

Appendix D
CDCP 2021 Compliance Table
DEVELOPMENT IN BUSINESS SITE SPECIFIC CHAPTER

Only the relevant provisions are addressed within the assessment table.

Relevant Control		Compliance with Requirements	Consistency Objectives
Part C - Development in Business Zones			
2 Relationship with SEPP 65 and Apartment Design Guide	The residential apartment component of shop top housing developments in the Cumberland City LGA will be assessed in accordance with the ADG. The ADG takes precedence over a DCP. Therefore, the DCP provisions do not repeat or seek to vary any controls under the ADG. Where there are inconsistencies between the controls set out in this DCP and the ADG, the ADG shall prevail.	The Apartment Design Guide has been used to address the shop top housing / apartment component of the development. There are variations but these are addressed within the main body of the report and determined as being acceptable.	Generally satisfactory.
3.1 Lot size and frontage	C1. Unless otherwise stated as site specific controls in this DCP, the minimum lot frontage for shop top housing development within Zone B2 Local Centre and Zone B4 Mixed Use shall be: <ul style="list-style-type: none"> • up to 3 storeys: 20m; and • 4 storeys or greater: 30m. 	The site specific to the development is situated within Zone E2 Commercial Centre zone.	N/A
	C2. Lot size and frontage shall provide an appropriate site configuration that achieves: <ul style="list-style-type: none"> • adequate car parking area and manoeuvring for vehicles in accordance with AS2890; • ground level frontage that is activated and not dominated by access apertures to car parking areas; and • the required setbacks and building separation set out by this DCP or the Apartment Design Guide. 	This is achieved and considered satisfactory.	Yes
	C3. Council may require the consolidation of more than 1 existing land holding to be undertaken in order to meet all	Not required for this application.	N/A

	the requirements of this development control plan.		
	C4. Commercial development is not permitted on battle axe lots.	Not applicable for the development application.	N/A
	C5. In instances where lot amalgamation in order to meet the requirements of this DCP cannot be achieved, refer to Part A3 of this DCP.	Not applicable for the development application.	N/A
3.2 Setbacks and separation	C1. Front Setback: Nil (except for B1 Neighbourhood Centre zoned land). A greater setback may be required to align with the predominant street setback.	<p>The entire building from Ground level and above follows the allotment boundaries.</p> <p>No significant issues arise in relation to the street setbacks.</p>	Yes
	C2. For B2 and B4 zones, or unless otherwise stated in site specific controls within this DCP, a street wall height (i.e. podium height) of 3 storeys with a zero setback to the street is required.	<p>The street wall heights are:</p> <ul style="list-style-type: none"> • That part of the east facing elevation that faces towards the culvert that includes a rooftop open space area - 1 Storey. • For the north and south wings of the development situated north and south of the rooftop common areas - 4 storeys. • For the main tower - 20 storeys facing west and south towards the future park. • The lift overrun and associated services and corridors adds another storey to the development. The elements are setback from the sides of the tower. <p>The concept is supported as a street wall height of 3 metres is provided</p>	Yes

		<p>alongside the western property boundary. It is noted that the main tower alongside the western property boundary is not set back further from the side boundary. This is supported.</p>	
	<p>C3. A minimum 3m setback shall be provided for levels above the street wall height for the podium</p>	<p>The main tower building is not achieving this alongside its western elevation with a setback of "0" metres to 2.3 metres being provided across all floors except for the rooftop structures which are setback further away from the sides.</p> <p>This has been raised with the applicant as this is a variation to the control.</p> <p>In response, the applicant has acknowledged the provisions of C3 and C4 which requires a 3 metre setback for the levels above the street wall height for the podium. However, it is argued that they are not required on the following grounds:</p> <ul style="list-style-type: none"> • The provisions of Part F2-6 Merrylands Town Centre apply to the site but the provisions of Part F2-7 Merrylands Neil Street Precinct are the key controls for the development. • Part 3.3.3 - Control C6 is inconsistent with Part F2-7 Neil Street Precinct (Figure 44 Block D) Setback Plan. This requires a 2.5 metre setback to Neil Street that applies to the proposal. 	<p>No Supported due to the over riding provisions of Part F2-7 Figure 44.</p>

		<p>over. The culvert is a Sydney Water asset.</p> <p>The culvert has a varied width of between 9.1 and 9.7 metres.</p> <p>The plans show the area as being a pedestrian walkway path with paths and landscaping as well as deep soil zones.</p>	
	<p>C7. Rear Setback: 15% of site length where boundary adjoins a residential development or a residential zone.</p>	<p>The eastern part of the site adjoins land zoned R4 High Density Residential.</p> <p>The development site does not exhibit a rear boundary.</p> <p>The setback controls for the site are contained within Figure 44 Block D - Control C4 of Part F2-7 Neil Street Precinct for the site. The controls have been followed.</p>	Yes
3.3 Landscaping and open space	<p>C1. Landscape reinforces the architectural character of the street and positively contributes to maintaining a consistent streetscape character.</p>	Satisfactory.	Yes
	<p>C2. Landscaping is to form an integral part of the overall design concept.</p>	Satisfactory.	Yes
	<p>C3. At grade car parking areas, particularly large areas, shall be landscaped so as to break up large expanses of paving. Landscaping shall be required around the perimeter and within large car parks.</p>	There is no car parking at grade.	N/A
	<p>C4. In open parking areas, 1 shade tree per 10 spaces shall be planted within the parking area.</p>	There is no car parking at grade.	N/A
	<p>C5. Fencing shall be integrated as part of the landscaping theme so as to minimise visual impacts and to provide associated site security.</p>	No fencing is proposed along the western or southern elevations of the building.	Yes

		<p>Fencing is required for other areas as indicated on the ground floor plan and relevant architectural plans.</p> <p>The plans show the use of a solid base using block walls and aluminium battens to a height of 1.2 metres (1.8 metres in total with the block wall).</p> <p>The aluminium battens are to be painted dark grey.</p>	
	C6. Paving and other hard surfaces shall be consistent with architectural elements.	Satisfactory.	Yes
	C7. For developments with communal open space, a garden, maintenance and storage area are to be provided, which is efficient and convenient to use and is connected to water for irrigation and drainage.	There are available storage areas within the basement car park for the storage of garden equipment that would be needed to maintain the common areas.	Yes
	C8. Street trees shall be planted at a rate of 1 tree per 10 lineal metres of street frontage, even in cases where a site has more than 1 street frontage, excluding frontage to laneways.	This is adequate. The landscape plans show planting along the curtilages of the site.	Yes
	C9. Street tree planning shall be consistent with the relevant Public Domain Plan, strategy, plan, guideline or policy.	Satisfactory.	Yes
	C10. Significant existing street trees shall be conserved. Where there is an absence of existing street trees, additional trees shall be planted to ensure that the existing streetscape is maintained and enhanced.	<p>There are no street trees existing on or adjacent to the site.</p> <p>All landscaping proposed will be new to the site.</p>	Yes
	C11. Vehicular driveways shall be located a minimum of 3m from the outside edge of the trunk measured 1m above the existing ground level of any street tree to be retained.	<p>Landscaping is satisfactory and appropriate for the site subject to conditions.</p> <p>The tree closest to the driveway needs removal.</p>	Yes

	C12. Services shall be located to preserve significant trees.	This is achieved.	Yes
	C13. At the time of planting, street trees shall have a minimum container size of 200 litres and a minimum height of 3.5m, subject to species availability.	Council's Tree Management Officers have provided advice to the effect that the landscape plans are satisfactory for approval subject to conditions.	Yes
	C14. Where buildings are setback from the street, the resulting open space shall provide usable open space for pedestrians.	This is achieved.	Yes
	C15. Open space areas are to be paved in a manner to match existing paving or to suit the architectural treatment of the proposed development.	This is being achieved.	Yes
3.4 Public art	C1. Public art is encouraged to be provided within the business centres, in accordance with Council's relevant adopted Policy.	The landscape plans are showing public art proposed for the park to the south of the site. The development of the park and associated landscaping is covered by a separate development application. As such, no assessment of this is required under the current development application.	N/A
	C2. Public art provided shall develop the cultural identity of the community and reflect the culture of the community.	The comments provided above under Control C1 is relevant to Control C2.	N/A
	C3. Artworks shall be integrated into the design of buildings and the landscape.	The comments provided above under Control C1 is relevant to Control C2.	N/A
3.5 Streetscapes	C1. New shopfronts shall be constructed in materials which complement the existing or emerging character of the area.	The materials to be used for the shopfronts are satisfactory as they complement the building.	Yes
	C2. Development shall provide direct access between the footpath and the shop.	This is achieved via the use of pedestrian pathways and or a retail terrace.	Yes
	C3. Security bars, and roller shutters are not permitted; however, transparent security grilles of lightweight material may be used.	No security bars or grills are proposed for any of the commercial or retail premises to be constructed on site.	N/A

