

SYDNEY WESTERN CITY PLANNING PANEL ASSESSMENT REPORT

Panel Number:	PPSSWC-238
Application Number:	2022/371/1
Local Government Area:	Camden
Development:	Construction of a part four, part five storey mixed use development comprising business premises, retail premises and food and drink premises with basement car parking, landscaping and associated site works
Capital Investment Value:	\$34,108,801
Site Address(es):	28-36 Lasso Road, Gregory Hills
Applicant:	Michael Zomaya
Owner(s):	Trend Gregory Hills Pty Ltd
Date of Lodgement:	11 April 2022
Number of Submissions:	No submissions were received
Classification:	Regionally significant
Recommendation:	Approve with conditions.
Regional Development Criteria (Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011):	General development capital investment value >\$30 million
List of All Relevant Section 4.15(1)(a) Matters:	<ul style="list-style-type: none"> • State Environmental Planning Policy (Planning Systems) 2021. • State Environmental Planning Policy (Precincts - Western Parkland City) 2021. • State Environmental Planning Policy (Resilience and Hazards) 2021. • State Environmental Planning Policy (Industry and Employment) 2021. • State Environmental Planning Policy (Biodiversity and Conservation) 2021. • Camden Development Control Plan 2019. • Turner Road Development Control Plan 2007.
List all Documents Submitted with this Report for the Panel's Consideration:	<ul style="list-style-type: none"> • Assessment report. • Applicant's written request seeking to justify the contravention of a development standard. • State Environmental Planning Policy (Precincts - Western Parkland City) 2021 assessment table. • Camden Development Control Plan 2019 assessment table.

	<ul style="list-style-type: none"> • Turner Road Development Control Plan 2007 assessment table. • Recommended conditions. • Proposed plans.
Development Standard Contravention Request(s):	Clause 4.1E (shop cap) of Appendix 2 - State Environmental Planning Policy (Precincts - Western Parkland City) 2021.
Report Prepared By:	Jessica Mesiti, Executive Planner
Report Date:	October 2022.

Summary of Section 4.15 Matters

	Yes
Have all recommendations in relation to relevant Section 4.15 matters been summarised in the Executive Summary of the assessment report?	<input checked="" type="checkbox"/>

Legislative Sections Requiring Consent Authority Satisfaction

	Yes
Have relevant sections in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised in the Executive Summary of the assessment report?	<input checked="" type="checkbox"/>

Development Standard Contraventions

	Yes	N/A
If a written request for a contravention to a development standard has been received, has it been attached to the assessment report?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Special Infrastructure Contributions

	Yes	No
Does the application require Special Infrastructure Contributions?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Conditions

	Yes
Have draft conditions been provided to the applicant for comment?	<input checked="" type="checkbox"/>

PURPOSE OF REPORT

The purpose of this report is to seek the Sydney Western City Planning Panel's (the Panel's) determination of a development application (DA) for a mixed use development at 28-36 Lasso Drive, Gregory Hills

The Panel is the consent authority for this DA as the capital investment value (CIV) of the development is \$34,108,801. This exceeds the CIV threshold of \$30 million for Council to determine the DA pursuant to Schedule 7 of State Environmental Planning Policy (Planning Systems) 2021.

SUMMARY OF RECOMMENDATION

That the Panel determine DA/2022/45/1 for a mixed use development pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* by granting consent subject to the conditions attached to this report.

EXECUTIVE SUMMARY

Council is in receipt of a DA for a mixed use development at 28-36 Lasso Road, Gregory Hills.

The DA has been assessed against the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2021*, relevant environmental planning instruments, development control plans and policies.

A summary of the assessment of all relevant environmental planning instruments is provided below with a detailed assessment provided later in the report.

State Environmental Planning Policy (Planning Systems) 2021.	The Panel is the consent authority for this DA as the development has a CIV of \$34,108,801 which exceeds the CIV threshold of \$30 million for Council to determine the DA.
State Environmental Planning Policy (Precincts - Western Parkland City) 2021 (Western Parkland City SEPP).	The development is permitted with consent in the applicable B5 Business, is consistent with the zones' objectives and acceptable in terms of the Western Parkland City SEPP's other matters for consideration.
State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP).	The subject site forms part of a larger subdivision that was subject to remediation, as conditioned by DA/2020/433/1. Council staff are satisfied that the site is suitable for the development.
State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP).	The development is consistent with the aim of the Biodiversity and Conservation SEPP (to protect the environment of the Hawkesbury-Nepean River system) and all of its planning controls.

