

DATE OF DETERMINATION	17 October 2023
DATE OF PANEL DECISION	12 October 2023
DATE OF PANEL BRIEFING	5 October 2023
PANEL MEMBERS	David Ryan (Acting Chair), Steve Murray, Brian Kirk, Ola Hamad, Glenn Elmore
APOLOGIES	None
DECLARATIONS OF INTEREST	Abigail Goldberg

Papers circulated electronically on 19 September 2023.

MATTER DETERMINED

PPSSCC-394 – Cumberland – DA2022/0463 – 54 Hampstead Road, Auburn - Demolition of existing structures and construction of a seven (7) storey building comprising of specialised retail premises and a hotel over basement car parking within Stage 1, and partial demolition of structures and construction of temporary loading bay within Stage 2 – of approved Concept approval for mixed use development (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 briefings listed at item 8 in Schedule 1.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Cumberland Local Environmental Plan 2021 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 (height of buildings) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (height of buildings) of the LEP and the objectives for development in the E3 Productivity Support zone; and
- c) the concurrence of the Secretary has been assumed.

Development application

The Panel determined to grant consent to the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to accept the Clause 4.6 variation to building height as described above; and to approve the application for the reasons outlined in the Council Assessment Report.

CONDITIONS

The Development Application was approved subject to the conditions in the Council's Draft Conditions of Consent dated 9 October 2023, with the following amendments:

Replace Draft Condition 6 with the following condition:

6. DADCZ05 – Crime Prevention Through Environmental Design (CPTED)

In accordance with the recommendations of the Crime Prevention through Environmental Design (CPTED) Report listed in the Approved Plans and Supporting Documents included in this Determination, a Plan of Management (POM), incorporating an Environmental Maintenance Plan (EMP), shall be submitted to and approved by Council.

The POM and EMP are to include provisions for regular review (e.g. annually and in response to incidents) and require that any proposed changes are to be approved by Council prior to implementation. Council agrees that it will provide a response to any proposed changes in a timely manner and will not unreasonably withhold approval.

(Reason: To guide how the development will be sustainably managed and maintained)

Add the following condition, to be complied with prior to the issue of a Construction Certificate:

DACCA01 - Crime Prevention Through Environmental Design (CPTED)


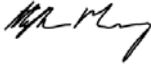



The consultant responsible for the Crime Prevention through Environmental Design (CPTED) Report listed in the Approved Plans and Supporting Documents included in this Determination, is to certify in writing to the Registered Certifier that the recommendations of the CPTED Report are incorporated in the design drawings and documentation prior to the issue of a Construction Certificate.

(Reason: To ensure the implementation of CPTED measures)

The Panel considered the applicant's request to amend several recommended conditions in the Council Assessment Report, some of which were accepted and reflected in Council's Draft Conditions of Consent above. Other conditions requested to be amended have not been amended by Panel, primarily on the basis that they would have required further assessment to determine their merits, which was not considered appropriate given the lateness of the request in what has already been a very comprehensive and prolonged determination process.

CONSIDERATION OF COMMUNITY VIEWS

The Panel noted there were no submissions during public exhibition of the proposal.

PANEL MEMBERS	
David Ryan (Acting Chair) 	Steve Murray 
Brian Kirk 	Ola Hamad 
Glenn Elmore 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-394 – Cumberland – DA2022/0463
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a seven (7) storey building comprising of specialised retail premises and a hotel over basement car parking within Stage 1, and partial demolition of structures and construction of temporary loading bay within Stage 2 – of approved Concept approval for mixed use development.
3	STREET ADDRESS	54 Hampstead Road, Auburn
4	APPLICANT/OWNER	Applicant: Pacific Planning Pty Limited Owner: Raad Property Acquisition No 65 Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Planning System) 2021 Cumberland Local Environmental Plan 2021 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Cumberland Development Control Plan 2021 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil 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 Addendum report: 9 October 2023 Council Addendum report: 5 October 2023 Council supplementary report: 14 September 2023 Council assessment report: 15 June 2023 Clause 4.6 variation: Height of Building Written submissions during public exhibition: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Kick Off Briefing: 13 October 2022 <ul style="list-style-type: none"> <u>Panel members</u>: David Ryan (Acting Chair) <u>Council assessment staff</u>: Michael Lawani, Harley Pearman, Esra Calim, Olivia Yana <u>Applicant representatives</u>: Matthew Daniel, Raymond Raad, Peter Smith Final briefing to discuss council's recommendation: 29 June 2023

		<ul style="list-style-type: none"> ○ <u>Panel members</u>: David Ryan (Acting Chair), Brian Kirk, Steve Murray, Ola Hamad, Glenn Elmore ○ <u>Council assessment staff</u>: Harley Pearman, Esra Calim, Olivia Yana ○ <u>Applicant representatives</u>: Matthew Daniel, Raymond Raad, Erica Marshall, Peter Smith, Hugh Thornton <ul style="list-style-type: none"> ● E Determination – 05 July 2023 (Matter Deferred) <ul style="list-style-type: none"> ● Final briefing to discuss council’s recommendation: 21 September 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: David Ryan (Acting Chair), Brian Kirk, Steve Murray, Ola Hamad, Glenn Elmore ○ <u>Council assessment staff</u>: Harley Pearman, Esra Calim, Olivia Yana ○ <u>Applicant representatives</u>: Matthew Daniel, Raymond Raad, Erica Marshall, Peter Smith, Hugh Thornton <ul style="list-style-type: none"> ● Final briefing to discuss council’s updated recommendation: 5 October 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: David Ryan (Acting Chair), Brian Kirk, Steve Murray, Ola Hamad, Glenn Elmore ○ <u>Council assessment staff</u>: Jai Shankar, Esra Calim, Olivia Yana, Rennie Rounds ○ <u>Applicant representatives</u>: Matthew Daniel, Raymond Raad, Erica Marshall, Peter Smith, Hugh Thornton, Pavel Kozarovski, James Matthews
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to Council’s Assessment Report