

<b>DATE OF DETERMINATION</b>	Thursday, 30 June 2022
<b>DATE OF PANEL DECISION</b>	Thursday, 30 June 2022
<b>DATE OF PANEL MEETING</b>	Monday, 20 June 2022
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran, Peter Harle, Karress Rhodes
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 9 June 2022.

#### **MATTER DETERMINED**

**PPSSWC-173 – Liverpool – DA-42/2021 at 173 Elizabeth Drive and 18 Woodlands Road, Liverpool Lot 3 DP 651870 and Lot E DP 36731** – Proposed demolition of existing buildings and structures, construction and operation of a seniors housing development (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 listed at item 8 in Schedule 1.

#### **Development application**

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**

The Panel determined to refuse the application for the reasons outlined in the Council Assessment Report and discussed below.

This DA for a seniors housing development involving 116 room residential care facility in a three-storey building over a basement, was made under State Environmental planning Policy (Housing for Seniors or People with a Disability) 2004 on 13 January 2021.

Since then, it has already been reported to the Council's Design Excellence Panel (DEP) on 3 occasions the most recent on 10 March 2022 where significant issues were identified as still unresolved.

In response the Applicant submitted updated material on 18 & 19 of May 2022 which was loaded on the planning portal on 22 May 2022.

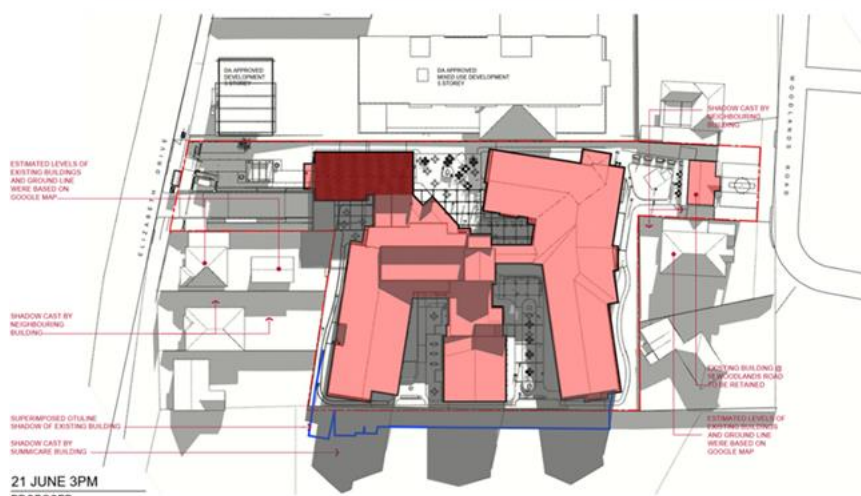
The report by Council's Assessment staff to the Panel's meeting convened on 20 June 2022 recommended refusal of the DA for a number of reasons including:

- The proposed development does not comply with the Housing SEPP development standards including Cl 33 Neighbourhood Amenity and Streetscape; cl 34 Visual and acoustic privacy; cl 35 Solar Access and Design for Climate; 36 Stormwater; 40 Minimum sizes and building height and Cl 48 Parking;

- The development application (should) be refused as the proposed development does not comply with the development standard for maximum building height in Clause 40 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The proposed variation is not justified having regard to the matters in clause 4.6(3) and (4) of LLEP 2008.
- The proposed development is inconsistent with the objectives of the R3 – Medium Density Residential zone as per the Liverpool Local Environmental Plan 2008 as the development does not ensure that a high level of residential amenity is achieved and maintained pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
- Insufficient information has been submitted with the proposed development that demonstrates consistency with the provisions of State Environmental Planning Policy (Transport and Infrastructure) 2021, 2.118 Development with frontage to classified road, 2.119 Impact of road noise or vibration on non-road development and 2.121 Traffic Generating development, pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979;
- Inconsistent and insufficient information has been submitted to allow Council to carry out a full assessment of the application. In this regard, an inadequate response has been received to Council's requests for additional information pursuant to Section 4.15(1)(a)(iv), 4.15(1)(b) and 4.15(1)(d) of the Environmental Planning and Assessment Act 1979.
- The proposed development is not considered to be acceptable having regard to the concerns raised from internal referrals within Council, pursuant to the provisions of Clause 4.15(1)(d) of the Environmental Planning and Assessment Act 1979.

The Panel accepts the Council staff's advice that the DA cannot be approved at present for those reasons.

One matter of particular concern is solar access to the proposed outdoor spaces as reflected in the following submitted with the latest material:





PANEL MEMBERS



Justin Doyle (Chair)



Louise Camenzuli



Nicole Gurran



Peter Harle



Karress Rhodes

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-173 – Liverpool – DA-42/2021
2	PROPOSED DEVELOPMENT	Proposed demolition of existing buildings and structures, construction and operation of a seniors housing development involving 116 room residential care facility in a three-storey building over a basement, together with associated facilities, access, and landscaping under State Environmental planning Policy (Housing for Seniors or People with a Disability) 2004
3	STREET ADDRESS	173 Elizabeth Drive and 18 Woodlands Road, Liverpool Lot 3 DP 651870 and Lot E DP 36731
4	APPLICANT/OWNER	Applicant: Higgins Planning Pty Ltd Owner: Wohl Investments Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>SEPP (Resilience and Hazards) 2021</li> <li>SEPP (Transport and Infrastructure) 2021</li> <li>Seniors SEPP (Housing) 2021</li> <li>SEPP (Biodiversity and Conversation) 2021</li> <li>Liverpool Local Environmental Plan 2008</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Liverpool Development Control Plan 2008</li> <li>Part 1 – General Controls for all Development</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Consideration of the provisions of the Building Code of Australia and National Construction Code (NCC)</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council Assessment Report: 27 May 2022</li> <li>The applicant has provided an assessment under Clause 4.6 to vary the maximum height limit under Clause 4.3 of the LLEP 2008</li> <li>Written submissions during public exhibition: 2</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 30 August 2021 <ul style="list-style-type: none"> <li><u>Panel members</u>: Justin Doyle (Chair)</li> <li><u>Council assessment staff</u>: Emmanuel Torres</li> <li><u>DPE</u>: Alexandra Hafner and George Dojas</li> </ul> </li> <li>Briefing: 18 October 2021 <ul style="list-style-type: none"> <li><u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurrán, Wendy Waller and Peter Harle</li> <li><u>Council assessment staff</u>: Emmanuel Torres, William Attard, Brenton Toms</li> </ul> </li> <li>Briefing: 23 May 2022 <ul style="list-style-type: none"> <li><u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurrán, Karress Rhodes and Peter Harle</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Council assessment staff</u>: Michael Oliveiro, Emmanuel Torres, Brenton Toms</li> <li>○ <u>DPE</u>: George Dojas &amp; Jeremy Martin</li> <li>• Final briefing to discuss council's recommendation: 20 June 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran, Karress Rhodes and Peter Harle</li> <li>○ <u>Council assessment staff</u>: Emmanuel Torres, Michael Oliveiro, Patrick Curmi, William Attard</li> <li>○ <u>Applicant representatives</u>: Marian Higgins, Nick Winberg</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A