

**TO:** Sydney Central City Planning Panel

**SUBJECT:** 5 and 7 Mcleod Road MERRYLANDS NSW 2160

**APPLICATION No:** DA2023/0485 / PPSSCC-492

<b>Application accepted</b>	25 August 2023.
<b>Applicant</b>	Merrylands (B) 88 Development Pty Ltd.
<b>Owner</b>	Merrylands 88 Pty Ltd.
<b>Application No.</b>	DA2023/0485 / PPSSCC-492.
<b>Description of Land</b>	<ul style="list-style-type: none"> <li>Part Lot 10 in DP 1305248 and is known as 5 Mcleod Road Merrylands.</li> <li>Part Lot 11 in DP 1305248 and is known as 7 Mcleod Road Merrylands.</li> </ul>
<b>Proposed Development</b>	Public domain and civil works including a public open space areas, public art, water feature and associated landscaping.
<b>Site Area</b>	10,650 square metres.
<b>Zoning</b>	<ul style="list-style-type: none"> <li>Part E2 Commercial Centre.</li> <li>Part RE1 Public Recreation.</li> </ul> <p>The development occurs on the RE1 portion of the site reserved for land acquisition for 'Recreation Areas' and E2 Commercial Centre (to the west of the RE1) reserved for land acquisition for 'Local Road'.</p>
<b>Disclosure of political donations and gifts</b>	Nil disclosure.
<b>Cost of Works</b>	\$9,374,704 (incl GST)
<b>Heritage</b>	The site is not a Heritage item and is not located in a Heritage Conservation Area.
<b>Principal Development Standards</b>	N/A.
<b>Issues</b>	DCP Variations.

## SUMMARY

- Development Application No. DA2023/0485 was accepted on 25 August 2023 for the Public domain and civil works including a public open space areas, public art, water feature and associated landscaping.
- The application was publicly notified to occupants and owners of the adjoining properties for a period of 14 days between 21 September 2023 and 5 October 2023. In response, no submissions were received.
- The subject site is not listed as a heritage item nor is the site located within the heritage conservation area.
- The variations are as follows:

Control	Required	Provided	% variation
Sub-part 3.5.1, C8  Part F2-7 Merrylands Neil Street Precinct Chapter CDCP 2021	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.  Required 1,911.5sqm.	15.255% (between 9am and 4pm)	69.49%
Sub-part 3.8, C1  Part F2-7 Merrylands Neil Street Precinct Chapter CDCP 2021	<u>Neil Street Park</u> Min. 2 hours direct sunlight between 12noon to 3.00pm at the winter solstice (22 June) to min. 50% of the area.  Required: 1,275sqm.	1 hour (between 12pm-3pm)  26.03% of the area will receive solar access	50%  47.94%
	<u>Boulevard Park</u> Min. 2 hours direct sunlight between 9am and 4.00pm at the winter solstice (22 June) to min. 50% of the area.  Required: 388.9sqm	1 hour (between 9am-4pm)  27.539% of the area will receive solar access.	50%  44.9%
	<u>Terminal Place Park</u> Min. 2 hours direct sunlight between 9am and 4.00pm at the winter solstice (22 June) to min. 50% of the area.  Required: 247.55sqm.	1 hour (between 9am-4pm)  16.35% of the area will receive solar access.	50%  67.3%

Sub-part 3.5.2, C1	<u>Terminal Place Park</u>		
Part F2-7 Merrylands Neil Street Precinct Chapter CDCP 2021	Provide a minimum width of 25m as shown in Figure 18.	14.2m-21.2metres.	43.2%-15.2%
Sub-part 3.5.2, C1	<u>Boulevard Park</u>		
Part F2-7 Merrylands Neil Street Precinct Chapter CDCP 2021	Provide a minimum width of 16.5m as shown in Figure 23.	15.6m.	5.45%

5. The application is referred to the Panel as the proposal falls under Schedule 6 - Clause 3(d) of the State Environmental Planning Policy (Planning Systems) 2021, the proposal is for Council related development to which the Council is a party to an agreement or arrangement relating to the development with a cost of works of over \$5million.
6. The application is recommended approval subject to the conditions as recommended in the Council's assessment report.

