business premises, light industry, warehouses and distribution uses, together with retail uses, cafes/restaurants, recreation/function and community facilities. It is considered that the proposed development is generally consistent with the characteristics identified for this area.

Consideration is given to the proposed development's potential impacts upon the viability of other existing and planned centres. This is to ensure that there are no detrimental economic impacts upon the locality due to a reduction in the availability or adequacy of services or facilities currently enjoyed by or planned for those centres.

Importantly, the purpose of this consideration is not to regulate commercial competition as this is not a planning matter for consideration in the assessment of a DA.

The proposed development includes a range of land uses including an entertainment facility, food and drink premises and recreation facilities (indoor) that will generally support surrounding centres. These are considered to be typical and expected uses for all business development zones and not proposed on such a scale that they are likely to adversely affect the viability of other planned centres. The proposed cinemas are not typical in business development zones and further consideration of their potential impacts is warranted.

Demand Analysis for a Cinema

In support of the DA, the applicant has submitted an Economic Impact and Demand Assessment report assessing the demand for the proposed cinema. The site is within an area that is currently undergoing significant change and growth. The site is within the South West Growth Centre which comprises 18 precincts and will ultimately provide for the development of approximately 110,000 new dwellings and 350,000 persons. To cater for the needs of this growing community, a range of new centres are proposed which will operate in conjunction with and complement the services provided within existing centres.

The report concludes that the nature of uses within the proposed development will not create another centre due to the lack of provision of essential services and convenience functions as part of the development. The impacts experienced by cinema operators are also unlikely to affect an entire centre unless that operator is the major anchor tenant of the centre such as a supermarket. The proposed cinema will be the major attractor of patrons and the other facilities including food and drink premises and recreation uses will function as secondary or supplementary to the cinemas. The closest centres to the proposed development are Narellan Town Centre and Oran Park Town Centre, and a neighbourhood centre recently approved in Gregory Hills. All of these centres are anchored by major supermarkets or discount department stores such as Kmart and Target. There is also a planned Entertainment Precinct located to the north of the site within Gledswood Hills. The vision of this

precinct is to provide a variety of recreation, entertainment, commercial, retail, residential and support uses within the precinct.

The report also concludes that there is a long term demand for the proposed cinema based on existing undersupply and projected growth in the area. It is also noted that the applicant for the proposed development, United Cinemas, is also the operator of the existing cinema complex in the Narellan Town Centre. As an operator in the area, United Cinemas has an understanding of the cinema attendance patterns of the catchment population. United Cinemas has argued that due to the population increase that will occur in the catchment, there will be significant demand for cost effective entertainment facilities for families and there will be sufficient support for the proposed development as well as existing and approved facilities.

Planning Policy Context

The subject site is zoned B5 Business Development and the Entertainment Precinct is zoned B4 Mixed Use. A cinema is permitted with consent in both zones and is consistent with the objectives of both zones.

With regards to the planned Entertainment Precinct located to the north of the site within Gledswood Hills, Part B1 of the Turner Road DCP, which provides detailed controls, does not specifically identify a cinema to be developed in that area and instead provides for a variety of recreation, entertainment, residential and support uses.

Conclusions

Following consideration of the applicant's demand Economic Impact and Demand Assessment, the proposed cinema is supported on the subject site for the following reasons:

- the proposed cinema is unlikely to have an adverse impact upon the viability of the nearby existing and planned centres;
- there is a long term demand for the proposed cinema based on existing undersupply and projected growth in the area;
- there is no applicable planning policy that specifically identifies a cinema to be developed anywhere in the Precinct, nor in the Entertainment Precinct more than on the subject site;
- the viability of the planned Entertainment Precinct can be achieved by other anchors; and,
- the development of a cinema is consistent with the objectives of the subject site's B5 Business Development zone.

Car Parking

A traffic report was submitted in support of the application which assessed the car parking rate for the food and drink premises, recreation facilities and the cinema.

