

**DETERMINATION AND STATEMENT OF REASONS**  
SYDNEY WESTERN CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	21 October 2024
<b>DATE OF PANEL DECISION</b>	18 October 2024
<b>DATE OF PANEL BRIEFING</b>	30 September 2024
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Louise Camenzuli and David Kitto
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 26 September 2024.

**MATTER DETERMINED**

**PPSSWC-367 – Campbelltown – 3067/2023/DA-RA at 1 Bugden Place, Campbelltown**

Demolition of existing structures and construction of a mixed use commercial and residential development in two stages, and Torrens title subdivision into two allotments. (as described in Schedule 1).

**PANEL CONSIDERATION AND DECISION**

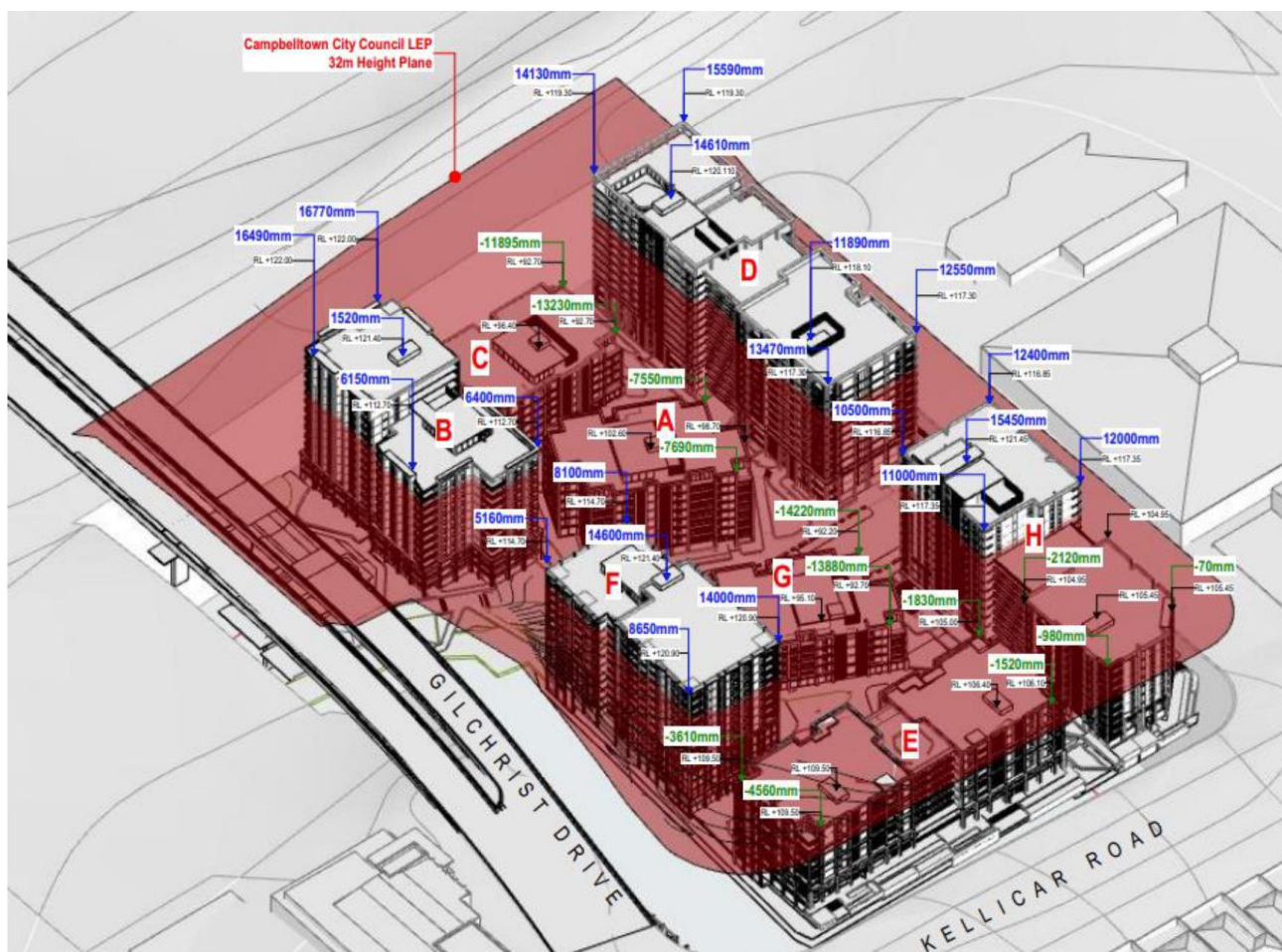
The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings listed at item 8 in Schedule 1.