	<p>C4. Signage shall be minimised and coordinated to contribute to a more harmonious and pleasant character for the locality.</p>	<p>No signage is proposed as part of the development application.</p> <p>Separate development applications would be required addressing signage.</p> <p>This may be addressed as a condition attached to any consent that may be issued.</p>	<p>Yes</p> <p>Subject to an appropriate condition.</p>
	<p>C5. Require buildings at visually significant locations to be well designed and respond to the different characteristics of the streets the address.</p>	<p>The development application has been considered by the Cumberland Design Excellence Panel.</p> <p>Following the receipt of the Panel Minutes, the applicant has replanned the building, especially across the ground floor to address numerous design issues and permissibility issues.</p> <p>The new scheme introduces new design elements that are consistent with the recommendations of the Design Excellence Panel.</p> <p>As a result, the development is improved and may be supported.</p>	<p>Yes</p>
	<p>C6. Development on corner sites will be required to accommodate a splay corner to facilitate improved traffic conditions.</p>	<p>The site being Site 1 is not situated directly on a street corner.</p> <p>The provision of infrastructure and parks is subject to a separate development application.</p>	<p>Yes</p>
	<p>C7. Buildings on corners must address both frontages to the street and/or public realm to:</p> <ul style="list-style-type: none"> articulate street corners by massing and building 	<p>This is achieved for the whole development.</p>	<p>Yes</p>

	<p>articulation, to add variety and interest to the street;</p> <ul style="list-style-type: none"> • present each frontage of a corner building as a main street frontage, reflect the architecture, hierarchy and characteristics of the streets they address, and align and reflect the corner conditions; and • development on corner sites will require land to be dedicated to accommodate a splay corner to facilitate improved traffic conditions. 		
3.6 Building use	C1. Ground floor uses in business zones are to comprise non-residential uses.	<p>The ground floor comprises of four shops or commercial tenancies with provisions of services central to the development.</p> <p>There are no apartments situated across the ground floor of the development.</p>	Yes
3.7 Façade design, shopfront and materials	C1. Façade proportions and vertical and horizontal emphasis shall be appropriate to the scale of development and its interaction with the streetscape. Vertical emphasis shall be incorporated above awnings.	This is achieved.	Yes
	C2. Building facades at street level along primary streets and public places consist of a minimum of 80% for windows/glazed areas and building and tenancy entries.	Satisfactory especially with shops facing the south, east and west elevations.	Yes
	C3. Visible light reflectivity from building materials used on the facades of new buildings shall not exceed 20%.	Satisfactory - Clear vision glass will be used as glazing for all the windows facing the sides and streets.	Yes
	C4. Building services, such as drainage pipes, shall be coordinated and integrated with overall façade and balcony design.	Satisfactory.	Yes
	C5. Ventilation louvres and carpark entry doors shall be	The car park entry area and external ventilation	Yes

	integrated with the design of the overall façade.	louvres are integrated into the design of the building.	
	C6. Security devices fitted to building entrances and windows shall be transparent to allow for natural surveillance and made of light weight material.	No security devices are proposed for any ground floor retail / commercial tenancy.	N/A
	C7. The ground floor level must have active uses facing streets and public open spaces.	This is achieved especially for the south, east and west ground floor building curtilages.	Yes
	C8. Retail outlets and restaurants are located at the street frontage on the ground level.	There are 4 shops situated on the ground level facing south, east and west. Opportunities do exist for restaurants to occupy the floor areas. Such uses would need to be the subject to separate fit out and use applications.	Yes
	C9. Where possible, offices should be located at first floor level or above.	The first floor is residential in nature.	N/A
	C10. A separate and defined entry shall be provided for each use within a mixed use development.	This is achieved.	Yes
	C11. Street and tenancy numbers shall be located on shopfronts and awnings and shall be clearly visible from the street.	Satisfactory.	Yes
	C12. Solid roller shutters and security bars, either internal or external, that block out or obscure windows or entrances, are not permitted.	No security bars or grills are proposed for the commercial / retail premises.	Yes
	C13. High quality design, construction and materials shall be implemented to ensure the building has a long life and requires low maintenance.	This is achieved for the whole building.	Yes
	C14. Building materials and finishes complement the finishes predominating in the area. Different materials, colours or textures may be	The building materials and colours are satisfactory in content and consistent with Control C14.	Yes

	used to emphasise certain features of the building.		
	C15. New buildings shall incorporate a mix of solid (i.e. masonry concrete) and glazed materials, consistent with the character of buildings in the locality. Active street frontages are to maximise the use of glazing.	This is achieved. Active street frontages are promoted at the ground level via the use of shops (4 in total). All four shops feature ground level to ceiling glazing.	Yes
	C16. All street frontage windows located at ground floor level are to be clear glazing.	This is achieved.	Yes
	C17. Building finishes should not result in causing glare that creates a nuisance and hazard for pedestrians and motorists in the centre.	This is achieved.	Yes
	C18. For advertising on shopfronts, refer to Part G1 of this DCP	No signage is proposed as part of the development application. Signage would need to be the subject of a separate future development application which may be addressed as a condition attached to any consent that may be issued.	N/A
3.8 Ceiling height	C1. The minimum finished floor level (FFL) to finished ceiling level (FCL) in a commercial building, or the commercial component of a building, shall be as follows: <ul style="list-style-type: none"> • 3.5m for ground level (regardless of the type of development); and • 3.3m for all commercial/retail levels above ground level. 	The ground floor commercial / retail tenancies have heights of 4.5 metres (floor to ceiling height). The first floor and floors above have heights of 3.1 metres.	Yes
	C2. Refer to the ADG for minimum ceiling heights for all residential levels above ground floor in mixed use developments.	Floor to ceiling heights of apartments are satisfactory.	Yes
3.9 Roof design	C1. Roof design shall be integrated into the overall building design.	Satisfactory. The lift over run of the development has considerable height and	Yes

		includes services and mechanical plant. It is noted that the lift over runs will be finished in powder coat finishes.	
	C2. Design of the roof shall achieve the following: <ul style="list-style-type: none"> • concealment of lift overruns and service plants; • presentation of an interesting skyline; • enhancing views from adjoining developments and public places; and • complement the scale of the building and surrounding development. 	Satisfactory.	Yes
	C3. Roof forms shall not be designed to add to the perceived height and bulk of the building.	It is considered that the proposed roof form is satisfactory to support.	Yes
	C4. Landscaped and communal open space areas on flat roofs shall incorporate shade structures and wind screens.	There are two external common area with one situated on the rooftop of the ground level and one on Level 21. The Level 1 common area features appropriate planting for shade within planter boxes. The level 21 common area features shade trees within planter boxes and a canopy for shade. The canopy covers the BBQ area and associated seating.	Yes
	C5. Communal open space, lift overruns and service plants shall be setback from the building edge so as to be concealed.	This is achieved.	Yes
	C6. Roof design is to respond to the orientation of the site, through using eaves and skillion roofs to respond to sun access.	This is achieved.	Yes
	C7. Consideration should be given to facilitating the use of	The northern arm of the building that is 4 storeys in	Yes

	roofs for sustainable functions, such as: <ul style="list-style-type: none"> • installing rainwater tanks for water conservation. • orient and angle roof surfaces suitable for photovoltaic applications; and • allow for future innovative design solutions such as water features or green roofs. 	height facing Neil Street is expected to incorporate solar panels.	
3.10 Awnings	Awnings are proposed above the ground floor western elevation, southern elevation and part of the eastern elevation covering much of the pedestrian walking areas. The awnings are to be finished in steel “Fresh Gold Satin” colour. The awnings are acceptable.		
3.11 Visual and acoustic privacy	C1. New development shall be located and oriented to maximise visual privacy between buildings on site and adjacent buildings, by providing adequate building setbacks and separation.	Privacy is assessed as being satisfactory between apartments due to orientation and position of the building with respect to the road layout.	Yes
	C2. Residential components of mixed use developments are to comply with the controls in Part B of this DCP and the Apartment Design Guide (as applicable).	Generally, the setbacks of Tower Building A are acceptable and compliant with the provisions of the Apartment Design Guide. The applicant is using the width of the culvert to establish suitable setbacks between buildings.	Yes
	C3. Conflicts between noise, outlook and views are to be resolved by using design measures, such as double glazing, operable screened balconies and continuous walls to ground level courtyards, where they do not conflict with streetscape or other amenity requirements.	The site being Site 1 lies within 35 metres of a railway line and lies within Zone A and Zone B in relation to railway noise and vibration. The development application has been referred to Transport for New South Wales (Sydney Trains) for assessment due to the proximity of the tower close to Sydney Trains assets. The development is supported subject to conditions addressing rail safety.	Yes

