

DATE OF DETERMINATION	9 December 2022
DATE OF PANEL DECISION	9 December 2022
DATE OF PANEL MEETING	5 December 2022
PANEL MEMBERS	Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli, Peter Harle, Ned Mannoun
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 30 November 2022.

MATTER DETERMINED

PPSSWC-172 - Liverpool City Council – DA-416/2021– 5 Orange Grove Road, Warwick Farm

Partial Demolition and Alterations and Additions to an existing Commercial Centre (The Grove Liverpool), including additional commercial space, amendments to the parking area with additional parking (at Fashion Spree Carpark), new road configuration and access works, landscaping, children play areas, relocation of food truck areas, new signage zones and associated infrastructure works.

PANEL CONSIDERATION AND DECISION

Following its meeting of 24 October 2022 to consider this DA, the Panel decided unanimously on 8 November 2022 that:

The clause 4.6 request to depart from the strict application of the LEP development standard for height of buildings should be upheld.

The DA should be approved.

The Panel's final determination of the DA should however be deferred pending resolution of issues relating to the VPA for the site and provision in the plan of management to address the potential for a blockage of Homepride Avenue.

The Panel refers to its determination report for that decision issued on 9 November 2022, and adopts the detailed reasoning set out in that report in relation to the matters arising in relation to the DA under s 4.15 of the EP&A Act including consideration of the submissions made by the community in response to notification of the DA. The Panel otherwise adopts the reasoning and recommendations of the Council assessment report.

In relation to the matters for which the Panel deferred its determination, the Panel notes that the VPA agreement was signed on 2 November 2022 and Council intends to register a caveat to protect its interest under the agreement. A condition has been agreed to require developer contributions under Liverpool Contributions Plan 2018 only if the VPA ceases to operate.

With those matters resolved, the Panel votes unanimously to approve the DA subject to the conditions.

Development application

The Panel is unanimously of the view that the development application should be approved pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

CONSIDERATION OF COMMUNITY VIEWS

One written submission was made during public exhibition raising principally traffic and operational issues including maintenance, congestion and ownership in relation to the access road.

The Council assessment report in response to that objection refers to a Traffic and Transport Assessment prepared by SCT Consulting (Dated 20 December 2021) that was referred to Council's Traffic and Transport team and Transport for NSW, which both supported the proposed development subject to conditions. Those conditions are included in the development consent recommended by Council staff. They include a requirement that Homepride Avenue be upgraded and rehabilitated to industrial standard.

In particular, the assessment report describes the anticipated increase in vehicle trips in the weekday and weekend peak hours (including both The Grove Liverpool and Fashion Spree) expected to arise from the proposed development. It is reported that SIDRA results show that there is a currently acceptable level of service (LoS) for the intersections of Cumberland Highway/Viscount Place and Hume Highway/Homepride Avenue, and at least 20 per cent of spare capacity to cater for the anticipated potential traffic growth around the site.

The issue of potential blockage of Homepride Avenue raised by the objector is now addressed in the management plan condition noted below.

The Panel is otherwise satisfied that the matters raised by this submission have been adequately dealt with via the conditions of consent and responses in the Briefing Reports.

CONDITIONS

The Panel resolves that the development consent is to be subject to the conditions recommended in the staff assessment report, but amended as necessary to:

1. add to Condition 9 the words:

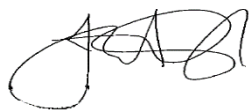
This condition will only have effect if:

(a) the Voluntary Planning Agreement applicable to this site executed by Gazcorp Pty Ltd and Liverpool City Council (dated 25 May 2018) or any subsequent amendments to the abovementioned Voluntary Planning Agreement is terminated; and

(b) Council has not otherwise advised in writing to waive Contributions under the Liverpool Contributions Plan 2018 Liverpool City Centre in respect of this development consent.

2. Ensure that the management plan (s) both for construction and operation of the approved development provide for a breakdown in Homepride Avenue.

PANEL MEMBERS



Justin Doyle (Chair)



Peter Harle



Nicole Gurran



Ned Mannoun



Louise Camenzuli

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-172 - Liverpool City Council – DA-416/2021
2	PROPOSED DEVELOPMENT	Partial demolition and alterations and additions to an existing Commercial Centre (The Grove Liverpool), including additional commercial space, amendments to the parking area with additional parking (at Fashion Spree Carpark), new road configuration and access works, landscaping, children play areas, relocation of food truck areas, new signage zones and associated infrastructure works.
3	STREET ADDRESS	5 Orange Grove Road, Warwick Farm
4	APPLICANT/OWNER	TGL Fast Food Investments Pty Ltd, Fashion Spree Investments Pty Ltd, Grove Investments Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<p>Environmental planning instruments:</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Resilience and Hazards) 2021. • State Environmental Planning Policy (Planning Systems) 2021.4 • State Environmental Planning Policy (Transport and Infrastructure) 2021. • State Environmental Planning Policy (Biodiversity and Conservation) 2021. • State Environmental Planning Policy (BASIX) 2004 <p>Draft environmental planning instruments: Nil</p> <p>Development control plans:</p> <ul style="list-style-type: none"> • Part 1 – General Controls for all development. • Part 6 - Development in Business Zones (Except Liverpool City Centre) <p>Planning agreements:</p> <p>A Voluntary Planning Agreement (VPA) pursuant to Section 7.4 (formerly known as Section 93F) of the Environmental Planning and Assessment Act 1979 was agreed to between Liverpool City Council and Gazcorp Pty Ltd, dated 25 May 2018. (including subsequent amendments)</p> <p>Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></p> <p>Coastal zone management plan: Nil</p> <p>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p> <p>The suitability of the site for the development</p> <p>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</p> <p>The public interest, including the principles of ecologically sustainable development</p>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report: 21 October 2022 and 5 August 2022 • Clause 4.6 Variation Request prepared by Ethos Urban dated 16 April 2021 • Briefing Note: 29 October 2022

		<ul style="list-style-type: none"> • Council email on status and amended conditions: 5 December 2022 • Written submissions during public exhibition: 1 • Total number of unique submissions received by way of objection: 1
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 1 November 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran, Wendy Waller, Peter Harle ○ <u>Council assessment staff</u>: Kevin Kim, Peter Oriehov • Briefing: 8 August 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran, Peter Harle ○ <u>Council assessment staff</u>: Peter Oriehov • Site inspection: 22 November 2021, 2pm <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran, Peter Harle ○ <u>Council assessment staff</u>: Peter Oriehov • Final briefing to discuss council's recommendation: 24 October 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Ned Mannoun, Peter Harle ○ <u>Council assessment staff</u>: Peter Oriehov, Michael Oliveiro, Amanda Merchant • Applicant/Council briefing to discuss status: 5 December 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Peter Harle ○ <u>Council assessment staff</u>: Michael Oliveiro, Nabil Alaeddine, Amanda Merchant ○ <u>Applicant</u>: Nicholas Gazal, Harshane Kahagalle
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report, as amended and noted in this Determination