**Application to vary a development standard**

A written request has been made as part of this DA under cl 4.6 (3) of the Campbelltown Local Environmental Plan 2015 (LEP) to vary the height development standard applying under Clause 4.3 – Height of Buildings of the LEP. The height of buildings map called up by that clause stipulates that the maximum height of a building is 32m on the subject site.

The DA proposes substantial variations to that standard in some locations, but proposes buildings lower than the maximum height in others. Specifically, buildings are proposed which have been assessed to be up to 14.22m lower, and buildings up to 16.77m higher, as illustrated in the height plane plan image contained in the clause 4.6 variation request extracted below. The development is 48.77m at its highest point or 51.5% above the maximum.

While the height exceedance is substantial, the approach of varying the heights of the buildings, rather than proposing buildings of a uniform height achieves far better solar access outcomes and a greater variety of built forms. That design choice is responsive to advice received from the Campbelltown Design Excellence Panel and takes advantage of the opportunities available from this large consolidated parcel of land.



This Panel accepts that the proposal is adequately justified in that regard such that (as demonstrated by the written request which satisfies the requirements of clause 4.6(3) of the LEP):

- compliance with cl. 4.3 (Height of Buildings) is unreasonable or unnecessary in the circumstances;
- there are sufficient environmental planning grounds to justify contravening the development standard;
- it is in the public interest to uphold the variation request.

The Panel accepts that the proposal meets the objectives of the height standard and particularly:

- a range of building heights are proposed which respond to the built form and land use intensity under the relevant zoning of land in the area,
- overall, the heights of buildings are sufficiently consistent with the intended scale of development appropriate to the locality, given the close proximity of the site to employment centres and the station,
- the buildings will contribute to establishing Campbelltown's position in the hierarchy of centres,
- Given the level of architectural design, issues of visual impact, disruption to views, loss of privacy and solar access to existing and future development and to the public domain are adequately managed.

The development is also considered to be sufficiently responsive to the objectives of the MU1 Mixed Use zone (and the SP2 Infrastructure zone where the site is reserved for road widening).

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 for the reasons outlined in the council assessment report, and the reasons given for supporting the exceedance of the height standard above.

Issues raised by the applicable planning instruments are addressed, including State Environmental Planning Policy (Resilience and Hazards) 2021.

The Council report states that “A Detailed Site Investigation report has been submitted with the application, concluding that the site is suitable for the proposed development and land use, provided that an Unexpected Finds Protocol is implemented, the localised groundwater contamination is managed in accordance with a Dewatering Management Plan, and a waste classification assessment, including asbestos screening, is conducted prior to off-site disposal.”

Acoustic conditions are proposed to address the proximity of the site to the railway line. With those conditions, the development is reported to be sufficiently responsive to the ‘Development Near Rail Corridors and Busy Roads – Interim Guideline’.

In view of the position of the site, adjacent to both a classified road and a rail line, the Panel notes that the DA was referred to Transport for NSW (TfNSW) who reviewed the proposal and provided their conditional concurrence to it.

The Panel accepts the advice of Council and the advice of the design architect that the quality of the design of the development is sufficiently high having been assessed in accordance with the design principles for residential apartment development set out in Schedule 9 of the Housing SEPP, and the Apartment Design Guide.