		<p>The acoustic report prepared by Acouras Consultancy and dated Wednesday 19 July 2023 addresses noise from traffic and passing trains. Recommendations are provided at Part 3 of the report.</p> <p>The acoustic report is supported by Council's Environment and Health Team and appropriate conditions are recommended for any consent that may be issued.</p>	
	C4. Where commercial/office uses and residential uses are located adjacent to each other, air conditioning units, buildings entries and the design and layout of areas serving after hours uses shall be located and designed to minimise any acoustic conflicts.	<p>There is a retail tenancy situated across the ground floor facing east towards apartments buildings that are proposed across Site 2.</p> <p>It is considered the design of the opposing land uses are acceptable and conflicts are minimised.</p>	Yes
	C5. Developments shall be designed to minimise the impact of noise associated with uses whose hours may extend outside of normal business hours, including restaurants and cafes. Operation includes loading/unloading of goods/materials, and the use of plant and equipment at a proposed commercial premise.	<p>No fitout details or uses are proposed for any commercial / retail tenancy.</p> <p>Separate development applications would be required to establish the use of the commercial tenancies within the development.</p>	Yes
	C6. Mixed use developments shall be designed to locate driveways, carports or garages away from bedrooms.	<p>There are two bedrooms within Apartment 102 situated on Level 1 that will be directly across the driveway.</p> <p>The revised plans show an enlarged awning at this part of the development to assist in screening glare from vehicles. The awning at this location will provide</p>	Yes

		an improved buffer to the tenancy.	
	C7. Mechanical plant must be visually and acoustically isolated from residential uses.	Satisfactory.	Yes
	<p>C8. New development shall comply with the provisions of the relevant acts, regulations, environmental planning instruments, Australian Standards and guidelines as applicable for noise, vibration and quality assurance. This includes:</p> <ul style="list-style-type: none"> • Development Near Rail Corridors and Busy Roads, NSW Department of Planning, December 2008 - Interim Guidelines. • NSW Noise Policy for Industry. • Interim Guideline for the Assessment of Noise from Rail Infrastructure Projects; and • NSW Road Noise Policy. 	The acoustic report submitted with the development application is assessed as being satisfactory.	Yes
	<p>C9. Where a site adjoins a school, place of public worship or public open space, the building design will:</p> <ul style="list-style-type: none"> • incorporate an appropriate transition in scale and character along the site boundary(s); and • present an appropriately detailed facade and landscaping in the context of the adjoining land use. This interface shall be identified in the site analysis plan and reflected in building design. 	<p>Land situated along the southern and western curtilages of Site 1 are earmarked for acquisition to enable a park to be development.</p> <p>The development application has been considered by the Cumberland Design Excellence Panel. The development has been revised taking account of the Minutes provided by the Panel.</p> <p>As a result of the redesign of certain elements of the building, the development is considered to satisfy the provisions of Control C9.</p> <p>It is identified that the pedestrian walkway along</p>	Yes

		<p>the western curtilage of the building crosses through into land zoned REI Public Recreation.</p> <p>This component of the development will need to be altered to ensure an adequate path width remaining within the development site.</p> <p>This may be accommodated as a condition attached to the recommendation.</p> <p>The development application and relevant conditions addresses the means for establishing this facility.</p>	
	C10. The potential for overlooking of playing areas of schools shall be minimised by siting, orientation or screening.	There are no schools adjacent to or close to the site.	N/A
	C11. Fencing along boundaries shared with public open space shall have a minimum transparency of 50%.	No fencing is proposed as part of the development application along the crucial southern and western boundaries with the proposed future park.	Satisfactory.
	C12. Sight lines from adjacent development to public open space shall be maintained and/or enhanced. Direct, secure private access to public open space is encouraged.	Satisfactory.	Yes
3.12 Hours of operation	Hours of operation do not need to be considered. There is no use of the commercial / retail tenancies approved. A separate application will need to be lodged to the Council for determination for the use of the commercial / retail tenancies. This may be addressed as a condition attached to any consent that may be issued. Part 3.12 is not reproduced.		
3.13 Solar access	C1. Developments shall be designed to maximise northern aspects for residential and commercial uses.	Generally satisfactory due to the shape of the allotment and proposed subdivision pattern.	Yes
	C2. The living rooms and private open spaces for at least 70% of dwellings on neighbouring sites shall receive a minimum of 3 hours of direct	The shadow cast by the tower will fall across the proposed development at Site 2 (Buildings B to D)	Yes

	sunlight between 8am and 4pm in midwinter.	<p>but the impact varies throughout the day.</p> <p>It is identified that the primary tower has a broad north to south expanse but has a narrow east to west width. Given its location and aspect, the shadow created by the main tower is not focussed on any one building across Site 2 (Building B to D). Instead, the shadow shifts its position according to the sun angle.</p> <p>It is considered that the development is presenting an acceptable solution to the shadow cast by the development given how the development is aligned on the site.</p>	
	C3. A minimum of 50% of public open spaces and a minimum of 40% of school playground areas are to receive 3 hours of daylight between 9am and 3pm in mid-winter.	This is achieved for the public open space areas especially between 11 am and 3 pm during the month of June.	Yes
	C4. Developments shall be designed to control shading and glare.	Where necessary especially across the western façade of the tower, louvre screens are provided to the development to provide suitable screening for the west facing apartments.	Yes
	C5. Shadow diagrams (plan and elevation) shall accompany development applications for buildings, to demonstrate that the proposal will not reduce sunlight to less than 3 hours between 8 am and 4 pm on 21 June.	The shadow diagrams are satisfactory for assessment.	Yes
3.14 Natural ventilation	C1. Natural ventilation is incorporated into the building design.	Satisfactory.	Yes

	C2. Orient buildings to maximise prevailing breezes.	Satisfactory.	Yes
3.15 Building maintenance	C1. Windows shall be designed to enable cleaning from inside the building.	The is achieved where practical and possible.	Yes
	C2. Durable materials, which are easily cleaned and graffiti resistant, are to be selected.	Building materials and colours are acceptable and appropriate for the built form of the tower.	Yes
	C3. Building maintenance systems are to be incorporated and integrated into the design of the building form, roof and façade.	Satisfactory.	Yes
3.16 Energy efficiency	C1. Improve the control of mechanical space heating and cooling by designing heating/cooling systems to target only those spaces which require heating or cooling, not the whole building.	Satisfactory.	Yes
	C2. Improve the efficiency of hot water systems by: <ul style="list-style-type: none"> • encouraging the use of solar powered hot water systems. Solar and heat pump systems must be eligible for at least 24 Renewable Energy Certificates (RECs) and domestic type gas systems must have a minimum 3.5 Star energy efficiency rating; • insulating hot water systems; and • installing water saving devices, such as flow regulators, 3 stars Water Efficiency Labelling and Standards Scheme (WELS Scheme) rated shower heads, dual flush toilets and tap aerators. 	A BASIX Certificate issued for the development outlines that the development achieves a high level of compliance for water and energy requirements. The BASIX Certificate issued identifies that the development achieves a score of 42 and 33 for Water and Energy which exceeds the provisions of 40 and 25 for both elements.	Yes
	C3. Reduce reliance on artificial lighting and design lighting systems to target only those spaces which require lighting at any particular 'off-peak' time, not the whole building.	Satisfactory.	Yes
	C4. Incorporate a timing system to automatically control the use of lighting throughout the building.	Satisfactory.	Yes

	C5. All non-residential development Class 5-9 will need to comply with the Building Code of Australia energy efficiency provisions.	Matters concerning the Building Code of Australia are to be addressed as conditions for any consent that may be issued.	Yes
	C6. An Energy Efficiency Report from a suitably qualified consultant that demonstrates a commitment to achieve no less than 4 stars under the Australian Building Greenhouse Rating Scheme or equivalent must be provided for all commercial and industrial development with a construction cost of over \$5 million.	A BASIX Certificate issued for the development outlines that the development achieves a high level of compliance for water and energy requirements.	Yes
3.17 Water efficiency	C1. New developments shall connect to recycled water if serviced by a dual reticulation system for permitted non potable uses, such as toilet flushing, irrigation, car washing, firefighting and other suitable purposes.	This is not available at the location.	N/A
	C2. Where a property is not serviced by a dual reticulation system, development shall include an onsite rainwater harvesting system or an onsite reusable water resource for permitted non potable uses, such as toilet flushing, irrigation, car washing, firefighting and other suitable purposes. Rainwater tanks shall be installed as part of all new development in accordance with the following: <ul style="list-style-type: none"> • the rainwater tank shall comply with the relevant Australian Standards; • the rainwater tank shall be constructed, treated or finished in a non-reflective material that blends in with the overall tones and colours of the subject and surrounding development; • rainwater tanks shall be permitted in basements provided that the tank meets 	The information provided identifies that the development will be provided with a 10,000 litre rainwater tank to service the car wash bay and to permit the watering of the common area planting.	Yes

	<p>applicable Australian Standards;</p> <ul style="list-style-type: none"> the suitability of any type of rainwater tanks erected within the setback area of development shall be assessed on an individual case by case basis. Rainwater tanks shall not be located within the front setback; and the overflow from rainwater tanks shall discharge to the site stormwater disposal system. For details, refer to the Stormwater Drainage Part G4 of this DCP. 		
3.18 Wind mitigation	<p>C1. Site design for tall buildings (towers) shall:</p> <ul style="list-style-type: none"> set tower buildings back from lower structures built at the street frontage to protect pedestrians from strong wind downdrafts at the base of the tower; ensure that tower buildings are well spaced from each other to allow breezes to penetrate local centres; consider the shape, location and height of buildings to satisfy wind criteria for public safety and comfort at ground level; and ensure usability of open terraces and balconies. 	<p>A wind assessment report has been prepared by SLR Consulting Pty Ltd. The report provides for several recommendations at Part 6 to address potential concerns in relation to wind strength:</p> <ul style="list-style-type: none"> Additional landscaping along Neil Street pedestrian pathway. Appropriate landscaping along the future McLeod Road incorporating evergreen trees to reduce wind speed to less than 16 metres per second. A similar recommendation is made for the landscaping within the future Neil Park area. Appropriate landscaping within the area close to the future Boulevard Park to reduce wind speed to less than 13 metres per second. 	Yes