## REPORT

### SUBJECT SITE AND SURROUNDING AREA

The site forms:

Part Lot 10 in DP 1305248 and is known as 5 Mcleod Road Merrylands.

Part Lot 11 in DP 1305248 and is known as 7 Mcleod Road Merrylands.

The proposed development is located on part Lot 10 in DP 1305248 known as 5 Mcleod Road Merrylands and part Lot 11 in DP 1305248 known as 7 Mcleod Road Merrylands.

The developments adjoining the site include shop top housing known as 228 Pitt Street & 1/5 Gladstone Street Merrylands. Merrylands Train station to the south and south-east of the site, Merrylands Bus Interchange is located to the south of the subject site. Stockland Merrylands is located to the western side of the site opposite Pitt Street.

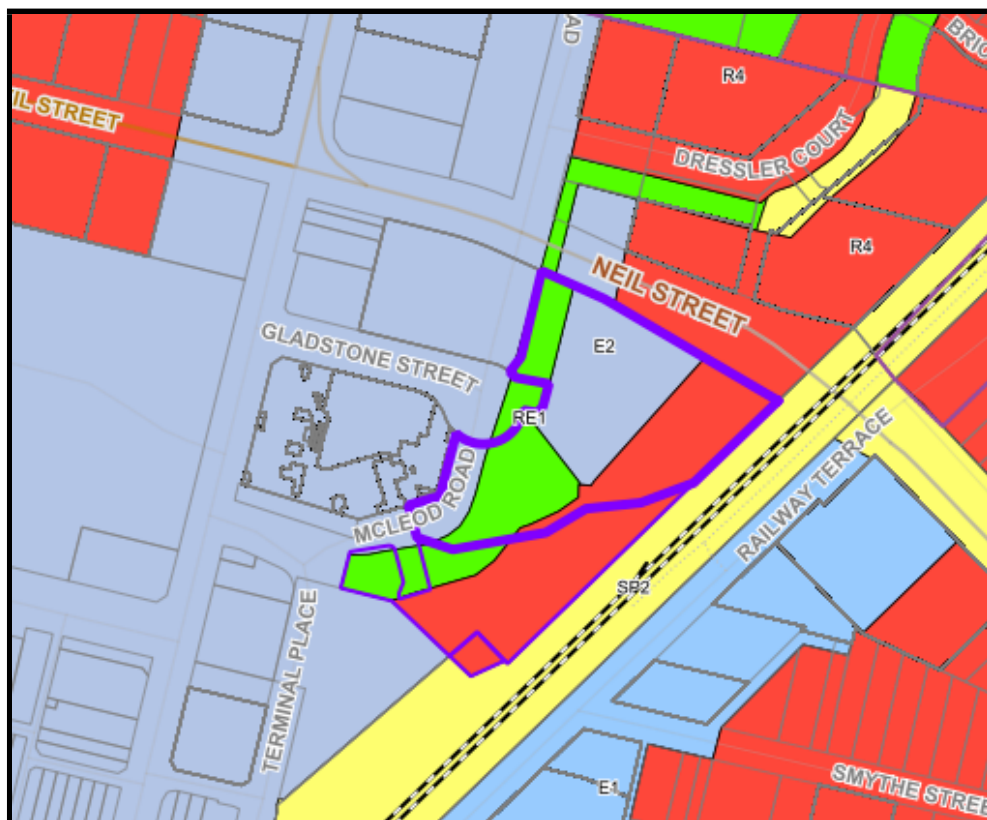


Figure 1 – Locality/Zoning Plan of subject site outlined in purple (Intramaps)





*Figure 2 – Aerial view of subject site (Site outlined in purple)*

A recent inspection of the premises carried out on 08 August 2024 confirmed that the site is cleared of any structures.



