

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY CENTRAL CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	17 December 2024
<b>DATE OF PANEL DECISION</b>	17 December 2024
<b>PANEL MEMBERS</b>	David Ryan (Chair), Judy Clark, Fiona Gainsford
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	<p>Abigail Goldberg declared a conflict of interest as having previously worked with the applicant.</p> <p>Glenn Elmore declared a conflict of interest as he previously voted on the Planning Proposal at council.</p>

Papers circulated electronically on 28 November 2024.

#### MATTER DETERMINED

**PPSSCC-550 – Cumberland – DA2023/0775** – 2 Bachell Avenue, Lidcombe - Demolition of existing structures, construction of a mixed use commercial and light industrial development across nine-stories with associated parking for specialised retail, high technology industries, light industrial, office and medical uses, storage units, recreation facility (indoor), take away food and drink premises, childcare centre and animal boarding facility. Integrated Development - section 89 of Water Management Act 2000.

#### 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.

#### Development application

The Panel determined to refuse 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 considered the applicant's request to defer the determination of the application pending the submission and assessment of amendments and additional material to address Council's recommended reasons for refusal. The panel, upon hearing from Council on the outcomes of a subsequent meeting with the applicant, considered that whilst progress could potentially be made towards resolving some of the recommended reasons for refusal, there was not sufficient certainty that key concerns relating to car parking numbers, FSR and associated building design, were capable of resolution without major design changes and further referrals, notifications and detailed assessment. Given these uncertainties, the panel considered that deferral of the application at this stage in the process was not appropriate.

Therefore, the panel determined to refuse the application for the following reasons:

1. That Panel is not satisfied that the applicant's written request to vary the Development Standard relating to the Floor Space Ratio as contained within Clause 4.4 of Cumberland Local Environmental Plan 2021 and has adequately addressed the matters to be demonstrated by Clause 4.6(3). The justification provided in the Clause 4.6 "Exception to development standards" is not well founded.
2. The Floor Space Ratio identified in the application as 3.24:1 is incorrect as it excludes areas that should be included as Gross Floor. Therefore, the Clause 4.6 has not adequately addressed the

actual breach relating to the Floor Space Ratio.

3. The proposed development is in breach of the car parking provisions at Part C and G3 of the Cumberland Development Control Plan, Guide to Traffic Generating Developments and the proposal does not provide for the required number of car parking spaces on-site to service the development.

4. Insufficient information has been submitted to enable a full and thorough assessment of the development against the stormwater drainage provisions at Part G4 Stormwater and Drainage of Chapter G Miscellaneous Development Controls of the Cumberland Development Control Plan 2021 for the following reasons:

- a. In accordance with the Section 2.5 and 2.7 Cumberland DCP2021 Part G4, the development has not incorporated Water Sensitive Urban Design (WSUD) measures to comply with the controls outlined therein and achieve the pollutant removal targets. The WSUD measure must accompany a MUSIC Model.
- b. The above details have not been provided -. The submitted plans lack sufficient information to demonstrate functioning of the system and meets objectives.

In this regard, Clause 6.4(1)(d) Essential services of Cumberland Local Environmental Plan 2021 has not adequately addressed the stormwater drainage.

5. Insufficient information has been submitted on the stormwater plan that details the management and safe disposal of stormwater from the site, including groundwater.

6. Insufficient information has been submitted to adequately address the proposed traffic related alteration at the intersection of the Rawson Street and Bachell Avenue. In this regard, the applicant has not provided sufficient information regarding the proposed roundabout design in accordance with the Council's requirements, the required road widening and management plan, and relevant information associated with the alteration works at the intersection.

7. The layout of the various uses, wayfinding and site access matters, as raised by Council's Design Excellence panel, have not been adequately addressed.

## CONDITIONS

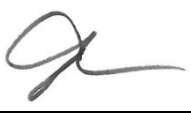

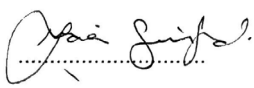
Not applicable

## 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:

- Traffic
- Flooding
- Solar access

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

PANEL MEMBERS	
David Ryan (Chair) 	Judith Clark 
Fiona Gainsford 	



SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-550 – Cumberland – DA2023/0775
2	PROPOSED DEVELOPMENT	Demolition of existing structures, construction of a mixed use commercial and light industrial development across nine-stories with associated parking for specialised retail, high technology industries, light industrial, office and medical uses, storage units, recreation facility (indoor), take away food and drink premises, child care centre and animal boarding facility. Integrated Development - section 89 of Water Management Act 2000.
3	STREET ADDRESS	2 Bachell Avenue, Lidcombe
4	APPLICANT/OWNER	Applicant: Pacific Planning Pty Limited Owner: Raad Property Acquisition No 10 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 (Planning Systems) 2021</li> <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 (Industry and Employment) 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>: 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>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 25 November 2024</li> <li>Clause 4.6 variation requests: Height of Buildings and Floor Space Ratio (FSR)</li> <li>Written submissions during public exhibition: 2</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>Final briefing to discuss council's recommendation: 5 December 2024 <ul style="list-style-type: none"> <li><u>Panel members</u>: David Ryan (Chair), Judy Clark, Fiona Gainsford</li> <li><u>Council assessment staff</u>: Haroula Michael, Jai Shanker, Michael Lawani</li> <li><u>Applicant representatives</u>: James Matthews, Matthew Daniel, Hugh Thornton, Raymond Raad</li> </ul> </li> </ul>

		<ul style="list-style-type: none"><li>• Briefing with council to discuss outcomes of briefing between Applicant and Council: 13 December 2024<ul style="list-style-type: none"><li>○ <u>Panel members</u>: David Ryan (Chair), Judy Clark, Fiona Gainsford</li><li>○ <u>Council assessment staff</u>: Haroula Michael, Jai Shanker</li></ul></li></ul>
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not Applicable