The DA was publicly exhibited for a period of 14 days in accordance with Camden Community Participation Plan 2021. The exhibition period was from 27 April 2022 to 15 May 2022 and no submissions were received.

KEY PLANNING CONTROL VARIATIONS

Control	Proposed	Variation
147 car parking spaces.	135 car parking spaces.	12 car parking spaces (8%).

AERIAL PHOTO



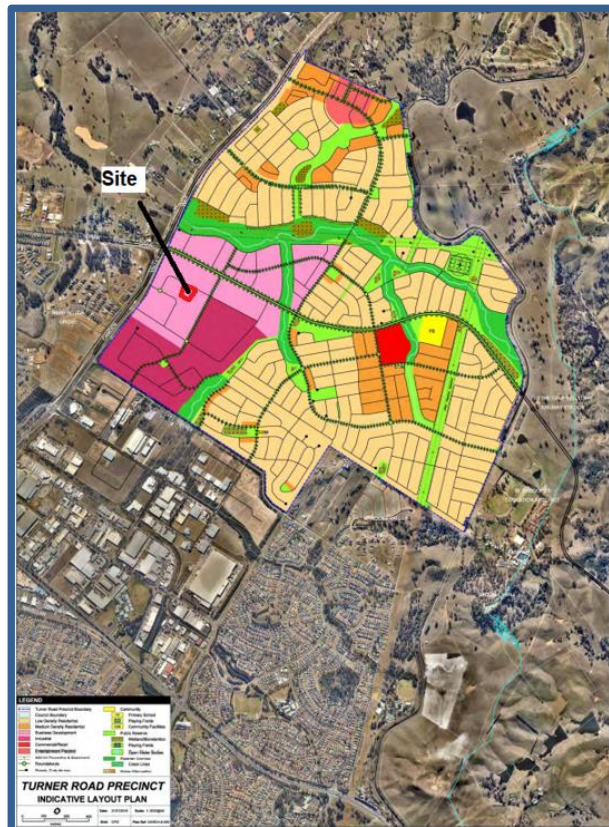
THE SITE

The site is commonly known as 28-36 Lasso Road, Gregory Hills and is legally described as Lot 8 in DP 1267546. The site has an area of 2,714sqm and is vacant of improvements and vegetation. The land has a cross fall from south-west to north-east of approximately 2.2 metres.

The site is located within the Turner Road Employment Area of the South-West Growth Centre. The immediate surrounding area contains a range of commercial, business and industrial development.

The surrounding locality to the north (Gledswood Hills), east (Gregory Hills), and to the west (Oran Park and Catherine Fields) is currently undergoing transformation to residential subdivision development. To the south, new developments within the Gregory Hills Business Park continue to be erected upon newly created business and industrial lots for a variety of uses.

ZONING PLAN AND ILP MASTER PLAN



HISTORY

The relevant development history of the site is summarised in the following table:

Date	Development
29 September 2020	Approval of DA/2020/433/1 for a staged subdivision to create 13 business development lots, bulk earthworks and associated site works.

THE PROPOSAL

DA/2022/371/1 seeks approval for the construction and use of a mixed use development.

Specifically, the development involves:

- Construction of a part four, part five storey mixed use development with a gross floor area (GFA) of 5,761sqm as follows:
 - 5,246.4sqm of business premises GFA including:
 - 461.4sqm at ground level,
 - 179sqm at the ground level mezzanine;
 - 1,267sqm at level one;
 - 1,267sqm at level two;
 - 1,267sqm at level three; and
 - 805sqm at level four.
 - Two ancillary retail “shop” tenancies at ground level comprising 284sqm of GFA;
 - One restaurant tenancy at ground level, including one kitchen space with 177sqm of GFA; and,
 - One lobby space at the ground level with a GFA of 53.6sqm.
- The ground floor and mezzanine will be occupied by “the lowdown” business premises and level 4 will be occupied by the Trend Connection and Colour Selection studio business premises associated with the construction and housing business. A development application (DA) or complying development certificate (CDC) will be required for the fit-out of these tenancies.
- All other business tenancies identified on the plans will be leased and subject to CDCs/DAs for those uses and fit-outs.
- Provision of 135 car parking spaces and four motorcycle spaces and four bicycle spaces across two basement levels.
- Storage facilities for bicycles and one after trip facility.
- An internal courtyard at ground level with an area of 699sqm for use as a temporary event space for a maximum of 80 patrons whereby on occasion

businesses on site may utilise this space to show case products and services. The following hours of operation apply to temporary events:

