

DATE OF DETERMINATION	28 June 2019
PANEL MEMBERS	Bruce McDonald (Acting Chair), Peter Brennan and Cr Peter Harle
APOLOGIES	Cr Wendy Waller and Nicole Gurran
DECLARATIONS OF INTEREST	Mr Doyle declared that he has provided advice to Anglicare in the past, but not for some years. He does not see any continuing conflict but wanted to disclose the past relationship on the record. Mr Doyle did not participate in discussion of this application.

Public meeting held at Liverpool City Council Library on 28 June 2019, opened at 3.00pm and closed at 6.27pm

MATTER DETERMINED

Panel Ref – 2019WCI010 - LGA – Liverpool – DA950/2018 AT 9-15 Northumberland Street, Liverpool, Lots 9, 10 & 11 DP38602, Lot A DP164111 (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 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 Panel has considered the applicant's request to vary the development standard contained in Clause 7.4 of Liverpool LEP 2008 relating to building separation in Liverpool City Centre and considers that compliance with the standard is unreasonable and unnecessary in the circumstances of this case as that variation responds to the southern wall of the adjoining residential apartment building being located on the common boundary of the sites. The subject development has been designed to ensure no unacceptable amenity impacts result from the variation. Further the design of the proposed building is acceptable in existing and planned context of the site, and the variation remains consistent with the objectives of the standard and the R4 High Density zone.
2. The proposed development will provide additional housing supply and choice within the City of Liverpool and the Sydney Western City District, including strata residential units, affordable rental housing units and boarding house accommodation on a site with ready access to the amenities and services and metropolitan transport services available within

Liverpool Central Business District. The subject site is also well placed in regard to the essential service employment requirements of Liverpool CBD.

3. The proposed development adequately satisfies the relevant State Environmental Planning Policies including SEPP (Affordable Rental Housing) 2009, SEPP 55 – Remediation of Land, SEPP (Infrastructure) 2007, Greater Metropolitan Regional Environmental Plan No. 2 Georges River Catchment and SEPP 65 – Design Quality of Residential Apartment Development and its associated Apartment Design Guide. While the proposal does not satisfy the building separation requirements of the ADG this is considered acceptable in the circumstances referenced in reason 1 above.
4. The proposal adequately satisfies the applicable objectives and provisions of Liverpool Local Environmental Plan 2008 and Liverpool DCP 2008. The Panel further notes that the proposed building design has been reviewed by the Council’s Design Excellence Panel. Having regard to the advice of the Design Excellence Panel it is considered the development exhibits design excellence and the provisions of Clause 7.5 of the LEP are satisfied.
5. The Panel notes that an adjoining site to the west will be potentially isolated as a result of the proposed development. It is noted that the applicant has provided advice that confirms the planning principles established by the NSW Land and Environmental Court in regard to isolated sites have been satisfactorily addressed.
6. The proposed development subject to the conditions imposed will have no unacceptable adverse impacts on the natural or built environments including the amenity of nearby buildings due to loss of privacy, parking congestion or the utility of the local road system.
7. The proposed development is considered to be of acceptable form and scale consistent with the planned residential apartment context and character of the locality within which the site is placed.
8. In consideration of conclusions 1-7 above the Panel considers 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 presented at meeting on 28 June 2019 with modification to Condition 90 and 2 new conditions –

Condition 90 is to be amended to read as follows:

90. Affordable Rental Housing

A restriction shall be registered, before the date of the issue of the Occupation Certificate, against the title of the property on which development is to be carried out, in accordance with Section 88E of the Conveyancing Act 1919, in the following terms:

Terms of the Restriction on Use

The restriction applies for ten (10) years from the date of issue of the Occupation Certificate pursuant to Notice of determination of Development Application No. 950/2018 issued by Liverpool City Council.

The restrictions are:

- (a) A minimum of 31 apartments (Units 108, 109, 208, 209, 211, 308, 309, 311, 408, 409, 411, 514, 515, 601, 609, 612, 613, 614, 701, 709, 712, 713, 714, 811, 812, 911, 912, 1011, 1012, 1111 and 1112) will be used for the purposes of affordable housing as defined in State Environmental Planning Policy (Affordable Rental Housing) 2009;
- (b) All recommendation that is used for affordable housing will be managed by a registered community housing provider;
- (c) Name of authority empowered to release, vary or modify the above restriction is Liverpool City Council; and
- (d) Evidence is to be submitted to Liverpool City Council that restrictions (a) and (b) have been complied with prior to the issue of an Occupation Certificate.




New condition – A boarding room or onsite dwelling shall be provided within the proposed development for a boarding house manager.

New condition – All uses on the ground floor for the proposed development, including the respite day care centre, anglicare support services and kiosk, shall serve as an ancillary function to the residential apartments and boarding house accommodation within proposed development.

CONSIDERATION OF COMMUNITY VIEWS

- In coming to its decision, the Panel considered written submissions made during public exhibition and heard from those wishing to address the Panel as listed at item 7 in Schedule 1. The Panel notes that issues of concern included:
 - Solar access
 - Privacy

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report with conditions and that no further new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 Bruce McDonald (Acting Chair)	 Peter Harle
 Peter Brennan	

1	PANEL REF – LGA – DA NO.	Panel Ref – 2019WCI010 - LGA – Liverpool – DA950/2018
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of an 11 storey integrated housing development comprising of residential apartments and boarding house accommodation for social and affordable housing, respite day care centre, anglicare support services and kiosk.
3	STREET ADDRESS	9-15 Northumberland Street, Liverpool, Lots 9, 10 & 11 DP38602, Lot A DP164111
4	APPLICANT/OWNER	Applicant/Owner – Anglican Community Services
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 No. 65 – Design Quality of Residential Apartment Development ○ State Environmental Planning Policy (Affordable Rental Housing) 2009 ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment ○ Liverpool Local Environmental Plan 2008 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Liverpool Development Control Plan 2008: <ul style="list-style-type: none"> Part 1 – General Controls for all development Part 4 – Development in the Liverpool City Centre • 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: 17 June 2019 • Clause 4.6 variation • 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 – Boris Santana, Peter Oriehov and George Nehme ○ On behalf of the applicant – Murray Donaldson, Serge Bolgarschii and Luke Romandi
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site Inspection and briefing – 20 May 2019 • Final briefing meeting to discuss council's recommendation, 28 June 2019, 1.30pm. • Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Bruce McDonald (Acting Chair), Peter Brennan and Cr Peter Harle ○ <u>Council assessment staff</u>: Boris Santana, Peter Oriehov and George Nehme
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report