The DCP does not provide a specific car parking rate for cinemas or for this type recreation facility. Therefore, a comparison study was undertaken against a 1,576sqm

recreational facility including laser skirmish and as well as a stand alone site in Warriewood with a total of 1,920 cinema seats, 450sqm of dining and 300sqm of amusement area.

The report concluded that a parking provision of 333 spaces would be required to accommodate Friday evening peak demands of all uses combined with no linked trips occurring. Accounting for the surveyed links trips between cinema/eateries, the expected parking demand would be 273 car spaces. A total of 298 car spaces have been proposed.

Council's traffic engineer has reviewed the proposal and is satisfied with the car parking proposed to service the development. There is also additional overflow car parking available on the site associated the bulky goods building (building A) approved under DA/2012/752/1. This car park is largely vacant outside of the retail/bulky goods peak business hours. This coincides with the weekend pm peak times for the entertainment facility, should the need arise for any additional car parking beyond what is required. The car park for this development also provides a link for access to the remainder of the bulky goods facility (building A) approved on this site.

Traffic Impacts

The applicant has submitted a traffic report and supporting information in support of the DA. The report and supporting information demonstrates that the proposed development will not have a significant negative impact upon the surrounding road network and the operation of surrounding intersections. Council staff have reviewed the report and supporting information and agree with their conclusions.

As demonstrated by the above assessment, the proposed development is unlikely to have a significant negative impact on either the natural or built environments, or the social and economic conditions in the locality.

(c) the suitability of the site for the development

As demonstrated by the above assessment, the site is considered to be suitable for the proposed development.

(d) any submissions made in accordance with this Act or the regulations

The DA was publicly exhibited for a period of 14 days in accordance with Camden Development Control Plan 2011. The exhibition period was from 23 January to 5 February 2018. One submission was received which objects to the proposed development.

The following discussion addresses the issues raised in the submissions.

1. *No assessment has been provided to demonstrate that the development will not have a cumulative impact or detract from the economic viability of other existing and future nearby centres.*

Officer comment:

The applicant has submitted a report assessing the demand for the proposed cinema. The potential impacts upon the viability of surrounding centres are assessed in the "likely impacts..." section of this report.

2. *Concerns regarding the assessment of traffic impacts on the surrounding locality.*
Officer comment:

The applicant submitted additional information including traffic surveys of the current traffic conditions on the surrounding road network, traffic surveys of the Camden Valley Way/Gregory Hills Drive intersection, and traffic generation/trip distributions of service vehicles.

Council staff reviewed the traffic report and supporting information submitted by the applicant and are satisfied that the proposed development will not have a significant negative impact upon the surrounding road network and the operation of surrounding intersections. The RMS also raised no objections to the proposed development.

(e) *the public interest*

The public interest is served through the detailed assessment of this DA under the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, environmental planning instruments, development control plans and policies. Based on the above assessment, the proposed development is consistent with the public interest.

Western City District Plan (the District Plan)

A draft district plan or district plan is not a mandatory matter for consideration in the determination of a DA. However, it is considered to be in the public interest to consider the proposed development's consistency with the District Plan given that it is publicly exhibited government planning policy.

The District Plan provides productivity actions which seek to support employment and protect industrial lands for appropriate land uses.

It is considered that the proposed development is generally consistent with the District Plan in that it will provide a wide range of employment generating land uses. The land uses are considered appropriate for the site given its B5 Business Development zoning.

EXTERNAL REFERRALS

The external referrals undertaken for this DA are summarised in the following table:

External Referral	Response
Roads and Maritime Services.	No objections and no recommended conditions.
Camden Local Area Command	No response received.

FINANCIAL IMPLICATIONS

This matter has no direct financial implications for Council.

CONCLUSION

The DA has been assessed in accordance with Section 4.15(1) of the *Environmental*

Planning and Assessment Act 1979 and all relevant instruments, plans and policies. The DA is recommended for approval subject to the conditions attached to this report.

RECOMMENDED

That the Panel approve DA/2017/1768/1 for a mixed use development at 2-64 Steer Road, Gregory Hills subject to the conditions attached to this report.