- 7:30am to 11:00pm on Monday, Tuesday, Wednesday or Thursday;
- 7:30am to 12:00am during Friday or Saturday; and
- 7:30am to 8:00pm on Sunday.

- Associated site works including earthworks, drainage, services and landscaping.

PANEL BRIEFING

Council staff briefed the DA to the Panel on 11 July 2022. The following discussion provides an assessment of how the issues raised by the Panel at the briefing have been addressed:

1. *The applicant is required to address the design related matters raised by Council's Design Review Panel (DRP) on 26 May 2022.*

Officer comment:

The application was presented to Council's Design Review Panel on 26 May 2022, where several suggestions to improve the design quality of the development were made including treatment of the blank side boundary zero setbacks, improved loading/unloading and pedestrian connection into the facility, improved landscaping and deep soil planting, further consideration of the usefulness of the rear breakout space, improved solar absorbance properties, and improved sustainability.

The applicant has submitted amended plans which satisfactorily address the urban design comments of the Panel. The following amendments have been provided:

- The side facades have incorporated a concrete grid frame and ribbed concrete finished to visually articulate these elevations when visible from the street. It is noted that glazing has not been incorporated into the facades due to the proximity of the façade to the boundary and the need for appropriate fire protection when future buildings to neighbouring sites are constructed.
- The hard stand loading/unloading area has been relocated into the basement and soft landscaping has been increased as a result which improves the appearance of the front elevation. A large canopy tree has also been introduced in this area which has a maturity height of 10m with associated shrubs. This also provides an improved and delineated pedestrian connection into the site with the shared vehicle conflict being removed.
- Landscaping has been improved through the front setback, central courtyard and rear breakout space. The majority of the landscaped area for the development has been provided in the front setback, with street tree planting, turf, garden beds and raised planters accommodating varying native and exotic species located in this area.

A 1200mm deep planter has been provided in the courtyard space to accommodate the feature tree and understorey planting as detailed in the Landscape Plan. Movable planters with small trees and shrubs are also proposed which can be moved throughout the courtyard.

A raised planter box with a built in edge seating wall is proposed to the rear property boundary with bamboo screening and a 1.8m high palisade fence fixed to top.

Deep soil zones have been provided in the front setback.

- The rear break out space has been improved through landscape screening and extensive seating with tables which allows for a positive interface with the food and drink tenancy as well as the business premise at the ground floor.
- Sustainability has been adequately addressed with the provision of a rainwater tank within basement level 2 and solar panels on the roof as indicated on the roof plan.
- A light stone colour is proposed on the roof which provides lot to moderate solar absorption properties.

Council's urban design officer and landscape officer have reviewed the amended plans and are satisfied that the proposed amendments adequately address the points raised by Council's DRP. It is noted that Council's landscape officer has recommended the following conditions to enhance the overall landscaping on site:

- The soil depth and volume are required to be increased in the raised planter in the central courtyard to support the proposed 10m tree canopy height;
 - An additional street tree is required;
 - Four additional planter boxes are required in the central courtyard to allow a mature tree height of 5m; and,
 - Two additional trees in the rear landscaped corners are required.
2. *Council consider a Clause 4.6 variation application submitted to vary Clause 4.1E of the State Environmental Planning Policy (Precincts – Western Sydney Parkland City) 2021.*

Officer comment:

A clause 4.6 written request has been submitted to contravene Clause 4.1E(1) (Appendix 2) of the State Environmental Planning Policy (Precincts – Western Sydney Parkland City) 2021, in respect of the shop retail cap of 2,500sqm across land subject to the B5 Business Development Zone in Turner Road Precinct. The subject proposal has a total proposed retail floor area of 284sqm. The clause 4.6 written request is considered satisfactory and is detailed further below in this report.

