

DETERMINATION AND STATEMENT OF REASONS
SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	20 May 2019
PANEL MEMBERS	Nicole Gurran (Acting Chair), Bruce McDonald, Cr Peter Harle and Cr Wendy Waller
APOLOGIES	Nil
DECLARATIONS OF INTEREST	Justin Doyle advised that he has a potential conflict of interest as his close personal friend is a senior design architect for the applicant.

Public meeting held at Liverpool City Council Library on 20 May 2019, opened at 4.32pm and closed at 5.27pm.

MATTER DETERMINED

Panel Ref – 2017SSW045 - LGA – Liverpool – DA574/2017 AT 484 & 488 Bringelly Road, Austral (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 meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

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

1. The Panel accepts the recommendation of the planning assessment report to refuse the application and concurs with the reasons for refusal offered in support of that recommendation.
2. The Panel notes that inadequate information has been received by Council to facilitate a proper assessment of site contamination and any required remediation. Accordingly the Panel is unable to determine if the site is suitable or could be remediated to be made suitable for the proposed development. Consequently, pursuant to Cl. 7(1) of SEPP 55 the Panel must not consent to the development.
3. The Panel has considered the Applicant's request to vary the development standard contained in Cl. 4.3 of SEPP (Sydney Growth Centre) 2006 and concurs with the council assessment that the variation not be accepted on this unrestrained greenfield site. The variation is not consistent with the objectives of the R3 Medium Density zone and the

objectives of the standard and will contribute to a building of a bulk and mass not envisaged for this locality.


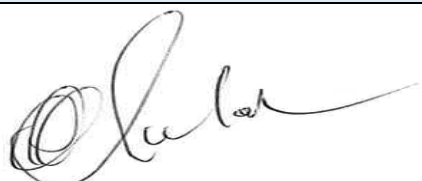
4. Of particular concern is the scale and form of the development which does not promote a medium density residential environment within the applicable R3 Medium Density zone. The proposal's inconsistency with the objectives of the zone and applicable Density Band set out in the Residential Structure Figure applying to this precinct under Liverpool City Council Growth Centre Precincts DCP would result in a development form reflecting high density development distinctly out of character with the intended form of development within this element of the Sydney Region Growth Centre. This is a significant issue as the DCP has the purpose of ensuring the orderly and efficient development of the Precincts as envisaged by the South West Growth Centre Structure Plan and the Growth Centres SEPP.
5. The Panel notes that the development fails to adequately address the provisions of SEPP 65-Design Quality of Residential Apartment Development and associated Apartment Design Guide in relation to solar access and cross ventilation.
6. During the public meeting, the applicant proposed a deferred commencement condition requiring modification of the buildings by removal of the fourth storeys. The Panel is of the view that this would result in a substantially new development, requiring a new application and assessment.
7. Accordingly the Panel considers it has not been demonstrated that the proposal is a suitable form of development for this site and that its approval would be in the public interest.


CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The Panel notes that issues of concern included:

- Lack of detail in information supporting the application
- Lack of justification for the height variation
- Potential site isolation to the adjoining western site, and potential overshadowing to that site
- Lack of adjoining owner's consent for tree removal
- Extent of basement parking and implications for deep soil zones

The Panel considers that these concerns remain unresolved but were adequately considered in the Council assessment.

PANEL MEMBERS	
 Nicole Gurran (Acting Chair)	 Bruce McDonald

	
Wendy Waller	Peter Harle

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	Panel Ref – 2017SSW045 - LGA – Liverpool – DA574/2017
2	PROPOSED DEVELOPMENT	Demolition of existing structures and the construction of four x 4-storey residential flat buildings containing 253 residential apartments, basement, carparking and associated landscaping and torrens title subdivision, over two stages.
3	STREET ADDRESS	484 & 488 Bringelly Road, Austral (Lot 7 DP 1203674 and Lot 6 DP 1203674)
4	APPLICANT/OWNER	Applicant – Dreamscapes Architects Owner – Austral Dwelling Pty Ltd / Happy Trading Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	The proposal has a capital investment value of over \$30million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Sydney Region Growth Centres) 2006 ○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Liverpool City Council Development Control Plan 2008 ○ Liverpool Growth Centre Precincts DCP 2016 (Growth Centres DCP) <ul style="list-style-type: none"> - Part 1 – Introduction - Part 2 – Precinct Planning Outcomes - Part 3 – Neighbourhood and Subdivision design - Part 4 – Development in the residential zones

		<ul style="list-style-type: none"> • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations: Consideration of the provisions of the Buildings Code of Australia and National Construction Code. • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 6 May 2019 • Written submissions during public exhibition: 1 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Support – Nil ○ Object – Nil ○ On behalf of Council – Ivan Kokotovic and Boris Santana ○ On behalf of the applicant – Gerard Turrisi – GAT & Associates (Town Planner) and Edward Li – Dreamscapes Architects (Architect)
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site Inspection and briefing – 17 April 2019 • 2nd Site Inspection – 20 May 2019 • Final briefing meeting to discuss council's recommendation, 20 May 2019, 3.30pm. • Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Nicole Gurrán (Acting Chair), Bruce McDonald Cr Peter Harle and Cr Wendy Waller ○ <u>Council assessment staff</u>: Ivan Kokotovic, George Nehme and Boris Santana
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Without prejudice conditions of consent