

Minutes of the Cumberland Local Planning Panel Meeting held via Electronic Determination on Wednesday 14 February 2024.

PRESENT:

Stuart McDonald (Chairperson), Naomi Fiegel, Donna Rygate and Michael Northey.

IN ATTENDANCE:

Jai Shankar, Michael Lawani, Mariam Abbas, Esra Calim, Harley Pearman, Bhavisha Sheth, Roy Wong, Colin McFadzean (in part), Pamela MacIntyre and Lyndall Thompson (Minute Taker).

The meeting opened at 11:19am

DECLARATIONS OF INTEREST:

There were no declarations of interest.

ITEM LPP001/24 - DEVELOPMENT APPLICATION - 8 - 12 GOOD STREET, WESTMEAD

PANEL DECISION:

The Panel has received written and verbal legal advice from Council's Legal Counsel that the Panel has no jurisdiction regarding this item. In particular, the Panel has been advised under the amendment to SEPP Housing which came into effect on the 14th December 2023, SEPP 65 is not a relevant matter for consideration under s.4.15 of the EPA Act in determining this application; and that the 'trigger' for referral to the Local Planning Panel based upon SEPP 65 applying ceases to have effect, for the reason that SEPP 65 no longer applies.

Based on the legal advice provided to the Panel, the Panel accepts that it is not the relevant Planning Authority in regard to this application.

For: Stuart McDonald (Chairperson), Naomi Fiegel, Donna Rygate and Michael Northey.

Against: Nil.

**ITEM LPP002/24 - DEVELOPMENT APPLICATION - 45 - 47 MERRYLANDS ROAD,
MERRYLANDS****PANEL DECISION:**

The Panel has received written and verbal legal advice from Council's Legal Counsel that the Panel has no jurisdiction regarding this item. In particular, the Panel has been advised under the amendment to SEPP Housing which came into effect on the 14th December 2023, SEPP 65 is not a relevant matter for consideration under s.4.15 of the EPA Act in determining this application; and that the 'trigger' for referral to the Local Planning Panel based upon SEPP 65 applying ceases to have effect, for the reason that SEPP 65 no longer applies.

Based on the legal advice provided to the Panel, the Panel accepts that it is not the relevant Planning Authority in regard to this application.

For: Stuart McDonald (Chairperson), Naomi Fiegel, Donna Rygate and Michael Northey.

Against: Nil.

**ITEM LPP003/24 - DEVELOPMENT APPLICATION - DARUGA AVENUE,
PEMULWUY****PANEL DECISION:**

1. That Development Application 2023/0354 on land at Lot 202 in DP 1121844, Lot 669 in DP 1148337, Part Lot 901 in DP 1078814 being 2 Foundation Place Pemulwuy and Part Clunies Ross Road Reserve for Construction of Prospect Hill pathway to lookout and associated landscaping be approved subject to conditions as provided in the attached schedule of the report.
2. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.

Reasons for Decision:

1. The Panel generally concurs with the Planning Officer's report subject to the attached conditions within the report, with further comments regarding condition 3 provided below.
2. The Panel has considered the matters raised in written submissions and has determined that these matters have either been adequately addressed in the design of the development or where not specifically addressed are not of such weight as to warrant refusal of the application.
3. Subject to the recommended conditions of consent, the proposal will not have any unreasonable impacts on the amenity of neighbouring properties or the locality.

4. Taking into account reasons above, approval of the application will be in the public interest.
5. The Panel notes that the Heritage Office of NSW Condition 3a) reference to 'RAP' means 'Registered Aboriginal Party' and determined that the full wording be reflected in a comment under the Heritage Office of NSW conditions.
6. The Panel notes the Cumberland Police Area Command condition 3a) regarding bollards being used at access points to restrict vehicle access to walking paths, and determined that a comment be provided under the Cumberland Police Area Command conditions such that 'restrict vehicle access to walking paths' should be interpreted as 'prohibit unauthorised vehicle access to walking paths'.
7. The Panel determined that the Prospect Hill Plan of Management – March 2019 be included in condition 2 as a supporting document.