3. *Consideration of the proposed car parking variation be undertaken by Council.*

Officer comment:

The applicant has submitted car parking justification for a 13 car space shortfall. The development's car parking space provision is assessed in detail in the 'Camden Development Control Plan 2019' section of this report and the variation is supported by Council staff.

ASSESSMENT

Environmental Planning and Assessment Act 1979 - Section 4.15(1)

In determining a DA, the consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the DA:

(a)(i) the provisions of any environmental planning instrument

The environmental planning instruments that apply to the development are:

- State Environmental Planning Policy (Planning Systems) 2021.
- State Environmental Planning Policy (Precincts - Western Parkland City) 2021.
- State Environmental Planning Policy (Resilience and Hazards) 2021.
- State Environmental Planning Policy (Biodiversity and Conservation) 2021.

State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)

The Planning Systems SEPP identifies development that is State significant and regionally significant development.

The Panel is the consent authority for this DA as the CIV of the development is \$34,108,801. This exceeds the CIV threshold of \$30 million for Council to determine the DA pursuant to Schedule 7 of the Planning Systems SEPP.

State Environmental Planning Policy (Precincts - Western Parkland City) 2021 (Western Parkland City SEPP)

The Western Parkland City SEPP aims to co-ordinate the release of land for residential, employment and other urban development in the North West Growth Centre, the South West Growth Centre, the Wilton Growth Area and the Greater Macarthur Growth Area.

Site Zoning

The site is zoned B5 Business Development pursuant to Appendix 2, Section 2.2 of the Western Parkland City SEPP.

Development Characterisation

The development is characterised as a 'mixed use development' comprising 'business premises' and 'food and drink premises' by the Western Parkland City SEPP.

Permissibility

The development is permitted with consent in the zone in which it is proposed pursuant to the land use table in Appendix 2 of the Western Parkland City SEPP.

Planning Controls

An assessment table in which the development is considered against the Western Parkland City SEPP's planning controls is provided as an attachment to this report.

Proposed Contravention

The applicant proposes a contravention of the total shop retail cap of 2,500sqm across all land in the Turner Road Precinct. In excess 12,000sqm of shop area has been approved in in the B5 zone (either by way of DA or CDC), while the subject proposal has a total proposed shop area of 284sqm which further varies the development standard.

Contravention Assessment

Pursuant to Appendix 2, Section 4.6(3) of the Western Parkland City SEPP, the applicant has submitted a written request that seeks to justify the contravention of the development standard. In summary, the applicant's written request provides the following justification for the contravention:

- The proposed retail 'shop' tenancies will not detract from the economic strength or function of centres.
- The proposed retail 'shop' tenancies will have an overall positive impact in respect of employment generation.
- The proposed development includes an appropriate mix of ground level ancillary uses. These ancillary uses are necessary to support the operation of business premises, which represent the primary land use activity proposed for the site and represent just 4.9% of the overall proposed GFA.
- Any impact to the sales revenue of retail activities across the broader precinct, albeit negligible, would be short term only.
- The proposal is in the public interest because it is consistent with the objectives of the B5 Business Development Zone.
- The proposal is consistent with the Greater Sydney Regional Plan and does not raise any matter of significance for State or regional planning

A copy of the applicant's written request is provided as an attachment to this report.

Pursuant to Appendix 2, Section 4.6(4) of the Western Parkland City SEPP, Council staff are satisfied that:

- The applicant's written request has adequately addressed the matters required to be demonstrated by Appendix 2, Section 4.6(3) of the Western Parkland City SEPP, and
- The development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zones in which the development is proposed to be carried out.

The development standard contravention is supported for the following reasons:

- The development is consistent with the objectives for development within the zones in which the development is proposed to be carried out:

B5 Business Development

1. *To enable a mix of business and warehouse uses and specialised retail uses that require a large floor area, in locations that are close to, and that support the viability of, centres.*

The development will provide business premises, food and drink and retail premises. The proposed retail floor space is ancillary to a business premises comprising 4.9% of the proposed GFA. It will support the operation of the proposed business premises and will not impact on the viability of nearby centres.