		<ul style="list-style-type: none"> • Provide horizontal windbreaks at the retail entries and building entries including suitable landscaping. • Provide vertical windbreaks including planting, balustrades or screens for the Level 1 common open space area. • A nest design be used for the upper level balconies featuring a single open aspect. Full height shielding and screens may be required for corner balconies. • Wind breaks be incorporated into the rooftop common area (Level 21). <p>The report must be included into any consent issued due to the recommendations that are made.</p>	
	C2. A Wind Effects Report including results of a wind tunnel test is to be submitted with the DA for all buildings greater than 35m in height.	The comments provided above at Control C1 are relevant to Control C2.	Yes
3.19 Food and drink premises	Food and drink premises are not proposed. It is considered unnecessary to address Part 3.19 within the assessment table given that no food and drink premises are proposed.		
3.20 Safety and security	The Cumberland Police Area Command have undertaken a CPTED assessment of the proposed development. As per comments of Tuesday 10 January 2023, the development is supported subject to conditions.		
3.21 Pedestrian access and building entry	The pedestrian access and building entry areas have been improved and are more legible and visible.		
3.22 Pedestrian links, arcades,	C16. On sites where a new street is created, the street shall be built to Council's relevant engineering standards.	Part of Mc Leod Road to the immediate south west will be constructed as per the development consent issued for 228 Pitt Street.	Yes

laneways and new streets		<p>However, it will need to be dedicated to the Council.</p> <p>A separate development application has been submitted to the Council for assessment for provision of the infrastructure and public park that are needed to support the whole development site. This is currently under assessment.</p> <p>The applicant has provided to Council a letter of offer to enter into a Planning Agreement for the delivery of the parks and associated public domain works.</p> <p>This has been considered by the Council at its meeting of Wednesday 7 February 2024. Council has resolved to support the Letter of Offer in principle.</p> <p>This is addressed within the primary report for Panel consideration.</p> <p>This is addressed via conditions attached to the recommendation.</p>	
	C17. New streets and laneways shall maintain consistency and/or compatibility with the design of existing roads in the locality, as deemed appropriate by Council.	The comments provided above under Control C16 are relevant to this Part.	Yes
	C20. Road widths shall be consistent with Part A2 of this DCP.	The comments provided above under Control C16 are relevant to this Part.	Yes
	C21. New streets, roads and laneways shall be dedicated to Council.	The comments provided above under Control C16 are relevant to this Part.	Yes

	C22. Redevelopment of sites over 4000 sq m shall maximise the permeability of the site and where practicable provide new pedestrian links.	<p>This is achieved with the new park to the immediate south.</p> <p>A separate development application has been submitted to the Council for assessment addressing the infrastructure needs for the wider site area and the public park which is currently under assessment.</p>	Yes
3.23 B6 Enterprise Corridor Zone	C1. Commercial development shall be located at least at street level, fronting the primary street and where possible the secondary street.	This is achieved with the modified design being presented to the Council.	Yes
	C2. Minimum front setbacks for B6 Enterprise Corridor zones shall be 5m.	<p>The entire site is part of a redevelopment of the Neil Street precinct.</p> <p>Street setbacks are considered as being acceptable.</p> <p>The northern setback is considered acceptable given the Neil Street road alignment, the presence of an elevated road and rail bridge and the need to avoid creating wider spaces between the road and footpath carriageway and the building.</p> <p>A setback of 2.5 metres is achieved for the northern property boundary. The building setback ranges from 6.3 metres to 14 metres from the public footpath. In addition, an embankment associated with the Neil Street road is present alongside the northern curtilage of the site.</p>	Yes Complies with the site specific controls.

		<p>Given the above, the property setbacks are considered acceptable.</p> <p>It is identified that the site specific precinct controls allow for a 2.5 metre street setback for the site for Block D within Chapter F2-7 - Merrylands Neil Street Precinct. As such, it is appropriate to use the overriding controls to establish the Neil Street setback for the building.</p>	
	C3. Where development in a B6 Enterprise Corridor zone has access to a rear laneway, development may have a rear setback of 4m at ground level.	The southern setback of 6 metres is appropriate and supported.	Yes
3.24 Parking	C1. Refer to Part G3 of this DCP, or section 3J-1 of the ADG for car parking provision requirements.	Car parking has been assessed as being satisfactory and compliant with the relevant provisions.	Yes
3.25 Vehicle access	C1. Vehicle access will comply with the provisions set out in Part G3 of this DCP.	This is achieved.	Yes
Part F2 - Business Site Specific			
Part F2-6 - Merrylands Town Centre			
3.1 Urban design strategies	<p>The success of the centre plan is reliant on the achievement of these strategies.</p> <ul style="list-style-type: none"> • Strengthen the economic and employment role of Merrylands. • Provide for an active and vibrant centre. • Ensure buildings are designed to maximise appropriate amenity outcomes for the centre. • Ensure development design promotes the principles of ecologically sustainable development. • Promote public transport use, cycling and walking and reduce reliance on private car travel. 	It is considered that the Strategies are complied with.	Yes

	<ul style="list-style-type: none"> • Achieve urban design that acknowledge the role of Merrylands within Cumberland City. • Maintain and create clear linkages within the centre and with adjoining residential precincts. 		
3.2 Public domain	<p>A number of new intersections, roads, laneways and accessways are proposed under this plan, as indicated in table 1 and in Figure 2 Road widening.</p> <p>Figure 3 includes footpaths, required new pedestrian access and crossings and bicycle access.</p> <p>Figure 4 indicates locations for open spaces and landscaping, including indicative locations for existing and proposed street tree planting.</p> <p>Indicative street sections are provided in Section 2.3.4.</p>	<p>A separate development application has been submitted to the Council for assessment for provision of the infrastructure and public park that are needed to support the whole development site. This is currently under assessment.</p> <p>The applicant has provided to Council a letter of offer to enter into a Planning Agreement for the delivery of the parks and associated public domain works.</p> <p>This has been considered by the Council at its meeting of Wednesday 7 February 2024. Council has resolved to support the Letter of Offer in principle.</p> <p>Relevant conditions are attached to the recommendation.</p>	Yes
3.3 Building envelope			
3.3.1 Site amalgamation & site frontage	C1. Amalgamation of lots in accordance with Figure 13 is required for redevelopment.	There are no concerns in relation to land amalgamation.	Yes
	C2. Where amalgamation is not required by this plan, the minimum site width for redevelopment is 20m.	The development site being Site 1 exhibits satisfactory dimensions.	Yes
	C3. The minimum site width achieved shall determine the height of buildings (in storeys) in accordance with the table below. Site width shall be	The site is more than 32 metres in width. The height of the building at 20 storeys (Habitable floors) or 21 storeys including the	Yes

	measured at the primary frontage.	lift overruns and support structures and services is consistent with the stated provision.										
	<table><tr><td>Site width (m)</td><td>Permitted height (storeys)</td></tr><tr><td>20m</td><td>Max 3 storeys</td></tr><tr><td>26m</td><td>Max 8 storeys</td></tr><tr><td>32m</td><td>Max 20 storeys</td></tr></table>			Site width (m)	Permitted height (storeys)	20m	Max 3 storeys	26m	Max 8 storeys	32m	Max 20 storeys	
	Site width (m)			Permitted height (storeys)								
	20m			Max 3 storeys								
	26m			Max 8 storeys								
32m	Max 20 storeys											
C4. Sites must not be left such that they are physically unable to reasonably develop a three storey building in accordance with the controls in Sections 2 and 3 of this Part.	Compliance is achieved.	Yes										
C5. Development must not prevent the provision of laneways, accessways or vehicular access locations is prevented, or cannot be achieved in accordance with this plan.	<p>The applicant has provided to Council a letter of offer to enter into a Planning Agreement for the delivery of the parks and associated public domain works.</p> <p>This has been considered by the Council at its meeting of Wednesday 7 February 2024. Council has resolved to support the Letter of Offer in principle.</p> <p>Conditions are provided to the recommendation addressing such matters.</p>	Yes										
C6. Where required amalgamations cannot be achieved: <ul style="list-style-type: none">• Applicants are to negotiate with all affected property owners prior to the lodgement of a development application, in an attempt to achieve the preferred development outcome.• In instances where amalgamation cannot be achieved (because a landowner chooses not to take-up a reasonable offer) the following information must be submitted with any development application:	There are no issues in relation to Control C6 and site amalgamations.	Yes										

	Two (2) written valuations indicating the value of the remaining sites that were to be developed in conjunction with the applicant's properties. These are to be undertaken by two independent Valuers registered with the Australian Institute of Valuers, and - evidence that a reasonable offer has been made to the owner(s) of the affected sites to purchase and valuation reports																																
	C7. Where amalgamation (as required) is not achieved the applicants must show that the remaining sites, which are not included in the consolidation will still be able to achieve the development outcome prescribed in this DCP (i.e. minimum site frontage of 20m). This includes achieving the required vehicular access, basement parking and built form.	There are no issues in relation to Control C7.	N/A																														
3.3.2 Building & ceiling height	<p>C1. Maximum permitted building height in storeys* shall be in accordance with the table below.</p> <table><tr><th>Height (m)</th><th>Storeys</th></tr><tr><td>10</td><td>1</td></tr><tr><td>12.5</td><td>2</td></tr><tr><td>14</td><td>3</td></tr><tr><td>17</td><td>4</td></tr><tr><td>20</td><td>5</td></tr><tr><td>23</td><td>6</td></tr><tr><td>26</td><td>7</td></tr><tr><td>29</td><td>8</td></tr><tr><td>32</td><td>9</td></tr><tr><td>38</td><td>11</td></tr><tr><td>41</td><td>12</td></tr><tr><td>50</td><td>15</td></tr><tr><td>53</td><td>16</td></tr><tr><td>65</td><td>20</td></tr></table>	Height (m)	Storeys	10	1	12.5	2	14	3	17	4	20	5	23	6	26	7	29	8	32	9	38	11	41	12	50	15	53	16	65	20	<p>The maximum height in storeys is 20 or 65 metres.</p> <p>The building is 21 storeys in height which includes the rooftop area comprising of the lift overrun, corridors, a toilet and various services.</p> <p>Exclude the floor, then the development would be 20 storeys in height.</p> <p>The building has a maximum height in metres being 71.2.</p> <p>Using the stated control, the variation is 6.2 metres or 9.5%. This is the same as the Cumberland Local Environmental Plan 2021 control.</p>	No Considered acceptable
Height (m)	Storeys																																
10	1																																
12.5	2																																
14	3																																
17	4																																
20	5																																
23	6																																
26	7																																
29	8																																
32	9																																
38	11																																
41	12																																
50	15																																
53	16																																
65	20																																