For: Stuart McDonald (Chairperson), Naomi Fiegel, Donna Rygate and Michael Northey.

Against: Nil.

ITEM LPP004/24 - DEVELOPMENT APPLICATION - 5 CUMBERLAND ROAD, AUBURN

PANEL DECISION:

1. That the Clause 4.6 variation request to vary the minimum lot size for a secondary dwelling development standard, pursuant to the State Environmental Planning Policy (Housing) 2021, be supported.
2. That Development Application No. DA2023/0519 for construction of a secondary dwelling under SEPP Housing 2021 on land at 5 Cumberland Road AUBURN be approved subject to conditions listed in the attached schedule of the report.

Reasons for Decision:

1. The Panel accepts the applicant's written request to contravene the Development Standard relating to minimum site area as contained within Chapter 3 of the State Environmental Planning Policy (Housing) 2021 has adequately addressed the matters required to be demonstrated by Clause 4.6 (3) and the development will be in the public interest because it is consistent with the principles and the objectives of the zone.
2. The proposed development is consistent with the objectives of the Cumberland Development Control Plan CDCP 2021.
3. Subject to the recommended conditions of consent, the proposal will not have unreasonable impacts on the amenity of neighbouring properties or the locality.
4. Taking into account the reasons above, approval of the application would be in the public interest.

For: Stuart McDonald (Chairperson), Naomi Fiegel, Donna Rygate and Michael Northey.

Against: Nil.

ITEM LPP005/24 - DEVELOPMENT APPLICATION - 11 MOREE AVENUE, GREYSTANES

PANEL DECISION:

1. That Development Application No. DA2023/0591 for partial demolition and rear extension of existing heritage listed dwelling with attached carport at 11 Moree Avenue WESTMEAD NSW 2145 be approved subject to conditions listed in the attached schedule of the report and amendments below.
2. The Panel determined that Conditions 41 and 42 be amended as follows:

41. DAPCB04 - Removal of Trees

The following trees are approved for removal:

Species	Location
Plumeria rubra	At the rear of the dwelling (<i>as indicated on demolition plan</i>)
<i>Camellia japonica</i>	<i>Along the Eastern side (as indicated on demolition plan)</i>

(Reason: To clarify which trees are permitted to be removed)

42. DAPCB05 - Trunk Protection

To limit the potential for damage to trees to be retained, trunk protection measures must be installed in accordance with section 4.5.2 of AS 4970 - 2009 'Protection of Trees on Development Sites' for the following tree/s prior to the commencement of demolition, excavation or building works:

Species	Location
2 x <i>Camellia japonica</i>	Along the Eastern side, <i>closest to the street frontage</i>

Trunk protection shall comprise the placement of 2000mm lengths of 100mm x 50mm hardwood battens organized vertically at 150mm centres around the trunk and secured in place by metal strap bindings or ten gauge fencing wire fixed at 300mm centres. Prior to placing battens a soft protective padding must be installed to the ends of the timbers to prevent damage to the bark and conductive tissue. Under no circumstances are the battens to be secured to the tree by a method that involves the trunk being penetrated by a nail, screw, rod or the like. Trunk protection must remain in place for the duration of the works.

3. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.

Reasons for Decision:

1. The Panel determined that the applicant's Heritage Impact Statement relating to proposed development located within a heritage item (I301) and the Toohey's Palm Estate Group conservation area has adequately addressed the matters required to be demonstrated under *5.10 Heritage Conservation* of the *Cumberland Local Environmental Plan 2021* and is consistent with the principles and the objectives of the zone.
2. The proposed development is consistent with the objectives and complies with the controls of the *Cumberland Development Control Plan 2021* (CDCP).
3. Subject to the recommended conditions of consent as amended by the Panel, the proposal will not have unreasonable impacts on the amenity of neighbouring properties or the locality.
4. Taking into account the reasons above, approval of the application would be in the public interest.

For: Stuart McDonald (Chairperson), Naomi Fiegel, Donna Rygate and Michael Northey.

Against: Nil.

The meeting terminated at 11:52am.

Signed:



Chairperson