2. *To provide for a wide range of employment generating development.*

The development will provide a range of employment generating land uses appropriate for the zone.

3. *To provide for a mix of ancillary uses to support the primary function of providing employment generating development.*

The development will provide a mix of uses that will ultimately help support other employment generating development on the site and in the zone.

4. *To maintain the economic strength of centres by limiting the retailing of food, clothing and convenience shopping.*

Clause 4.1E(1) of Appendix 2 of the SEPP seeks to ensure that retail 'shop' floor space within the Lasso Road precinct does not impact upon the envisaged hierarchy of centres and intended function of the Turner Road precinct.

The proposed retail 'shop' tenancies would not impact on the ongoing operating or viability of any existing retail centre in the local area, or impact negatively on the existing hierarchy of centres.

The nearest existing retail centre is Gregory Hills Village Centre, some 1.5 km from the site. This centre occupies some 7,500sqm of retail floor space and is anchored by a full-line Woolworths supermarket as well as an ALDI. The Gregory Hills Village Centre will serve a mix of local residents and workers whereas any retail development at the subject site will primarily serve local workers.

5. *To provide for a range of uses, including recreational uses and function centres, that complement other permissible employment generating land uses within the zone.*

The proposed development is planned to include 5246.4sqm of business premises floor space, which represents the primary land use proposed at the site. The proposed retail 'shop' tenancies represent a reasonable ancillary use that will support and complement the operation of business premises floor space at the site.

- The proposed retail floor space will not detract from the economic strength or function of nearby centres.
- While it may be seen that the development standard has been abandoned as there is already a significant contravention of the retail shop cap within this precinct, much of this has been brought about by shops approved through the Complying Development processes. The additional retail floor area proposed as part of this application is minimal by comparison.
- The proposed retail 'shop' tenancies will have an overall positive impact in respect of employment generation.
- The proposed development includes an appropriate mix of ground level ancillary retail uses. These ancillary uses are necessary to support the operation of business premises, which represent the primary land use activity proposed across the site.

No specific objectives are prescribed for the 'shop cap' in Clause 4.1E Appendix 2 of the SEPP, however for the reasons outlined above the proposed contravention is considered reasonable.

It is noted that the Panel may assume the concurrence of the Secretary pursuant to Planning Circular PS 20-002.

Consequently, it is recommended that the Panel support this proposed contravention to the Western Parkland City SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)

The Resilience and Hazards SEPP regulates hazardous and offensive development and aims to ensure that the consent authority has sufficient information to assess whether or not development is hazardous or offensive. The Resilience and Hazards SEPP also provides a statewide planning approach to the remediation of contaminated land.

Contaminated Land

Section 4.6 of the Resilience and Hazards SEPP requires the consent authority to consider if the site is contaminated. If the site is contaminated, the consent authority must be satisfied that it is suitable in its contaminated state for the development. If the site requires remediation, the consent authority must be satisfied that it will be remediated before the land is used for the development. Furthermore, the consent authority must consider a preliminary contamination investigation in certain circumstances.

The subject site forms part of a larger subdivision that was subject to remediation, as conditioned by DA/2020/433/1. Council staff are satisfied that the site is suitable for the development. A standard contingency condition is recommended that requires any contamination found during works to be managed with development consent obtained for remediation if required.

State Environmental Planning Policy (Biodiversity and Conservation) 2021
(Biodiversity and Conservation SEPP)

The Biodiversity and Conservation SEPP aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

The development is consistent with the aim of the Biodiversity and Conservation SEPP and all of its planning controls. There will be no detrimental impacts upon the Hawkesbury-Nepean River system as a result of the development. Appropriate erosion, sediment and water pollution control measures have been proposed as part of the development.

(a)(ii) the provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)

Draft Environment State Environmental Planning Policy (Draft Environment SEPP)

The development is consistent with the Draft Environment SEPP in that there will be no detrimental impacts upon the Hawkesbury-Nepean River system as a result of it.

Draft Remediation of Land State Environmental Planning Policy (Draft Remediation of Land SEPP)

The development is consistent with the Draft Remediation of Land SEPP in that it is consistent with the Resilience and Hazards SEPP.

