

DATE OF DETERMINATION	13 June 2024
DATE OF PANEL DECISION	12 June 2024
PANEL MEMBERS	Abigail Goldberg (Chair), David Ryan, Steve Murray, Glenn Elmore,
APOLOGIES	Ola Hamad
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 6 June 2024.

MATTER DETERMINED

PPSSCC-424 – Cumberland – DA2022/0776 – Gladstone Street and 4-4A Terminal Place, Merrylands - Construction of three buildings B, C & D ranging in height from 12 to 17 storeys and comprising of 6 neighbourhood shops and 303 apartments over six levels of basement parking with associated site works - 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 Buildings) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (Height of Buildings) of the LEP and the objectives for development in the R4 High Density Residential zone; and
- c) the concurrence of the Secretary has been assumed.

Development application

The panel determined to approve the development application pursuant to section 4.16 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, replicated in part 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 R4 High Density Residential zone under the Cumberland Local Environmental Plan 2021. There are variations in relation to the applicable planning instruments that apply to the site however, these are considered to be acceptable.

Having regard to the assessment of the proposal from a merit perspective, it may be satisfied that the development has been responsibly 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 and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- There is no affordable housing or public housing being made available.
- Many residents near public housing areas are not happy with increased crime rates and general anti social behaviour.
- The project will involve much construction noise.

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

PANEL MEMBERS	
 Abigail Goldberg (Chair)	 David Ryan
 Steve Murray	 Glenn Elmore

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-424 – Cumberland – DA2022/0776
2	PROPOSED DEVELOPMENT	Construction of three buildings B, C & D ranging in height from 12 to 17 storeys and comprising of 6 neighbourhood shops and 303 apartments over six levels of basement parking with associated site works - Integrated development Water Management Act 2000 S90(2).
3	STREET ADDRESS	Gladstone Street and 4-4A Terminal Place, Merrylands
4	APPLICANT/OWNER	Applicant: Merrylands (B) 88 Development PTY LTD Owner: Merryland 88 Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Building Sustainability Index) 2004. State Environmental Planning Policy (Sustainable Buildings) 2022. State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Housing 2021) Cumberland Local Environmental Plan 2021. Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Cumberland Development Control Plan 2021. Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 24 May 2024 Clause 4.6 variation: Building Height Written submissions during public exhibition: 3 Total number of unique submissions received by way of objection: 3
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Kick Off Briefing: 9 March 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Abigail Goldberg (Chair) <u>Council assessment staff</u>: Harley Pearman <u>Applicant representatives</u>: Anas Rahhal, Siobhan McInerney, Jonathon Wood, Ryan Lane, Kim Chai Tan
9	COUNCIL RECOMMENDATION	Approval

10	DRAFT CONDITIONS	Attached to the council assessment report
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