

DATE OF DETERMINATION	12 August 2019
PANEL MEMBERS	Justin Doyle (Chair), Bruce McDonald, Nicole Gurrán, Peter Harle and Wendy Waller
APOLOGIES	Nil
DECLARATIONS OF INTEREST	Nil

Public meeting held at Liverpool City Council Library on 12 August 2019, opened at 1.05pm and closed at 3.29pm.

MATTER DETERMINED

2017SSW056 – Liverpool – DA757/2017 AT 222 Edmondson Avenue & 130 Tenth Avenue, 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.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of Liverpool Local Environmental Plan 2008 (LEP), the Panel is satisfied that the applicant’s written request adequately addresses the matters required to be addressed under cl 4.6 (3) and (4) of the LEP and particularly that:

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.
- (b) the development is in the public interest because it is consistent with the objectives of clause 4.3 (development standard) of the LEP and the objectives for development in the R3 Medium Density Residential zone taking into account the matters discussed below; and
- (c) the concurrence of the Secretary is to be assumed (Planning Circular PS 18-003 Varying Development Standards).

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

1. The proposed development will in stages add to the supply and choice of seniors housing in a rapidly developing planned urban area within the Liverpool local government area and the Sydney South Western Growth centre. The development is located on a site with access to planned public transport to Leppington Train Station and to the employment, urban services and community facilities available within the developing Austral Town Centre. The development will integrate with the existing Tobruk Aged Care Facility.
2. The Panel has considered the applicant's request to vary the development standard contained in Clause 4.3 of SEPP (Sydney Regions Growth Centre) 2006 relating to building height and considers that compliance in this case is not required as the variation will not generate unacceptable impacts on existing or proposed nearby premises and remains consistent with the objectives of the standard and the applicable R3-Medium Density Residential zone.
3. The proposed development adequately satisfies the relevant State Environmental Planning Policies including SEPP (Sydney Region Growth Centres) 2006, SEPP 55 (Remediation of Land), SEPP 65 – Design Quality of Residential Apartment Development and its associated Apartment Design Guide, SEPP (Infrastructure) 2007 and Sydney Regional Environmental Plan No. 20 – Hawkesbury – Nepean River.
4. The proposal adequately satisfies the Provisions of Liverpool Growth Centres Precincts DCP.
5. The proposed development subject to the conditions imposed will have no unacceptable adverse impacts on the natural or built environments.
6. The amendments to the proposal made during the assessment process, and by way of the development consent conditions, have addressed relevant amenity concerns including increased setbacks at the western elevation and the inclusion of privacy screening to the west-facing balconies. The Applicant agreed to conditions to incorporate solar panels and storage batteries to improve the ecological performance of the development.
7. The proposed development is considered to be of acceptable form and scale providing building forms and residential densities consistent with the planned future characteristic of this element of the Liverpool Growth Centres Precinct. The Panel also notes the proposed development has been thoroughly reviewed by Council's Design Excellence Panel and the applicant has adequately responded to its concerns.
8. The Panel accepted that the effect of the Ministerial Direction dated 14 September 2007 is that the Applicant is not obliged to pay local developer contributions on the basis of material submitted to the Council which establishes that the Applicant is a-not-for-profit social housing provider who provides senior's housing to tenants (as defined by SEPP (Seniors Living) 2004). The Applicant agreed to a condition requiring an instrument to be registered on title which is to provide for payment of the developer contributions if the development is transferred to an entity not entitled to the exemption, and the development is to be occupied with the benefit of the development consent.

9. In consideration of conclusions 1-8 above the Panel considers that the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the amendments in accordance with Attachment A to this determination.

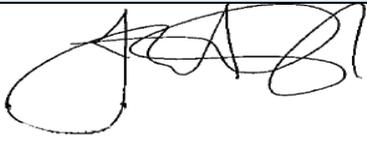
CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the written submissions made during public exhibition. The following issues were raised:

- Privacy;
- Landscaping;
- Workshop operating hours;
- Noise and lighting;
- Overshadowing;
- Stormwater and floodplain.

The Panel considers that concerns raised by the objectors have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting. The Panel believes that the issues raised are either not relevant or inconsequential or have been addressed by appropriate conditions imposed on the consent.

Specifically, the concerns raised by Linda Sutcliffe in her oral address in relation to stormwater and potential privacy impacts have been addressed in the conditions as resolved at the meeting including a requirement for certification of compliance with the Applicant’s Stormwater Management Report, and the condition requiring screening to the west-facing balconies.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Bruce McDonald
 Nicole Gurrán	 Peter Harle
 Wendy Waller	

1	PANEL REF – LGA – DA NO.	2017SSW056 – Liverpool – DA757/2017
2	PROPOSED DEVELOPMENT	Description – Construction of a seniors housing development comprising of 8 x two-three storey buildings containing a total of 145 two-bedroom Independent Living Units, including the construction of a shared internal vehicle and pedestrian driveway from Edmondson Avenue, car parking, landscaping works and extension/augmentation of services and utilities over seven stages.
3	STREET ADDRESS	222 Edmondson Avenue, Austral (Lot 1 DP 11466302) and 130 Tenth Avenue, Austral (Lot 2 DP 1146302)
4	APPLICANT/OWNER	Applicant – TSA Management Owner – RSL Lifecare Limited
5	TYPE OF REGIONAL DEVELOPMENT	The development has a CIV 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 No. 65 – Design Quality of Residential Apartment Development ○ State Environmental Planning Policy (Sydney Region Growth Centres) 2006 ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River (No. 2 - 1997) • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Liverpool Growth Centre Precincts Development Control Plan • 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 • 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: 29 July 2019 • Amended Clause 4.6 Variation • Written submissions during public exhibition: 2 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Support – Nil ○ Object – Linda Sutcliffe ○ On behalf of Council – George Nehme, Zeliha Cansiz and Boris Santana ○ On behalf of the applicant – Ben Craig, Ross Nettle and Russell Parker.
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site Inspection and briefing – 5 March 2018 • Site Inspection – 12 August 2019 • Final briefing meeting to discuss council’s recommendation, 12 August 2019, 11.30am. • Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald, Nicole Gurran, Peter Harle and Wendy Waller ○ <u>Council assessment staff</u>: George Nehme, Zeliha Cansiz and Boris Santana
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report