*Figure 3 – Site Inspection Photos*

There are also easements that impact parts of the site including:

- Easement for drainage of variable width.
- Easement for electricity purposes.
- Easement for drainage variable width.
- Easement to drain water.

- Easement for stormwater channel (The culvert).

The site is prone to flooding and any development work must account for the flood levels of the site. In addition, a drainage culvert passes through the site and lies adjacent to the southern and eastern boundaries of the site. The culvert has a variable width of 9.1 to 9.7 metres.

## DESCRIPTION OF THE DEVELOPMENT

Council has received a development application for public domain and civil works including a public open space areas, public art, water feature and associated landscaping. A detailed breakdown of the works is outlined below:

- Neil Street Park.
- Terminal Place Park.
- Boulevard Park.
- Public open green space.
- Garden walk.
- Buffer planting zone and access path.
- WSUD corridor.
- Adventure play area.
- Public art and water feature.
- Amenities building.
- Bicycle path (lane).
- Public domain works along Mcleod Road.

Figure 4 below is an extract from Part F2-7 Merrylands Neil Street Precinct Cumberland Development Control Plan (CDCP) with the indicative location of the three Parks. The Parks are marked as follows in the CDCP - Neil Street Park (1), Terminal Place Park (2) and Boulevard Park (3).



Figure 4 - Indicative location of the three Parks.

## **HISTORY**

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The most recent and relevant applications relating to the broader subject site are outlined below:

Development Application 2022/0722 for 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) was approved by the Sydney Central City Planning Panel on 26 March 2024.

Development Application 2022/0776 for 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) was approved by the Sydney Central City Planning Panel on 13 June 2024.

Development Application 2023/0108 for Torrens Title Subdivision of 3 lots into 4 lots was approved under delegated authority on 2 November 2023.

Modification Application 2024/0193 for s4.55(1A) modification to amend the dimensions and areas of Lots 3 and 4 was approved under delegated authority on 22 August 2024.

Development Application 2024/0331 for Alterations and additions to the approved development (DA2022/0776) seeking to facilitate affordable housing to part of the development pursuant to State Environmental Planning Policy (Housing) 2021, internal and external design changes including increasing the building height and number of storeys to range from 14 to 22 storeys is currently under assessment.

## **APPLICANTS SUPPORTING STATEMENT**

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The applicant has provided a Statement of Environmental Effects prepared by Think Planners dated 01 August 2023 and was received by Council on 10 August 2023 in support of the application.

## **CONTACT WITH RELEVANT PARTIES**

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The assessing officer has undertaken a site inspection of the subject site and surrounding properties and has been in regular contact with the applicant throughout the assessment process.

## **INTERNAL REFERRALS**

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### *Development Engineering*

The development application was referred to Council's Development Engineer for comment who has advised that the development proposal is satisfactory and therefore can be supported subject to recommended conditions of consent.

### *Environment and Health*

The development application was referred to Council's Environment and Health Officer for comment who has advised that the development proposal is satisfactory and therefore can be supported subject to recommended conditions of consent.

#### Public Spaces Planning and Design

The development application was referred to Council's Public Spaces Planning and Design section for comment who have advised that the development proposal is satisfactory and therefore can be supported.

#### Waste Management

The development application was referred to Council's Waste Management Officer for comment who has advised that the development proposal is satisfactory.

#### Planning Systems

There is a draft planning agreement associated with the subject Development Application. Council at its meeting on 17th July 2024 resolved to publicly exhibit the draft VPA document. This draft planning agreement is discussed in more detail under the heading (EP&A Act s4.15(1)(a)(iia)) of this report.

No objection was raised for the proposed development from Council's Planning Systems Unit.

### **EXTERNAL REFERRALS**

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#### Transport for New South Wales (TfNSW) – Sydney Trains

Given the proximity to the railway corridor to the south-west the application was referred to TfNSW pursuant to Section 2.98 of the SEPP (Transport and Infrastructure) 2021. TfNSW has reviewed the application and has provided conditions of consent.