Pursuant to Clause 147 of Chapter 4 of the Housing SEPP provides relevantly:

**147     *Determination of development applications and modification applications for residential apartment development***

*(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—*

*...*

*(c)     any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

The Panel understands that there is no design review panel constituted by the Minister under section 288A of the Environmental Planning and Assessment Regulation 2021 in Campbelltown, and so there can be no advice from such a Panel to consider.

However, while Council’s Design Excellence Panel is not a design review panel as defined by the Regulation, it has still canvassed the matters arising in relation to this DA which this Panel would expect to see examined, and the Panel understand the plans were improved responsive to that meeting.

While the Panel sees the statutory requirement to be addressed, the Council should urgently take steps to qualify its design panel to meet the Minister’s requirement as soon as possible given the substantial development applications being made in the Local Government Area.

As required by Clause 7.9 - Mixed use development in Zone B3 and Zone MU1 provides that for development consent to be granted for a building containing a residential component on the land, the Panel must also be satisfied that the following are met:

1. Active Street Frontage: The building must have an active street frontage, meaning that all premises on the ground floor facing the street are used for business or retail purposes.

2. Ground Floor Non-Residential Use: The ground floor must only accommodate non- residential land uses, which includes commercial premises, medical centres, and indoor recreation facilities, but excludes car parking.

The ground floor of the proposed development consists mostly of employment-generating land uses, but to ensure complete compliance with clause 7.9, a recommended condition of consent requires the relocation or reconfiguration of the ground floor plant room to ensure that commercial floor space fronts the street in this location, ensuring that an active street frontage would be provided.

## 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:

- Insufficient car parking and exacerbating of current issues
- Broader implications of the planning proposal seeking to remove the application of Clause 7.9 (requiring non-residential land uses on the ground floor of mixed-use buildings) to the site
- Introducing a large number of apartments will significantly strain local resources, including schools, healthcare facilities, and public services
- Proposal will worsen traffic congestion in the area
- Such a large-scale development could lead to environmental degradation, including habitat destruction, increased pollution, and strain on natural resources
- Unique character and charm that would be jeopardized by this high-density development
- Insufficient public consultation
- Impact on property values

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	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-367 – Campbelltown – 3067/2023/DA-RA
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a mixed use commercial and residential development in two stages, and Torrens title subdivision into two allotments
3	STREET ADDRESS	1 Bugden Place, Campbelltown (Lot 1 DP 882496)
4	APPLICANT/OWNER	AV Jennings SPV No 25 Pty Ltd / Dumarchand Holdings Pty Ltd and Dankaur 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 (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ State Environmental Planning Policy (Housing) 2021</li> <li>○ State Environmental Planning Policy (Precincts—Western Parkland City) 2021</li> <li>○ Campbelltown Local Environmental Plan 2015</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Campbelltown Development Control Plan 2015</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 September 2024</li> <li>• Clause 4.6 variation requests for height of buildings <ul style="list-style-type: none"> <li>○ Tower B: 52% increase</li> <li>○ Tower D: 49% increase</li> <li>○ Tower F: 46% increase</li> <li>○ Tower H: 48% increase</li> </ul> </li> <li>• Written submissions during public exhibition: Two (2)</li> <li>• Total number of unique submissions received by way of objection: Two (2)</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 23 October 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: David Kitto (Acting Chair), Louise Camenzuli, Karen Hunt, Goerge Brticevic</li> <li>○ <u>Council assessment staff</u>: Luke Joseph, Karl Okorn, David Smith</li> <li>○ <u>Applicant representatives</u>: Adam Byrnes</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 30 September 2024</li> </ul>

		<ul style="list-style-type: none"><li>○ <u>Panel members:</u> Justin Doyle (Chair), David Kitto, Louise Camenzuli, Karen Hunt, Goerge Brticevic</li><li>○ <u>Council assessment staff:</u> Luke Joseph, Karl Okorn</li><li>○ <u>Applicant representatives:</u> Adam Byrnes</li></ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report