

<b>DATE OF DETERMINATION</b>	29 January 2024
<b>DATE OF PANEL DECISION</b>	24 January 2024
<b>DATE OF PANEL BRIEFING</b>	27 November 2023
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Louise Camenzuli, David Kitto, Ross Fowler, Carlie Ryan
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 23 January 2024.

#### **MATTER DETERMINED**

PPSSWC-298 – Penrith – DA22/1086 – 172 Lord Sheffield Circuit, Penrith - Construction of Ten (10) Storey Mixed Use Commercial & Residential Development including Two (2) Storey Podium containing 14 Ground Floor Retail Premises & First Floor Commercial Floor Space, Two (2) x Eight (8) Storey Residential Towers containing 287 Residential Apartments (East Tower - 152 Units; West Tower - 135 Units), Rooftop Communal Open Space, Three (3) Levels of Basement Car Parking & Public Domain Works.

#### **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 Penrith Local Environmental Plan 2010 (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 E1 Local Centre 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.

The Panel refers to its deferral report dated 30 November 2023, and the unanimous conclusion of the Panel in that report that the DA ought to be approved subject to obtaining the general terms of approval from

Water NSW and amendment of Condition 3 to make it clearer that “a separate development approval” as there referred to was not restricted to obtaining development consent for the occupation of retail/commercial tenancies but could also include obtaining a Complying Development Certificate.

The Panel was satisfied that all other relevant matters had been satisfactorily addressed in Council’s assessment report and recommended conditions, and that the development proposal has merit and warrants approval, subject to the above matters being addressed.

An updated assessment report dated 20 December 2023 has now been supplied by the Council assessment staff which addresses those issues, together with updated conditions.

The Panel unanimously determines to adopt that updated assessment report with the conditions it recommends, and to approve the DA.

#### **CONDITIONS**





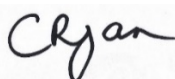
The development application was approved subject to the conditions in the council assessment report.

#### **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the panel considered written submissions made during public exhibition. The panel notes that issues of concern included:

- Traffic and parking
- Flood evacuation
- Heritage impacts
- CBD linkage
- Existing and proposed community garden on the site.

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

PANEL MEMBERS	
Justin Doyle (Chair) 	Louise Camenzuli 
David Kitto 	Ross Fowler 
Carlie Ryan 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-298 – Penrith – DA22/1086
2	PROPOSED DEVELOPMENT	Construction of Ten (10) Storey Mixed Use Commercial & Residential Development including Two (2) Storey Podium containing 14 Ground Floor Retail Premises & First Floor Commercial Floor Space, Two (2) x Eight (8) Storey Residential Towers containing 287 Residential Apartments (East Tower - 152 Units; West Tower - 135 Units), Rooftop Communal Open Space, Three (3) Levels of Basement Car Parking & Public Domain Works.
3	STREET ADDRESS	172 Lord Sheffield Circuit, Penrith
4	APPLICANT/OWNER	Applicant: UPG Lord Sheffield 162 Pty Ltd Owner: Boston 42 Pty Ltd, Boston 55 Pty Ltd, Boston 66 Pty Ltd, Boston 77 Pty Ltd, Boston 88 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 (Building Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy (Planning Systems) 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 No.65 – Design Quality of Residential Apartment Development</li> <li>Penrith Local Environmental Plan 2010</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Penrith Development Control Plan 2014</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></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: 20 November 2023</li> <li>Council revised assessment report: 20 December 2023</li> <li>Clause 4.6: Building Height standard variation.</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>Kick Off Briefing: 13 February 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Justin Doyle (Chair)</li> <li><u>Council assessment staff</u>: Gavin Cherry, Rhian Greenup</li> <li><u>Applicant representatives</u>: Richard Boulus, Joe Strati, Patrick Elias, Stephen Gouge, Wesley Grunsell, Danny Chan, Nicole Wilson</li> </ul> </li> <li>Final briefing to discuss council's recommendation: 27 November 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Ross Fowler, Carlie Ryan</li> </ul> </li> </ul>

		<ul style="list-style-type: none"><li>○ <u>Council assessment staff:</u> Wendy Connell, Gavin Cherry, Robert Craig</li><li>○ <u>Applicant representatives:</u> Richard Boulus, Patrick Elias, Stephen Gouge</li></ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the revised council assessment report