#### NSW Police - Cumberland Police Area Command

The development application was referred to the New South Wales Police Cumberland Police Area Command for a CPTED Assessment. As per the correspondence dated 13 September 2023, the development is determined as being acceptable subject to conditions.

#### Sydney Water

The application was referred to Sydney Water pursuant to Section 78 of the Sydney Water Act 1994. Sydney Water raised two areas of concern being Asset Protection – Water and wastewater assets and Asset Protection - Stormwater assets. Pursuant to Section 78(4) of the Sydney Water Act 1994, Council has considered the submission made by Sydney Water and it has concluded that a condition shall be imposed that the developer must obtain a s73 compliance certificate from Sydney Water.

#### Endeavour Energy



The application was referred to the Endeavour Energy pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021. As per the correspondence dated 12 September 2023, the development is determined as being acceptable subject to conditions.

## PLANNING COMMENTS

### The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

#### State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies:

State Environmental Planning Policies (SEPPs)	Relevant Clause(s)	Compliance with Requirements
<ul style="list-style-type: none"> <li><b>State Environmental Planning Policy (Biodiversity and Conservation) 2021.</b></li> </ul>	Chapter 2 - Vegetation in non Rural Areas.	<p>The development application does not include the removal of any trees on site and therefore, the proposal will not exceed the biodiversity offsets scheme threshold.</p> <p>The trees marked for removal on the adjoining property at 2-6 Gladstone Street do not form part this application and a condition will be imposed accordingly.</p>
	Chapter 6 - Water Catchments.  Sydney Harbour Catchment.	It is determined that given location, a detailed assessment is not required given that there is no direct impact upon the catchment and no direct impact upon watercourses.
<ul style="list-style-type: none"> <li><b>State Environmental Planning Policy (Resilience and Hazards) 2021.</b></li> </ul>	Chapter 2 - Coastal Management.	The subject site is not identified as a coastal wetland or 'land identified as "proximity area for coastal wetlands" or coastal management area.
	Chapter 4 - Remediation of Land.  Part 4.6.	<p>Part 4.6 - Contamination and remediation to be considered in determining development application.</p> <p><u>Comments</u></p> <p>The applicant had undertaken a Preliminary site investigation (PSI) and had submitted a report prepared by Environmental Consulting Services Pty which recommends that additional site investigations are required to</p>

		<p>assess for soil and groundwater contamination. In response the applicant has provided a Detailed Site investigation report (DESI) which concluded that the site can be made suitable for the proposed use provided that a Remediation Action Plan (RAP) be prepared to document the required works associated with the excavation and removal of fill material and to also validation testing. The DESI also recommended that additional investigations be carried out along the culvert that crosses the site to assess for asbestos.</p> <p>The applicant has provided a Remediation Action Plan (RAP) which makes no reference to the investigation or remediation to be carried out along the culvert that crosses the site.</p> <p>The applicant has provided a response by Environmental Consulting Services (ECS) as follows:</p> <ol style="list-style-type: none"><li>1. At the time of preparation of the RAP the potential extent of excavation above and beside the stormwater culvert had not been determined. It is acknowledged that there could be restriction on excavation which would prohibit the removal of all asbestos contaminated fill. In this instance further investigations would be required to quantify the residual asbestos contamination and the RAP revised to manage the residual impact.</li><li>2. It is expected that during the development application process, feedback will be required from the culvert owner (Sydney Water). This feedback should identify excavation restrictions. In the event that there are no limitations on</li></ol>
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		<p>excavation and all asbestos contaminated fill is removed then there will be no need for additional assessment activities. If however, all asbestos contaminated fill is not removed then additional investigations are needed. A notional sampling density is included in the RAP.</p> <p>3. The DSI and RAP prepared for the site have been submitted to a NSW EPA Accredited Site Auditor to commence the audit process. This was undertaken to comply with condition 57 of DA2022/0722 for the approved 'Site 1' development.</p> <p>On the basis that ECS conducted a DSI and prepared an RAP for the site area that encompasses the Site 1 development and also the open space (park) over the stormwater culvert, the responses from the Site Auditor can consider both proposed developments (land uses).</p> <p>As such, Council's EHU raised no objections to the proposal subject to conditions. Therefore, it is considered that the development application is satisfactory under Part 4.6 of Chapter 4 of the State Policy.</p>
<ul style="list-style-type: none"> <li>• <b>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.</b></li> </ul>		The proposal is not a BASIX affected development.
<ul style="list-style-type: none"> <li>• <b>State Environmental Planning Policy (Industry and Employment) 2021.</b></li> </ul>	Chapter 3 Advertising and Signage.	No signage is proposed as part of the development application and thus no assessment of signage is required.
<ul style="list-style-type: none"> <li>• <b>State Environmental Planning Policy (Transport and Infrastructure) 2021.</b></li> </ul>	Chapter 2 - Infrastructure.	State Environmental Planning Policy (Transport and Infrastructure) 2021 is relevant to the development application as follows.
	Clause 2.48	<p><u>Chapter 2 - Infrastructure.</u></p> <p>Determination of development applications (Subpart (2) - Give</p>