(a)(iii) the provisions of any development control plan

The development control plans that apply to the development are:

- Camden Development Control Plan 2019.
- Turner Road Development Control Plan 2007.

Camden Development Control Plan 2019 (Camden DCP)

Planning Controls

An assessment table in which the development is considered against the Camden DCP is provided as an attachment to this report.

Proposed Variation

The applicant proposes a variation to Section 2.18.2 of the Camden DCP regarding off-street car parking provision.

The Camden DCP base car parking rates equate to a car parking demand of 147 off-street car parking spaces for the development, as follows:

- Business premises = 1 space per 40m² = 5,278m² / 40 = 132.

- Food and drink premises = 1 space per 30m² = 193m² / 30 = 6.
- Retail premises = 1 space per 30m² = 284 m² / 30 = 9
- Total spaces = 147 spaces.

The applicant proposes to provide 135 spaces (a 12 space deficit on the base rates).

The applicant has submitted a detailed parking submission, prepared by a traffic engineer, in support of the DA.

Variation Assessment

Council has assessed the applicant's parking submission and undertaken an analysis of the car parking demands of the development (with consideration of the layout of the development). It is recommended that reduced car parking rates be supported for the following reasons:

- These proposed uses are uncharacteristic of a standard 'business premises' as it is sought to provide exhibition, studio and workshop spaces as part of this development which will not provide the same intensity of uses as standard business premises.
- The site is in an area zoned as business development and is surrounding by a large commercial and retail centre.
- It is anticipated that visitors to the site will conduct multi-purpose visits in the area and visit multiple stores and centres in the single trip. For example, visitors to the business premises on site may also visit the ancillary restaurant or retail uses as part of the same trip.
- The restaurant is expected to primarily cater for employees working in the surrounding area, many whom are likely to walk to/from nearby businesses and will not use a car and will not generate parking demand.
- Several visitors would be walk-in trips by staff working in the adjoining developments.
- Visitors would be able to use on-street parking and adjoining retail parking areas to access the site. This is typical of most business/retail centres.

Consequently, it is recommended that the Panel support this proposed variation to the Camden DCP.

Turner Road Development Control Plan 2007 (Turner Road DCP)

Planning Controls

An assessment table in which the development is considered against the Turner Road DCP is provided as an attachment to this report.

(a)(iia) 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

No relevant planning agreement or draft planning agreement exists or has been proposed as part of this DA.

(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

The *Environmental Planning and Assessment Regulation 2021* prescribes several matters that are addressed in the conditions attached to this report.

(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

As demonstrated by the assessment, the development is unlikely to have any unreasonable adverse impacts on either the natural or built environments, or the social and economic conditions in the locality.

Traffic Impacts

The applicant has submitted a traffic report and supporting information in support of the DA. The report and supporting information demonstrate that the development will not have a significant negative impact upon the surrounding road network and the operation of surrounding intersections. Council staff have reviewed the report and supporting information and agree with their conclusions.

(c) the suitability of the site for the development

As demonstrated by the assessment, the site is considered to be suitable for the development.

(d) any submissions made in accordance with this Act or the regulations

The DA was publicly exhibited for a period of 14 days in accordance with Camden Community Participation Plan 2021. The exhibition period was from 27 April 2022 to 15 May 2022 and no submissions were received.

(e) the public interest

The public interest is served through the detailed assessment of this DA under the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2021*, environmental planning instruments, development control plans and policies. Based on the assessment, the development is consistent with the public interest.

EXTERNAL REFERRALS

The proposal was not required to be referred to any external agencies.

FINANCIAL IMPLICATIONS

This matter has no direct financial implications for Council.

CONCLUSION

The DA has been assessed in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans and policies. The DA is recommended for approval subject to the conditions attached to this report.

RECOMMENDED

That the Panel:

- i. Support the applicant's written request lodged pursuant to clause 4.6(3) of Appendix 2 of State Environmental Planning Policy (Precincts - Western Parkland City) 2021 to the contravention of the Clause 4.1E(1) of Appendix 2 of State Environmental Planning Policy (Precincts - Western Parkland City) 2021, and**
- ii. Approve DA/2022/371/1 for a mixed use development at 28-36 Lasso Road, Gregory Hills subject to the conditions attached to this report.**