		The applicant has lodged a comprehensive Clause 4.6 variation request to the development standard under the Cumberland Local Environmental Plan 2021.	
	C2. Each storey shall have the following minimum floor to ceiling heights: <ul style="list-style-type: none"> • ground floor - 3.5m; • first floor (regardless of use) - 3.3m; and • all other floors - 2.7m. 	<p>The floor to ceiling height of the ground storey is compliant.</p> <p>The floor to ceiling height of the first storey is 3.1 metres resulting in a variation of 6.06%.</p> <p>The variation is relative; minor. It is noted that the floor to ceiling heights are compliant with the National Construction Codes 2019 (Building Code of Australia).</p>	No Satisfactory.
	C3. Development in the centre shall establish a consistent building height transition from the edges of the centre to the core of the centre.	<p>Satisfactory.</p> <p>The planning controls allow the built form as proposed for the site.</p>	Yes
	C4. Ensure the achievement of daylight access to public open spaces in accordance with Section 2.6.	The public park that will be constructed to the south (Under a separate development application) will be exposed to sunlight between 11 am and 3 pm during the winter solstice period.	Yes
3.3.3 Street setbacks, road widening and street frontage heights	<p>C1. Street setbacks in accordance with Figure 14 are required for redevelopment.</p> <ul style="list-style-type: none"> • 2.5 metres to Neil Street required as per the detailed block plan contained within Figure 44 for Block D. 	<p>A street setback of 2.5 metres to Neil Street is maintained for the property boundary facing north.</p> <p>The southern boundary setback is also satisfactory.</p> <p>A setback of 2.5 metres is suggested by Figure 14 along the western boundary of the site facing the future park. Based upon the position of the</p>	Yes Satisfactory.

		<p>line, a setback of 2.5 metres is not achieved for the proposed development.</p> <p>However, it is identified on Figure 44 of the site specific controls for Block D (Page 147) of Part F2-7 - Merrylands Neil Street Precinct controls that a "Nil" setback be provided for the site along its western edge. As such, this would override the control identified above.</p>	
	<p>C5. On Neil Street, road widening is required at 185 and 208 Pitt Street; and on Pitt Street, road widening is required at 208 and 212 Pitt Street and 8 Gladstone Street.</p>	<p>Any road widening works required along Neil Street does not form part of this application.</p>	<p>Noted.</p>
	<p>C6. Street wall height of buildings (podium) shall be 3 storeys, with a minimum height of 11m and maximum height of 14m.</p>	<p>The tower facing west comprises a single element rising to 20 storeys above the natural ground level.</p> <p>There is no appreciable setback for the built form element.</p> <p>The northern and southern wings of the building is 4 storeys in height or 16.6 to 16.8 metres.</p> <p>The variations are extensive.</p> <p>The matter is raised in Part 3.2 Setbacks Control C3 in the Development in Business Zones Chapter above.</p> <p>As previously described, the applicant is arguing the variation on the following grounds.</p>	<p>No Satisfactory</p>

		<ul style="list-style-type: none"> • The provisions of Part F2-6 Merrylands Town Centre apply to the site but the provisions of Part F2-7 Merrylands Neil Street Precinct are the key controls for the development. • Part 3.3.3 - Control C6 is inconsistent with Part F2-7 Neil Street Precinct (Figure 44 Block D) Setback Plan. This requires a 2.5 metre setback to Neil Street that applies to the proposal. • The same figure allows a "0" setback to new road 1. <p>As a result, this is overridden by the controls of Part F2-7.</p> <p><u>Comments</u></p> <p>The applicant's statement is supported as Control C4 of Part F2-7 (Figure 44) allows for a "0" metre setback to the open space area to the west and a 2.5 metre setback to Neil Street, both of which are complied with.</p>	
3.3.4 Building depth and length	C1. There is no maximum building depth requirement for floors used as commercial premises.	Noted.	Noted.
	C2. The maximum permissible building plan depth for residential accommodation is 18m.	The apartments have a maximum depth of 17.8 metres.	Yes
	C3. The maximum permissible building envelope depth for residential accommodation is 22m.	The building above the ground floor has a maximum depth of 23.3 metres but for most of the building, compliance is achieved.	No Limited to portions of the tower.

		The depth ranges from 19 metres to 23.3 metres.	
	C4. Residential apartments on the 2nd and 3rd storey levels are limited in depth to 8m from the glassline and 11m from the outer edge of the building envelope.	<p>There are apartments that vary with variations of:</p> <ul style="list-style-type: none"> • Greater than 8 metres from a glass line with variations of up to 600 mm. • Greater than 11 metres from the outer edge of the building envelope with variations of up to 600 mm. <p>The worst performing apartments on Levels 2 and 3 are the cross through apartments.</p> <p>When reviewing the NatHERS Star rating for the affected apartments, it is determined being 309 and 315, it is identified that both are rated at 6.4 and 6.9 Stars respectively. As such, the apartments are achieving a satisfactory performance in relation to energy needs and amenity.</p>	No Acceptable.
	C5. Where office premises are proposed, all points on an office floor should be no more than 15m from a source of daylight.	No offices are proposed within the development.	N/A
	C6. The maximum horizontal length of any building above the podium shall not exceed 50m.	<p>The main part of the tower building is 57.2 metres in length creating a variation of 7.2 metres or 14.4%.</p> <p>The northern side of the building from ground level to Level 3 is 61.4 metres in length. Variation is 11.4 metres or 22.8%.</p> <p>Note</p>	Noted. Refer to discussion of Chapter F2-7 below - Part 3.8

		The site specific controls of Part 3.8 of Chapter F2-7 Merrylands Neil Street Precinct override the controls. As such it is appropriate to refer to the controls provided within Chapter F2-7 below and not this control.																				
	C7. All residential and mixed use developments shall be, or substantially contain, dual aspect apartments.	This is achieved where possible.	Yes																			
3.3.5 Setbacks and separation	C1. Where the street setback is 0m, a continuous built edge shall be provided up to the 3rd storey, regardless of use.	This is generally achieved.	Yes																			
	C2. Where a laneway or accessway is required the minimum rear setback shall be 8m, unless shown otherwise.	Not applicable.	N/A																			
	C3. Setbacks to secondary streets (above podium) to the property line shall be provided as below: <table><tr><th>Storeys</th><th>Setback (m)</th></tr><tr><td>4-8</td><td>3m</td></tr><tr><td>9-20</td><td>6m</td></tr></table>	Storeys	Setback (m)	4-8	3m	9-20	6m	Street setbacks are determined as being satisfactory for the location.	Yes													
	Storeys	Setback (m)																				
	4-8	3m																				
	9-20	6m																				
C4. 0m side setback to Terminal Place and or Milne Lane will be accepted for properties 266 Pitt Street and 135-137 Merrylands Road.	Not applicable to the development application.	N/A																				
C5. Minimum setbacks to side boundaries shall be provided in accordance with the table below: <table><tr><th>Building uses</th><th>Storey</th><th>Side setback (m)</th></tr><tr><td rowspan="3">Non habitable rooms & commercial (no windows)</td><td>1-3</td><td>0</td></tr><tr><td>4-8</td><td>3</td></tr><tr><td>9-20</td><td>6</td></tr><tr><td rowspan="3">Habitable rooms/ balconies</td><td>4</td><td>6</td></tr><tr><td>5-8</td><td>9</td></tr><tr><td>9-20</td><td>12</td></tr><tr><td></td><td>4</td><td>4.5</td></tr></table>	Building uses	Storey	Side setback (m)	Non habitable rooms & commercial (no windows)	1-3	0	4-8	3	9-20	6	Habitable rooms/ balconies	4	6	5-8	9	9-20	12		4	4.5	The only setback that needs consideration is the built form along the eastern boundary of the site. The applicant is using a culvert to act as a buffer between the site and future buildings across Site 2 to the east. The culvert has a width that varies between 9.1 metres and 9.7 metres.	Yes
Building uses	Storey	Side setback (m)																				
Non habitable rooms & commercial (no windows)	1-3	0																				
	4-8	3																				
	9-20	6																				
Habitable rooms/ balconies	4	6																				
	5-8	9																				
	9-20	12																				
	4	4.5																				

	Habitable rooms/ balconies & non habitable rooms	5-8	6.5	<p>The application has been assessed under the Apartment Design Guide.</p> <p>The north and south wing of the complex is 4 storeys in height including the ground floor.</p> <p>A setback of greater than 6 metres is achieved.</p>	
		9-20	9		
3.3.6 Active frontages, street address and building use	Active frontages			Active street frontages are provided to the development and building curtilages.	Yes
	C1. Provide Active frontages at street level, orientating onto streets, laneways and public places, as identified on Figure 17.			Compliance is achieved. The retail tenancies proposed face the south, east and west.	Yes
	C2. Active frontages consist of the following: <ul style="list-style-type: none"> • shopfront; • food and Drink premises such as Restaurant or Café; • entrance to public buildings or commercial building foyers; and • customer service areas and receptions (where visible from the street). 			The four retail tenancies on the ground floor are provided with appropriate glazing facing the pedestrian areas and future park adjacent to the site.	Yes
	C3. At least 70% of street level frontages shall be transparent glazing.			Satisfactory.	Yes
	C4. Blank or solid walls and the use of dark or obscured glass on active frontages are prohibited. Restaurant, cafes and the like are to consider providing openable shop fronts.			Not applicable to the site.	N/A
	C5. Active frontages located on Merrylands Road (to Addlestone Street) and McFarlane Street should aim to provide at least 10-14 separate tenancy entries per 100m. Large developments shall provide multiple entrances.				