		<p>written notice to electricity providers and take account of responses received within 21 days.</p> <p><u>Comment</u> The development application has been referred to Endeavour Energy for assessment. As per correspondence of 12 September 2023, the development application is supported subject to conditions.</p>
	Clause 2.98	<p>The application is subject to Section 2.98 of the SEPP, because the subject site is located within or adjacent to a railway corridor.</p> <p><u>Comment</u> Sydney Trains has reviewed the application and has provided conditions of consent.</p>
<ul style="list-style-type: none"> <li>• <b>State Environmental Planning Policy (Planning System) 2021</b></li> </ul>	Schedule 6.	<p>Development of a type that is listed in Schedule 6 of Planning System SEPP is defined as 'regional significant development'. Such applications require a referral to a Sydney District Panel for determination as constituted by Part 3 of Schedule 2 under the Environmental Planning and Assessment Act 1979.</p> <p>The proposed development constitutes 'Regional Development' as the proposal falls under Schedule 6 - Clause 3(d) of the State Environmental Planning Policy (Planning Systems) 2021, the proposal is for Council related development to which the Council is a party to an agreement or arrangement relating to the development with a cost of works of over \$5 million.</p>
<ul style="list-style-type: none"> <li>• <b>State Environmental Planning Policy (Sustainable Buildings) 2022.</b></li> </ul>	Chapter 3 Non-residential development.	<p>State Environmental Planning Policy (Sustainable Buildings) 2022 sets sustainability standards of buildings across NSW for residential and non-residential development.</p> <p>The Sustainable Buildings SEPP was notified on 29 August 2022 and came into effect on Sunday 1</p>

		<p>October 2023 to allow for the relevant industry to adjust to the new standards. Savings and transitional provisions in accordance with Clause 4.2 of the Sustainable Buildings SEPP will apply to the subject development application or modification application that was made but not finally determined before 1 October 2023.</p> <p>This will not be applicable to the development application.</p>
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### **Local Environmental Plans**

#### **Cumberland Local Environmental Plan 2021**

The provision of the Cumberland Local Environmental Plan 2021 is applicable to the development proposal. It is noted that the development achieves compliance with the key statutory requirements of the Cumberland Local Environmental Plan 2021 and the objectives of the zone.

#### **(a) Permissibility:**

The proposed development is defined as ‘recreation areas’ and is permissible in the RE1 Public Recreation zone with consent.

The proposed works along the public domain of Mcleod Road are defined as a ‘road’ and permissible in the E2 Commercial Centre (as any other development not specified in item 2 or 4) with consent.

***recreation area*** means a place used for outdoor recreation that is normally open to the public, and includes—

- (a) a children’s playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,

*and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).*


***Road*** means a public road or a private road within the meaning of the [Roads Act 1993](#), and includes a classified road.

