

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY CENTRAL CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	16 September 2024
<b>DATE OF PANEL DECISION</b>	16 September 2024
<b>PANEL MEMBERS</b>	Abigail Goldberg (Chair), David Ryan, Steve Murray
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	The Panel Chair has advised that all Council representatives have a conflict due to the DA being council interest.

Papers circulated electronically on 13 September 2024.

#### MATTER DETERMINED

PPSSCC-492 – Cumberland – DA2023/0485 – 4-4A Terminal Place, Merrylands - Public domain and civil works including a public open space areas, public art, water feature and associated landscaping.

#### PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings listed at item 8 in Schedule 1.

#### 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 approve the application for the reasons outlined in the council assessment report, noting as follows:

The application is for public domain and civil works including three public open space areas (parks), public art, a water feature and associated landscaping. The three parks: Neil Street Park, Terminal Place Park and Boulevard Park are separate but adjacent (a ‘string of pearls’ approach in urban design terms).

The application is located within the RE1 Public Recreation and E2 Commercial Centre zones under the relevant provisions of the Cumberland LEP. Council is a party to an agreement or arrangement relating to the development with a cost of works of over \$5million, and the application has accordingly been independently assessed.

The sites are burdened by multiple easements (drainage, electricity and stormwater), and are also prone to flooding. There is potential contamination largely due to fill material on site. As a result a Detailed Site investigation report (DSI) has been undertaken which concluded that the site can be made suitable for the proposed and a Remediation Action Plan (RAP) prepared. The DSI and RAP have been submitted to a NSW EPA Accredited Site Auditor to commence the audit process.

Noted also that the application does not comply with solar access requirements in the DCP for winter months. This is attributed to development already approved around the precinct. Parts of the public domain also do not achieve the minimum width as proposed in the DCP, attributed to new roads approved in the area.

The assessment nevertheless concludes that despite these non-complaint matters, the objectives of the spaces for public domain are maintained and even the narrow areas of park are able to provide sufficient areas for furniture including the Public Art at Terminal Place Park while Boulevard Park provides for a passive landscape garden trail. The assessment notes that:

*“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.”*

While regretting the lack of solar access in particular, which will make the spaces less attractive to users in the winter months, and which could have been overcome by better strategic planning for development earlier in the planning process albeit that the sites are compromised by easements and flooding, the panel accepts that the public domain is a welcome addition to the area and will provide a range of active and passive features.

The application has also been amended to address concerns raised by the panel in relation to use of open space for outdoor dining and access to the proposed substation at the kick off briefing early in the assessment process.



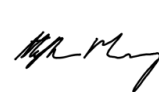
Overall, the panel supports approval subject to conditions as put forward in council’s report.

#### **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 notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
Abigail Goldberg (Chair) 	David Ryan 
Steve Murray 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-492 – Cumberland – DA2023/0485
2	PROPOSED DEVELOPMENT	Public domain and civil works including a public open space areas, public art, water feature and associated landscaping.
3	STREET ADDRESS	4-4A Terminal Place, Merrylands
4	APPLICANT/OWNER	Applicant: Aland Owner: Merrylands (B) 88 Development Pty Ltd / Merrylands 88 Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 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 (Planning Systems) 2021</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: <i>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).</i></li> </ul> <p><i>Council at its meeting on 17th July 2024 resolved to publicly exhibit the draft VPA document for the site</i></p> <p><i>The key objectives of the draft VPA requires the landowner:</i></p> <ul style="list-style-type: none"> <li><i>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</i></li> <li><i>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.</i></li> </ul> <p><i>The proposed works for public open space are sought under this application being Development Application DA2023/0485.</i></p> <ul style="list-style-type: none"> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil</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>

<b>7</b>	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Council assessment report: 11 September 2024</li> <li>• Written submissions during public exhibition: 0</li> <li>• Total number of unique submissions received by way of objection: 0</li> </ul>
<b>8</b>	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Preliminary Briefing: 16 October 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Steve Murray</li> <li>○ <u>Council assessment staff</u>: Haroula Michael, Jai Shanker, Michael Lawani, Esra Calim, Rashika Rani</li> <li>○ <u>Applicant representatives</u>: Anas Rahhal, Jonathon Wood, Kim Chai Tans</li> </ul> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Approval
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report