	C6. Solid roller shutters or the like that obscure windows and entrances are not permitted.	No solid roller shutters are proposed for any of the commercial tenancies within the ground floor of the building complex.	N/A
	C7. Security grilles which are fixed internally to the shop front, fully retractable and are at least 50% transparent when closed, are acceptable.	No solid roller shutters are proposed for any of the retail tenancies of the tower.	N/A
	C8. The ground floor level of active frontages shall be at the same level as the footpath, unless otherwise required by this plan.	The ground floor levels are acceptable.	Yes
	C9. The location of fire escapes, service doors, plant equipment and the like are to be minimised on active streets.	This is satisfactory.	Yes
	Street address C10. Street address in the form of entries, lobbies and/or habitable rooms with clear glazing are required at ground level, in accordance with Figure 17.	The street property address may be addressed as a condition attached to any consent that may be issued.	Satisfactory.
	C11. Direct pedestrian access off the primary street front shall be provided.	This is achieved.	Yes
	C12. Direct 'front door' access to residential units is encouraged.	This is achieved.	
	C13. Open space should be oriented to overlook pedestrian access points.	This is complied with.	Yes
	C14. Blank walls or dark or obscured glass is not permitted.	<p>This is largely avoided across the tower.</p> <p>The northern ground floor wall of the development facing Neil Street is not provided with glazed elements due to location.</p> <p>The wall in question is satisfactorily treated to avoid the presence of expansive walls. The area will be fenced and landscaped to further soften the appearance of the affected area.</p>	Yes

	<p>Building use</p> <p>C15. Retail and commercial uses are to be located on at the ground floor level for all development within the B4 zone.</p>	Shops as shown on the plans are permitted with consent within the E2 Commercial Center zone.	Yes
	C16. Residential development is not permitted to be located at the ground floor level of any development within the B4 zone.	There are no apartments situated across the ground floor of the development.	Yes
	C17. Commercial office space or other suitable non residential uses must be provided at the first floor level of development for the entire premises street frontage.	<p>No commercial floor areas are provided across the first storey.</p> <p>The applicant has redesigned the ground floor areas and has advised in writing that a double height commercial floor is used to simulate a two storey commercial component.</p> <p><u>Comment</u></p> <p>In this regard, instead of using 3.3 metre high floor to ceiling heights for the retail floor, a floor to ceiling height of 4.5 metres is adopted.</p> <p>The applicant requests a single level of retail with higher floor to ceiling heights and residential above based on the adopted design.</p>	No Satisfactory
3.3.7 Landscaping and open space	<p>Public open space</p> <p>C1. Public open spaces for passive recreation and for overland flow paths shall be provide as identified in Figure 4.</p>	<p>The applicant is willing to enter into a planning agreement for the delivery of the parks.</p> <p>Should the Panel approve the development, the Planning Agreement details would need to form part of the consent that is issued.</p>	Yes

		The delivery of the parks, infrastructure and stormwater storm water drainage systems forms part of the separate development application.	
	C2. Streetscape planting and public domain works Streetscape planting shall be provided in accordance with Figure 4.	The comments provided above under Control C1 are relevant to Control C2.	Yes
	C3. Planting and public domain works shall be in accordance with Council's Landscape Masterplan.	The comments provided above under Control C1 are relevant to Control C3.	Yes
	Deep soil zones C4. Deep soil zones shall be provided in accordance with Figure 4.	The comments provided above under Control C1 are relevant to Control C4.	Yes
3.4 Movement			
Streetscape planting and public domain works	C3. Where other buildings have access to existing laneways, vehicular access must be provided from the laneway.	Vehicle access will be from an accessway from Mc Leod Road.	Yes Supported
3.4.2 Pedestrian Access	C1. Pedestrian site through links shall be provided in accordance with Figures 2 and 3.	<p>The pedestrian walkway along the western curtilage of the building crosses through into land zoned REI Public Recreation.</p> <p>This will need to be altered which is capable of being addressed as a condition attached to the recommendation.</p> <p><u>Note:</u> The applicant has been made aware of this.</p>	
Vehicle access	C1. Driveways shall be provided from laneways (existing or proposed), private accessways and secondary streets (as indicated in Figure 2).	<p>Vehicle access will be from an accessway from Mc Leod Road.</p> <p>The location of the vehicle access area is supported.</p>	Yes
	C2. Vehicular access in the Neil Street precinct shall comply with Figure 2.	The location of the vehicle access area as shown on the architectural plans is the only suitable location that exists.	Yes

		The vehicle access is crossing through land zoned RE1 Public Recreation. The relevant matters including permissibility issues are addressed within the main body of the report.	
3.4.4 Parking	C1. On-site parking is to be accommodated underground wherever possible.	Compliance is achieved.	Yes
	C2. On street parking within Neil Street shall be provided as indicated Section 2.5.	No on street car parking is proposed.	N/A
3.5 Design and building amenity			
3.5.1 Laneway and arcade design	A laneway and arcade is not proposed. It is considered unnecessary to assess the development under Part 3.5.1.		
3.5.2 Managing external noise and vibration	C1. Development proposals within 60m of the south western railway line and/or adjacent to Neil Street or Pitt Street must provide a report, to be submitted with the development application, demonstrating that the development will comply with the following criteria	An acoustic report submitted with the development application has been assessed by Environment and Health as being satisfactory for approval.	Yes
	C2. The following Australian Standards are to be complied with: <ul style="list-style-type: none"> • AS 1055-1997 Acoustics - Description and Measurement of Environmental Noise. • AS 1259-1990 Acoustics - Sound Level Meters Part 2 Integrating - Averaging. • AS 1633-1985 Acoustics - Glossary of Terms and Related Symbols. • AS 2107-2000 Acoustics - Recommended Design Sound Levels and Reverberation Times for Building Interiors. 	An acoustic report submitted with the development application has been assessed by Environment and Health as being satisfactory for approval.	Yes
	C3. The report shall be prepared by an acoustic consultant having the technical eligibility criteria required for membership of the Association of Australian Acoustical	This is complied with.	Yes

	Consultants (AAAC) and/ or grade membership of the Australian Acoustical Society (MAAS).		
	C4. Prior to the issues of an Occupation Certificate, a noise compliance report shall be submitted to the Principal Certifying Authority (PCA) confirming that the building/s comply with the noise criteria following. The report shall be prepared by an acoustic consultant, other than the consultant responsible for the preliminary/design report, having the technical eligibility criteria required for membership of the Association of Australian Acoustical Consultants (AAAC) and/ or grad membership of the Australian Acoustical Society (MAAS).	Appropriate conditions may be attached to the recommendation addressing acoustic matters.	Yes
	C5. Acoustic reports prepared under this Plan must be prepared in accordance with the specified methodology provided in the Appendix.	Satisfactory.	Yes
	C6. Floor vibration levels in habitable rooms should comply with the criteria in British Standard BS6472: 1992 Evaluation of Human Exposure to Vibration in Buildings (1 Hz to 80 Hz). This is the vibration standard recommended by the Department of Infrastructure Planning and Natural Resources (DIPNR) and the Department of Environment and Conservation (DEC). It is similar to AS2670.2 – 1990 but includes additional guidance in relation to intermittent vibration such as that emitted by trains.	Satisfactory.	Yes
3.5.3 Awnings	Awnings are proposed above the ground floor western elevation, southern elevation and part of the eastern elevation covering much of the pedestrian walking areas. The awnings are to be finished in steel “Fresh Gold Satin” colour. The awnings are appropriate to support the building.		