The relevant matters to be considered under the Cumberland Local Environmental Plan 2021 and the applicable clauses for the proposed development are summarised below. A comprehensive LEP assessment is contained in Attachment 4.

*Figure 5 – Cumberland LEP 2021 Compliance Table*

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
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4.3 Height of Buildings	N/A	<p>The RE1 portion of the site does not have a building height limit.</p> <p>The E2 Commercial Centre that forms as part of this application does not have a building height limit.</p>
4.4 Floor Space Ratio	N/A	<p>The RE1 portion of the site does not have a floor space ratio requirement.</p> <p>The E2 Commercial Centre that forms as part of this application does not have a floor space ratio requirement.</p>
<p>5.1A Development on land intended to be acquired for public purposes.</p> 	Yes	<p>The subject site is land intended to be acquired for public purpose. This relates to the RE1 and E2 portion of the site that forms part of this application.</p> <p>The proposal is for a 'Recreation Areas' and 'Roads' therefore satisfies this clause.</p> <p>Zone RE1 Public Recreation and marked "Local open space" - Recreation areas.</p> <p>Zone E2 Commercial Centre and marked "Local road widening" - Roads.</p>

**The provisions of any proposed instrument that is or has been the subject (EP&A Act s4.15 (1)(a)(ii))**

No proposed instruments apply to the application.

**The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))**

The Cumberland Development Control Plan 2021 is relevant to the development proposal.

The development has been assessed using the following chapters:

- Part A – Introduction and General Controls.
- Part C – Development in Business Zones.
- Part F2-6 - Merrylands Town Centre
- Part F2.7 Merrylands Neil Street Precinct
- Part G – Miscellaneous Development Controls

The development is found to comply with the relevant provisions except for the following:

Figure 6 – Cumberland DCP 2021 - Compliance Table.

Control	Required	Provided	% variation
Sub-part 3.5.1, C8  Part F2-7 Merrylands Neil Street Precinct Chapter CDCP 2021	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.  Required 1,911.5sqm.	15.255% (between 9am and 4pm)	69.49%
Sub-part 3.8, C1  Part F2-7 Merrylands Neil Street Precinct Chapter CDCP 2021	<u>Neil Street Park</u> Min. 2 hours direct sunlight between 12noon to 3.00pm at the winter solstice (22 June) to min. 50% of the area.  Required: 1,275sqm.	1 hour (between 12pm-3pm)  26.03% of the area will receive solar access	50%  47.94%
	<u>Boulevard Park</u> Min. 2 hours direct sunlight between 9am and 4.00pm at the winter solstice (22 June) to min. 50% of the area.  Required: 388.9sqm	1 hour (between 9am-4pm)  27.539% of the area will receive solar access.	50%  44.9%
	<u>Terminal Place Park</u> Min. 2 hours direct sunlight between 9am and 4.00pm at the winter solstice (22 June) to min. 50% of the area.  Required: 247.55sqm.	1 hour (between 9am-4pm)  16.35% of the area will receive solar access.	50%  67.3%
	<u>Terminal Place Park</u>		
Sub-part 3.5.2, C1	<u>Terminal Place Park</u>		

Part F2-7 Merrylands Neil Street Precinct Chapter CDCP 2021	Provide a minimum width of 25m as shown in Figure 18.	14.2m-21.2metres.	43.2%-15.2%
Sub-part 3.5.2, C1	<u>Boulevard Park</u>		
Part F2-7 Merrylands Neil Street Precinct Chapter CDCP 2021	Provide a minimum width of 16.5m as shown in Figure 23.	15.6m.	5.45%

As indicated in the compliance table above, the proposed development departs from a number of the provisions of Council's Cumberland Development Control plan 2021, Part F2-7 Merrylands Neil Street Precinct.

