

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY CENTRAL CITY PLANNING PANEL

|                                 |  |
|---------------------------------|--|
| <b>DATE OF DETERMINATION</b>    | 26 March 2024  |
| <b>DATE OF PANEL DECISION</b>   | 21 March 2024  |
| <b>PANEL MEMBERS</b>            | Abigail Goldberg (Chair), David Ryan, Steve Murray, Glenn Elmore |
| <b>APOLOGIES</b>                | None   |
| <b>DECLARATIONS OF INTEREST</b> | Ola Hamad  |

Papers circulated electronically on 14 March 2024.

#### MATTER DETERMINED

PPSSCC-414 – Cumberland – DA2022/0722 - Part 4-4A Terminal Place (Formerly 2 Neil Street) Merrylands - Construction of a 21-storey mixed use development on "Site 1" comprising 4 commercial tenancies and 236 apartments over 5 levels of basement parking - Integrated Development Water Management Act 2000 S90(2).

#### 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 and the matters 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 building) of 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 building) of the LEP and the objectives for development in the E2 Commercial Centre zone; and
- c) the concurrence of the Secretary has been assumed.

#### Development application

The panel determined to approve the development application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### REASONS FOR THE DECISION

The panel determined to uphold the Clause 4.6 variation to building height; and approve the application for the reasons outlined in the council assessment report, summarised as follows:

*The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and the relevant environmental planning instruments. The development is considered to be satisfactory.*



*The proposed development is appropriately located within the E2 Commercial Centre zone, R4 High Density Residential zone and the RE1 Public Recreation zone under the Cumberland Local Environmental Plan 2021. There are variations to the planning instruments as described within the planning assessment report however, the variations are considered as being acceptable.*

*Having regard to the assessment of the proposal from a merit perspective, the Sydney Central City Planning Panel is satisfied that the development has been satisfactorily designed and provides for acceptable levels of amenity for future residents. It is considered that the proposal successfully minimises adverse impacts on the amenity of neighbouring properties. Hence the development, irrespective of the departures noted above, is consistent with the intentions of Council's planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.*

*For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and the development may be approved subject to conditions.*

#### **CONDITIONS**





The development application was approved subject to the conditions in the council assessment report.

#### **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the panel considered written submissions made during public exhibition. The panel notes that issues of concern included:

- Affordable or Public Housing availability
- Anti-Social Behaviour
- Unauthorised site works and dust generation

The panel considers that concerns raised by the community have been adequately addressed in the assessment report.

| PANEL MEMBERS   |  |
|---|--|
| <br>Abigail Goldberg (Chair) | <br>David Ryan   |
| <br>Steve Murray             | <br>Glenn Elmore |



| SCHEDULE 1 |   |  |
|------------|---|--|
| 1          | PANEL REF – LGA – DA NO.                              | PPSSCC-414 – Cumberland – DA2022/0722  |
| 2          | PROPOSED DEVELOPMENT                                  | Construction of a 21-storey mixed use development on "Site 1" comprising 4 commercial tenancies and 236 apartments over 5 levels of basement parking - Integrated Development Water Management Act 2000 S90(2).  |
| 3          | STREET ADDRESS  | Part 4-4A Terminal Place (Formerly 2 Neil Street) Merrylands   |
| 4          | APPLICANT/OWNER                                       | Applicant: Merrylands (A) 88 Development Pty Ltd<br>Owner: Merrylands 88 Pty Ltd   |
| 5          | TYPE OF REGIONAL DEVELOPMENT                          | General development over \$30 million  |
| 6          | RELEVANT MANDATORY CONSIDERATIONS                     | <ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (Building Sustainability Index BASIX) 2004</li> <li>State Environmental Planning Policy (Planning System) 2021</li> <li>State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>Cumberland Local Environmental Plan 2021</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Cumberland Development Control Plan 2021</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul> |
|            | MATERIAL CONSIDERED BY THE PANEL                      | <ul style="list-style-type: none"> <li>Council assessment report: 13 March 2024</li> <li>Clause 4.6 variation requests: Floor Space Ratio, Height of Buildings</li> <li>Written submissions during public exhibition: 3</li> <li>Total number of unique submissions received by way of objection: 2</li> </ul>   |
| 8          | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> <li>Briefing: 9 March 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Abigail Goldberg (Chair)</li> <li><u>Council assessment staff</u>: Harley Pearman</li> <li><u>Applicant representatives</u>: Anas Rahhal, Siobhan McInerney, Jonathon Wood, Ryan Lane, Kim Chai Tan</li> </ul> </li> </ul>  |
| 9          | COUNCIL RECOMMENDATION                                | Approval   |
| 10         | DRAFT CONDITIONS                                      | Attached to the council assessment report  |