3.5.4 Adaptable housing	<p>C1. Provide a total of 20% of dwellings as adaptable housing by ensuring that:</p> <ul style="list-style-type: none"> • a minimum of 10% of all apartments within a development comply with AS4299-1995 Adaptable House Class A; and • a minimum of 10% of all apartments within a development comply with AS4299-1995 Adaptable House Class C. 	There are 60 adaptable apartments which is 25.4% of the total number of apartments within the development.	Yes
3.5.5 Corner buildings	<p>C1. Generally, Corner buildings shall be designed to:</p> <ul style="list-style-type: none"> • articulate street corners by massing and building articulation; • to add variety and interest to the street; • present each frontage of a corner building as a main street frontage; • reflect the architecture, hierarchy and characteristics of the streets they address; and • align and reflect the corner conditions. 	This is complied with. The important Design Excellent Panel issues raised in relation to the ground floor and permissibility have been resolved.	Yes
3.6 Environmental			
	<p><u>Neil Street Precinct</u></p> <p>C2. Management of the redevelopment of the Neil Street Precinct must be undertaken in a whole-of-site approach. Site amalgamation and re-subdivision under this DCP is required to manage redirection of the floodway.</p>	<p>The site is prone to flooding. Site amalgamation is essential as well as re subdivision.</p> <p>Development application number 2023/0108 addresses the land subdivision.</p> <p>Council engineers have supported the development and provided appropriate conditions addressing the flooding issue.</p>	Yes
	<p>C3. Building footprints are to be placed to allow best movement of flood waters (eg. 30m separation between buildings</p>	The building footprint of the tower is satisfactory and consistent with the	Yes

	on the southern end of New Road (1) north).	planning controls that apply to Site 1.	
	C4. Provide a 40m floodway through Neil Street Precinct, comprising roads, parks, swales and a natural creek system.	The applicant is willing to enter into a planning agreement for the delivery of such matters. Appropriate conditions are attached to the recommendation addressing such matters.	Yes
	Stormwater C5. The peak/volume impact of stormwater on infrastructure is to be reduced by detaining/retarding it on site. Design solutions may include: <ul style="list-style-type: none"> • minimising impervious areas by using pervious or open pavement materials; • retaining runoff from roofs and balconies in water features as part of landscape design or for reuse or activities such as toilet flushing, car washing and garden watering; • landscape design incorporating appropriate vegetation; • minimising formal drainage systems (pipes) with vegetated flowpaths (grass swales); • infiltration or biofiltration trenches and subsoil collection systems in saline areas; • water pollution control ponds or constructed wetlands on larger developments; and • developments shall optimise the amount of deep soil zones within the site, in accordance with Figure 4. 	Stormwater is assessed by Council engineers as being satisfactory. A package of conditions are provided by the Council engineers for inclusion into any consent that may be issued.	Yes
	C6. Stormwater quality shall be maintained through the use of the following:	Stormwater is assessed by Council engineers as being satisfactory.	Yes

	<ul style="list-style-type: none"> • litter or gross pollutant traps to capture leaves, sediment and litter should be used; • sediment filters, traps or basins for hard surfaces; and • treatment of stormwater collected in sediment traps on soils containing dispersive clays. 		
	C7. Where sites are next to the rail corridor, adequately dispose of or manage drainage from the development such that it is not distributed into the rail corridor unless prior approval has been obtained from Sydney Trains.	The site known as Site 1 is not situated next to the rail corridor.	Yes
	C8. Existing and post development flood contours are shown in Figures 18 and 19	Council engineers have assessed the stormwater drains as being acceptable to support the development.	Yes
3.7 General			
3.7.1 Public Art	C1. Public Art is encouraged to be provided within the centre, in accordance with Council's Public Art Policy.	<p>The landscape and architectural plans are showing public art forms provided for the proposed park to the immediate south.</p> <p>The art forms do not need to be assessed as part of the current development application as this is covered by a separate development application addressing the provision of the park, infrastructure, road access and stormwater drainage for the site.</p>	N/A
	C2. Public Art provided shall develop the cultural identity of the community and reflect the culture of the community.	<p>Compliance would be achieved but an assessment is not required under the current development application.</p> <p>The comments provided under Control C1 above are relevant to Control C2.</p>	N/A

	C3. Artworks shall be integrated into the design of buildings and the landscape.	The comments provided under Control C1 above are relevant to Control C2.	N/A
	C4. Within the Neil Street Precinct, the following thematic areas are to be considered in the public art/design: <ul style="list-style-type: none"> • industrial heritage of the locality including the grain mills, brick works and railway; and • A'Becketts Creek and the natural environment. 	The site is not within the vicinity of A Becketts Creek and not located close to the heritage area including the grain mills and brick works.	N/A
Part F2-7 - Merrylands Neil Street Precinct			
3.1 General	Meet the objectives, ensure the Precinct will be characterised by a high-quality, well-designed and safe environment.	This is complied with.	Yes
3.2 Urban design	Meet the objectives, maintain and develop spaces that encourage social interaction for all people, which will contribute to people's sense of place.	This is complied with.	Yes
3.3 The structure plan			
3.3.1 Desired future character	The visual character of certain locations within the Precinct such as the intersection of Neil Street and New Road 1, the intersection of Pitt and Neil Streets, the intersection of Neil Street and the Neil Street Bridge are significant as they provide opportunities to position locational buildings, which will enhance the skyline of the Precinct within the broader Merrylands Centre context (Refer Figure 2).	It is considered that the visual character of the building is compliant with this Part.	Yes
3.3.2 Urban structure plan	The Structure Plan reflects and builds on the existing land uses and functions within the broader Merrylands Centre to implement the vision for Neil Street as a high-quality, well designed, safe and liveable environment (Refer Figure 3).	The development is consistent with the Structure Plan and planning controls that apply to the site.	Yes
3.4 Access network			
3.4.1 Street/access network	C1. Provide new public streets as shown in Figure 4.	The applicant has submitted a letter of offer for a Planning Agreement for the delivery of relevant	Yes

		<p>infrastructure to support the development.</p> <p>The matters are addressed as conditions attached to the recommendation.</p>	
	C3. Setbacks along streets are to be provided in accordance with Section 3.8.	The proposed building across Site 1 exhibits setbacks that are consistent with Section 3.8 below.	Yes
	C5. Streets are to be planted with trees appropriate in character to reflect the street hierarchy and in consultation with Council's landscape architect.	<p>The landscape plans submitted with the development application fully details the planting techniques to be used for the site.</p> <p>Council's Tree Management officer has supported the development subject to conditions.</p>	Yes
	C6. New streets are to be dedicated to Council. New streets are to be maintained by the landowner until dedicated to Council.	The comments under Control C1 above are relevant to this part.	Yes
3.4.2 Connectivity	C1. Provide through-site links and pedestrian ways as indicated in Figure 5.	The layout of Site 1 as shown within the architectural plans are consistent with the planning controls.	Satisfactory
	<p>C2. Through-site connection and arcade must:</p> <ul style="list-style-type: none"> • provide a clear sight-line from one end to the other for surveillance and accessibility, in midblock locations; • have a minimum width of 12m; • extend and enhance the public domain and have a public domain character; and • be designed to consider pedestrian safety and the security of adjacent businesses, particularly at night. 	An arcade is not proposed for the site.	N/A
	C3. Public use of through-site connections should be available	This is complied with.	Yes

[illegible]

	<p>should be consistent with adjacent footpaths and/or Merrylands Centre design.</p> <p>C6. Landscape design shall be compatible with the flood risk.</p> <p>C7. Trees and understorey planting to comply with Crime Prevention Through Environmental Design (CPTED) principles.</p>	addressing crime prevention and safety.	Yes
	<p><u>Solar access</u></p> <p>C8. As a general rule, at least 50% of the public open space shall have access to sunlight between 9.00am and 4.00pm at the winter solstice.</p>	<p><u>For the proposed park to the south</u></p> <p>The submitted shadow diagram shows that at least 50% or greater area will be sunlit between 11 am and 3 pm during the month of June each year.</p>	Yes
	<p><u>Accessibility and connectivity</u></p> <p>C9. Public open space is to be accessible from a variety of points within the wider public domain of Merrylands Centre.</p>	This will be satisfactory once the development is completed.	Yes
	<p><u>Diversity of uses</u></p> <p>C10. Buildings with zero setback to open spaces are to contain active uses for the full extent of the ground floor.</p>	The landscape plans are showing active spaces along the western curtilage of the building.	Yes
	<p><u>Safety and security</u></p> <p>C11. All public open space is to be designed to be in accordance with CPTED principles, in particular with regard to the following:</p> <ul style="list-style-type: none"> • open sightlines and landscaping that allow high levels of public surveillance by users and residents; • clear distinction between private and public open areas; • external lighting (in accordance with Australia Standards AS1158 - Road Lighting) which makes visible potential 'hiding spots'; and • entrances to areas of public open space that encourage pedestrian use and provide visual security through the 	The comments provided above under Part 3.5.1 and Control C7 are relevant to Control C11 addressing crime and safety for the development.	Yes

	establishment of clear sightlines.		
3.5.2 Design criteria for public open spaces			
Neil Street Park	<u>Desired character</u> <ul style="list-style-type: none"> • Activation of ground floor commercial uses along New Road 2 and development to the north; and • create a sense of place (Refer Figure 17). 	The ground floor of the development provides active shopfronts to the west, south and east overlooking pedestrian areas and the future public park.	Yes
	C1. Provide a minimum 1,500sqm public open space - Neil Street Park as shown in Figure 18. C2. Neil Street Park is to be in public ownership.	The Neil Street Park will be provided but under a separate development application. This is also addressed as part of the planning agreement.	Yes
Terminal Place Park	<u>Desired Character</u> <ul style="list-style-type: none"> • Predominantly soft landscape with hardscape elements to accommodate seating and public art; and • open lawn areas for passive recreation (Refer Figure 19). 	Terminal Place Park lies adjacent to Site 2. It is not relevant to this application.	N/A
	C1. Provide a minimum width of 25m as shown in Figure 18.	Noted	N/A
Boulevard Park	<u>Desired character</u> <ul style="list-style-type: none"> • Activation of ground floor retail/commercial edge to the east and western edge of New Road 2. • Design should reflect the desire line to Holroyd Gardens (Refer Figure 21). 	Boulevard Park lies adjacent to the western side of Site 1 between the new road (Mc Leod Road) and the new mixed use development. The development of the parks forms part of a separate development application. The park will be delivered via the Planning Agreement.	Yes
	C1. Provide a minimum width of 16.5m as shown in Figure 23.	The park is approximately 15.4 to 15.8 metres wide resulting in a variation. This is not related to this application. The width is less than 16.5 metres with a variation being 6.6%. The	No but Satisfactory