Irrespective of these departures, it is considered that the proposal performs adequately from an environmental planning viewpoint and may be supported for the reasons discussed below:

### **Sub-part 3.5.1 Open Space network (C8) - Part F2-7 Merrylands Neil Street Precinct**

The relevant objective for the solar access control is:

#### **Objectives**

- O6. Provide appropriate amenity, solar access and shelter across a range of uses.*
- 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.*

### **Sub-part 3.8 Site Specific controls (C1) - Part F2-7 Merrylands Neil Street Precinct**

C1 Relevant section shown below:

Solar Access	
Residential Part of Buildings	Min. 2 hours direct sunlight access to 70% of apartments between 9.00am to 4.00pm at the winter solstice (22 June).
Public Open Space	<p><i>Neil Street Park</i></p> <ul style="list-style-type: none"> <li>Min. 2 hours direct sunlight between 12noon to 3.00pm at the winter solstice (22 June) to min. 50% of the area</li> </ul> <p>Other Public Open Spaces</p> <ul style="list-style-type: none"> <li>Min. 2 hours direct sunlight between 9am and 4.00pm at the winter solstice (22 June) to min. 50% of the area.</li> </ul>

The CDCP provides two sets of solar access requirements under the Merrylands Neil Street Precinct chapter, both solar access requirements are addressed in detail to demonstrate that solar access will be received to the Park (Open space) in the winter solstice. The variations outlined in figure 6 above are a result of the development applications approved around the precinct and therefore the solar access reaching the open space is based on those approvals.

The proposed Park provides different uses that will attract the public to visit at various times throughout the day. As stated above, the variation to the solar access has resulted from approvals on the broader subject site and from adjoining sites.

### **Sub-part 3.5.2 Design criteria for public open spaces (C1) - Part F2-7 Merrylands Neil Street Precinct**

Objectives (Terminal Place Park)

- O1. *Provide additional resource to the local residents and commuters.*
- O2. *Reinforce a sense of safety for the community by providing appropriate lighting and directional signage.*
- O3. *Provide sufficient furniture such as bins, seats, lighting and bicycle parking in appropriate locations.*

Objective (Boulevard Park)

- O1 *Provide a passive recreational space for surrounding development.*

The proposal results in a variation to the width to part of Terminal Place Park and Boulevard Park.

As result of the new roads, that have occurred to address permissibility issues for the built form development applications (DA2022/0722 and DA2022/0776) Council officers finalised a subdivision application, to permit a boundary adjustment of the road to ensure vehicle / pedestrian access could be provided to the buildings to cross over the RE1 zoned land. The boundary adjustments have been registered with NSW Land Registry on 22 May 2024.

As a result of the above, the 'shape' of Terminal Place Park has been adjusted accordingly.

DA2023/0108 and subsequent modification application MOD2024/0193 relates to the subdivision of the lots throughout the site. These applications were to approve lots to their respective zones and MOD2024/0193 adjusted the lot sizes to accommodate the boundary adjustments as a result of the roads.

Irrespective of the depth variation that occur to the two 'smaller' Park areas, the objectives of these spaces are maintained. They provide sufficient areas for furniture including the Public Art at Terminal Place Park and Boulevard Park provides for a passive landscape garden trail.

These non-compliances are considered acceptable as the proposal overall achieves the design criteria for the public open spaces for all three Parks being Neil Street Park, Terminal Place Park and Boulevard Park.

**The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (EP&A Act s4.15(1)(a)(iia))**

There is a draft planning agreement associated with the subject Development Application.

The draft VPA is in connection with development consents DA2022/0722 ('Site 1') and DA2022/0776 ('Site 2'), and Development Application DA2023/0485 (subject application).

Development consent DA2022/0722 for the site currently known as 7 McLeod Road, Merrylands would allow for the construction of a 21 storey mixed-use development comprising 4 commercial tenancies and 236 residential units over 5 levels of basement parking, which was approved by the Sydney Central City Planning Panel (the Panel) on 26th March 2024 (PPSSCC-414). While Development consent DA2022/0776 for the site currently known as part 5 and part 7 McLeod Road, and 1/4-4A Terminal Place, Merrylands includes the construction of 3 buildings ranging in height from 12 to 17 storeys and comprising of 6 neighbourhood shops and 303 residential units over six 6 levels of basement parking, which was approved by the Panel on 13th June 2024 (PPSSCC-424).

Council at its meeting on 17th July 2024 resolved to publicly exhibit the draft VPA document for the site.

The key objectives of the draft VPA requires the landowner:

- to dedicate land for public open space and the provision of public road that improves connectivity and access for the broader precinct, Merrylands Town Centre and its surrounds; and
- to deliver public open space and public domain works in and around the site's immediate surrounds that relate to the embellishment of the proposed Terminal Place, Neil Street and Boulevard Parks.

The proposed works for public open space are sought under this application being Development Application DA2023/0485.

#### **The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))**

The proposed development raises no concerns as to the relevant matters arising from the *Environmental Planning and Assessment Regulations 2021* (EP&A Reg).

#### **The Likely Environmental, Social or Economic Impacts (EP&A Act s4.15 (1)(b))**

It is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

#### **The suitability of the site for the development (EP&A Act s4.15 (1)(c))**

The subject site and locality is not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. Accordingly, it is considered that the development is suitable in the context of the site and surrounding locality.

#### **Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))**

Advertised (Website) ☒

Mail ☒

Sign ☐

Not Required ☐

In accordance with Council's Notification requirements contained within Cumberland Development Control Plan 2021, the proposal was publicly notified for a period of 14 days between 21 September 2023 and 5 October 2023. The notification generated no submissions in respect of the proposal.

#### **The public interest (EP&A Act s4.15(1)(e))**



In view of the foregoing analysis, it is considered that the development, if carried out subject to the conditions set out in the recommendation below, will have no significant adverse impacts on the public interest.

## **CUMBERLAND LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN 2020**

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The development does not require the payment of contributions in accordance with Cumberland Local Infrastructure Contributions Plan 2020.

## **HOUSING AND PRODUCTIVITY CONTRIBUTION (HPC)**

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In accordance with s7.24 of the Environmental Planning and Assessment Act, 1979 as amended by the Environmental Planning and Assessment Amendment (Housing and Productivity Contribution) Act 2023, the development is subject to the (Housing and Productivity Contribution) Act 2023.

In accordance with Part 2 of Schedule 5 of the Environment Planning and Assessment (Housing and Productivity Contribution) Order 2023 ('the Order'), the Order does not apply to a development consent granted to a pending development application (Pending DA).

A 'Pending DA' as per Schedule 1 of the Order and Schedule 6, Part 9, s16 of the EP&A Reg 2021 is as follows:

- (a) ***a development application that is made, but not determined, before the commencement of this Order, or***
- (b) *a development application that is made and determined before the commencement of this Order, but has not been finally determined, or*
- (c) *an application for a complying development certificate that is made, but not determined, before the commencement of this Order.*

As the application was lodged on the 25 August 2023, the provisions of the HPC do not apply as emphasised in bold above.

## **DISCLOSURE OF POLITICAL DONATIONS AND GIFTS**

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The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

## **CONCLUSION**

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The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*, Cumberland Local Environmental Plan 2021 and Cumberland DCP and is considered to be satisfactory for approval subject to conditions.

The proposed development is appropriately located within the RE1 Public Recreation and E2 Commercial Centre zones under the relevant provisions of the Cumberland LEP, and the variations that are sought under the Cumberland Development Control Plan are considered acceptable in this instance.

Having regard to the assessment of the proposal from a merit perspective, Council 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.

## **RECOMMENDATION**

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- 1. That Development Application No. DA2023/0485 for Public domain and civil works including a public open space area, public art, water feature and associated landscaping on land at 5 and 7 Mcleod Road MERRYLANDS NSW 2160 be approved subject to conditions listed in the attached schedule.**

## **ATTACHMENTS**

1. Draft Notice of Determination
2. Architectural/Landscape Plans
3. Public Art Report
4. Cumberland LEP Assessment
5. Cumberland DCP Assessment