		<p>variation is not a result of this application.</p> <p>There is a pedestrian walkway situated along the western curtilage of the building with an awning that includes landscaping and seating.</p> <p>This will need to be altered to ensure an adequate path width alongside the ground level west facing curtilage of the building within the development site. The applicant is aware of this and has requested a condition for any consent issued.</p>	
3.6 Built form			
3.6.1 Built form network	Opportunities for taller buildings have been identified. These sites spatially locate important places within the Precinct such as key entry point and parks (Refer Figure 26).	As per figure 26, the site is identified as having an opportunity for a taller building especially along the northern and western parts of the site.	Yes
3.6.2 Built Form Structure Plan	The building footprints indicated on Figure 27 represent the preferred building configuration. Buildings are to be designed in accordance with Section 3.8 - Site Specific Controls.	<p>The development is identified as having a variation to the preferred footprint as identified on Figure 27.</p> <p>In this regard, the indicative podium footprint as shown on the plans is significantly smaller than that shown in Figure 27.</p>	No. Considered acceptable.
3.7 Site amalgamation	Site amalgamation matters have been addressed in earlier development applications. The matter concerning site amalgamation or allotment size does not need to be revisited.		
3.8 Site specific controls			
General Controls	Building envelopes Maximum Horizontal Length of Buildings (above podium) of any	13-20 Storeys = Max. 55m The max. horizontal length of any building without substantial articulation shall not exceed 45m	<p>The main part of Tower building A is 56.8 metres in length creating a variation of 1.8 metres or 3.1%.</p> <p>No Acceptable</p>

	Building breaks	Please refer to the detailed Block controls	Satisfactory.	Yes
	Solar Access			
	Residential	Min. 2 hours direct sunlight access to 70% of apartments between 9.00am to 4.00pm at the winter solstice (22 June).	Satisfactory.	Yes
	Public open space	Neil Street Park Min. 2 hours direct sunlight between 12noon to 3.00pm at the winter solstice (22 June) to min. 50% of the area Other Public Open Spaces • Min. 2 hours direct sunlight between 9am and 4.00pm at the winter solstice (22 June) to min. 50% of the area.	This is achieved for the new park being Neil Street Park.	Yes
	Street Activation			
	Pitt Street and Terminal Place	Fully activate at least 2 storeys with commercial/retail uses. B6 Zone Minimum non-residential GFA equivalent to 20% of the ground floor building footprint area except for the site at the southeast corner of Neil	Only 1 storey of retail uses. The ground floor of the development is showing 4 retail / commercial tenancies facing the south, east and west sides of the site. The retail area occupies 983.9 square metres or 33.8% of the ground floor of the building.	No Applicant has justified this based upon the floor to ceiling height of the ground floor of the development. No

		Street and new Road 1 where the minimum requirement for street activation is 50% of the ground floor building footprint area.	<p>The variation is 471 square metres or 32.37% (At least 1,455 square metres minimum would be required for 50%) which is significant.</p> <p>The plans are showing street activation along 3 sides except the northern side facing Neil Street due to site topography issues.</p> <p>It is not possible to increase this further due to the need for essential services, a vehicle entrance area and loading and unloading areas across the floor level.</p> <p>This is achieved.</p>	
	Parking	<p>Parking must be provided in the basement underground. Underground parking is not permitted to encroach into the setback areas or under public open space areas.</p> <p>Refer to Part G - Parking and Access.</p>	<p>There is an encroachment into the southern side setback area of 6 metres. While this has been raised with the applicant, the encroachment has not been resolved.</p> <p>The applicant is seeking a variation to the control. The encroachment impacts the 5 basement levels. It is not encroaching into public open space above but instead, encroaching underneath a pedestrian thoroughfare above.</p> <p>It is identified that there is no adverse impact to the encroachment identified.</p> <p>There is only a ground floor retail element provided for the building.</p>	<p>Yes for the basement.</p> <p>No for the southern side but may be supported.</p>

	<table><tr><th colspan="2">Building Envelope Depth</th></tr><tr><td>Commercial / retail (above podium)</td><td>Max 25m (unless specified in Section 3.8).</td></tr></table>	Building Envelope Depth		Commercial / retail (above podium)	Max 25m (unless specified in Section 3.8).	The building above the ground floor has a maximum depth of 23.3 metres but for most of the building, compliance is achieved. The variation is 1.3 metres or 5.9%.
	Building Envelope Depth					
	Commercial / retail (above podium)	Max 25m (unless specified in Section 3.8).				

		<p>path to manage the impact of flooding. To ensure appropriate flood management:</p> <ul style="list-style-type: none"> • Width and location of the overland flow path to be in accordance with Section 3.4 and 3.8. • Refer to Part G Stormwater. 		
3.8.4 Site and building design	C1. Secondary active frontage is to be provided where shown in Figure 43 (gymnasium, child care centre, corner shop, café).		Satisfactory as shown in the plans.	Yes
	C2. Secondary active frontage is to have a civic character, providing colonnades for the building at the intersection of Neil Street and New Road 1.		<p>The redesigned plans do not show colonnades facing the new road.</p> <p>A civic appearance is demonstrated at ground level facing the new road to be constructed.</p> <p>Given the need to set back the ground floor shops from the western boundary for appropriate pedestrian access, the internal load bearing supports which is an essential part of the building could in fact become a series of colonnades facing towards the west.</p>	Yes
	C3. Development should comply with Block D Height Plan which indicates the maximum number of permissible storeys (Refer Figure 43 and 45).		<p>The primary tower is 21 storey in height but this figure includes the rooftop area (Level 21). This is required given the presence of the lift overrun, two corridors, a toilet and supporting services.</p> <p>The main habitable part of the building is contained</p>	No Acceptable given the presence of rooftop common area.

		within the twenty storey limit.									
	C4. Provide setbacks as shown in Figure 44	<p>The setbacks of the primary building are satisfactory.</p> <p>The basement car park is encroaching into the southern side setback area of 6 metres.</p> <p>This is addressed above is Part 3.8 where a variation is being requested.</p>	<p>Yes for the building.</p> <p>No for the basement car park.</p>								
	C5. Driveways and vehicular crossings are not permitted along Neil Street	There are no driveway crossings proposed along Neil Street.	Yes								
	C6. Driveways and vehicular crossings are to be provided from New Road 1. Indicative locations are shown in Figure 43.	The driveway is generally located within the correct area but this must be a dedicated road.	Yes								
	<table><tr><th colspan="2">Building Height</th></tr><tr><td>Corner of Neil Street and New Road 1</td><td>Max. 20 storeys (Refer Figure 43)</td></tr><tr><td>Corner of Neil Street and Railway Line</td><td>Max. 16 storeys (Refer Figure 43)</td></tr><tr><td>All other buildings</td><td>Max. 12 storeys (Refer Figure 43)</td></tr></table>	Building Height		Corner of Neil Street and New Road 1	Max. 20 storeys (Refer Figure 43)	Corner of Neil Street and Railway Line	Max. 16 storeys (Refer Figure 43)	All other buildings	Max. 12 storeys (Refer Figure 43)	The building comprises: <ul style="list-style-type: none">• Ground level retail / commercial.• Levels 1 to 19 Residential.• Level 21 - Access including lifts, an access corridor and various services.	No Supported.
Building Height											
Corner of Neil Street and New Road 1	Max. 20 storeys (Refer Figure 43)										
Corner of Neil Street and Railway Line	Max. 16 storeys (Refer Figure 43)										
All other buildings	Max. 12 storeys (Refer Figure 43)										
	<table><tr><th colspan="2">Building Use</th></tr><tr><td>B6 Zone - Ground and first floor of 20 storey building</td><td>Commercial/retail/residential</td></tr><tr><td>All other buildings + All floors above first floor of B6 Zone</td><td>Residential</td></tr></table>	Building Use		B6 Zone - Ground and first floor of 20 storey building	Commercial/retail/residential	All other buildings + All floors above first floor of B6 Zone	Residential	Only the ground storey comprises retail / commercial tenancies.	No Supported		
Building Use											
B6 Zone - Ground and first floor of 20 storey building	Commercial/retail/residential										
All other buildings + All floors above first floor of B6 Zone	Residential										
		The applicant is requesting a variation based upon the height of the floor to ceiling of each tenancy.	Yes								
	<table><tr><th colspan="2">Building Envelope Depth</th></tr><tr><td>All buildings except for the 20 storey tower</td><td>Max 22m</td></tr><tr><td>20 Storey Tower</td><td>Max. 20m</td></tr></table>	Building Envelope Depth		All buildings except for the 20 storey tower	Max 22m	20 Storey Tower	Max. 20m	Up to 23.3 metres.	No Considered acceptable		
Building Envelope Depth											
All buildings except for the 20 storey tower	Max 22m										
20 Storey Tower	Max. 20m										
	<table><tr><th colspan="2">Setback</th></tr><tr><td>Street setback</td><td>From Neil Street - Min. 2.5m</td></tr></table>	Setback		Street setback	From Neil Street - Min. 2.5m	2.5 metres and complies. Complies.	Yes				
Setback											
Street setback	From Neil Street - Min. 2.5m										

	Open Space setbacks	All other lots - comply with Figure 44	The open space setbacks are compliant. The proposed awnings are at least 3 metres in width.	Yes
	Awning	Along Boulevard Park - Min. 3m deep		Yes