

DATE OF DETERMINATION	22 December 2023
DATE OF PANEL DECISION	19 December 2023
DATE OF PANEL BRIEFING	4 December 2023
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, Karress Rhodes
APOLOGIES	David Kitto, Ned Mannoun
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 4 December 2023.

MATTER DETERMINED

PPSSWC-294 – Liverpool – DA – 1080/2022 – Lot 1 DP 1172051 and Lot 2 DP 249818, Riverside Stables, 155 Governor Macquarie Drive, Warwick Farm NSW 2170, Lot 2 Governor Macquarie Drive, Chipping Norton NSW 2170 - The DA seeks consent for the construction of a ten (10) storey hotel development comprising 83 hotel suites, basement car park, commercial administrative office spaces, and an outdoor terrace bar.

PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings and the matters listed at item 8 in Schedule 1.

Application to vary a development standard

While the proposed development has a maximum building height of 34.5m which exceeds the building height control of 30m applying to the site under Clause 4.3 of Liverpool LEP, the Panel has considered the applicant's written request made under cl 4.6 (3) of Penrith Local Environmental Plan 2010 (LEP) to permit a departure from that development standard by around 15%. Notably the portion of the building above the height limit is largely devoted to roof top open space and is set back from the wall facia.

The Panel is satisfied that it is in the public interest to grant the request, and that the request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP. There are sufficient environmental planning grounds identified and established in the written request to justify contravening the development standard such that compliance is unreasonable or unnecessary in the circumstances.

The development as proposed will be consistent with the objectives of cl. 4.3 of the LEP and the objectives for development in the RE1 Public Recreation and RE2 Private Recreation zones applying to the site for the reasons set out in the staff assessment report.

Of principal relevance from the zone objectives, the height exceedance will not cause any adverse effect on other land uses and will assist in enabling uses of the site that are compatible with, and complimentary to, the recreational uses involved with the racetrack. The building at the proposed height is well separated from any neighbouring uses and will cause no amenity impacts, and its visual impacts have been assessed to be satisfactory.

Taking those matters into account, it is in the public interest to allow the height exceedance.

The concurrence of the Secretary is assumed (see Planning Circular PS 20-002 issued 5 May 2020).

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

The panel determined to uphold the Clause 4.6 variation to building height; and approve the application for the reasons outlined in the council assessment report.

The panel accepts that with amendments made during the DA process which incorporated recommendations of the Council's design review panel:

- *The design integrates with the Riverside Stables development and the surrounding locality.*
- *Adequate services are available for the site, noting that requirements of Endeavor Energy have been incorporated.*
- *The flooding affectation has been addressed.*
- *Contamination on site and remediation required were considered and addressed in the assessment of DA-1077/2015 for bulk earthworks at the site. This DA was supported by a Remediation and Validation Program prepared by SMEC Testing Services dated April 2013. On the basis of that material and the staff reporting on the subject, the panel is convinced that the land will be rendered suitable for the proposed use to meet the requirements of the Resilience and Hazards SEPP*
- *The proposed development includes appropriate acoustic attenuation measures such that the proposal (with the initially proposed childcare centre deleted) will not be unduly affected by noise or vibration.*
- *The environmentally significant portion of the site will not be affected.*
- *While the racetrack with historical supporting infrastructure and landscape are identified under Schedule 5 of LLEP 2008 as a Heritage Item, the proposed development has been found to be compatible with the heritage significance of the Group described in the listing.*
- *The issue of potential odour effect on the proposal is addressed by conditions.*

CONDITIONS

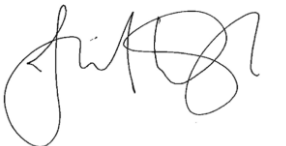

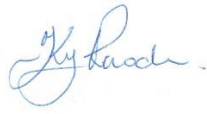
The development application was approved subject to the revised conditions of consent dated 13 December 2023, which updated the conditions referred to in the Assessment Report to include additional required flooding conditions.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition. The panel notes that issues of concern included:

- Sewerage and wastewater

The panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Louise Camenzuli
 Karress Rhodes	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-294 – Liverpool – DA – 1080/2022
2	PROPOSED DEVELOPMENT	The DA seeks consent for the construction of a ten (10) storey hotel development comprising 83 hotel suites, basement car park, commercial administrative office spaces, and an outdoor terrace bar.
3	STREET ADDRESS	Lot 1 DP 1172051 and Lot 2 DP 249818, Riverside Stables, 155 Governor Macquarie Drive, Warwick Farm NSW 2170, Lot 2 Governor Macquarie Drive, Chipping Norton NSW 2170
4	APPLICANT/OWNER	Applicant: Podia Owner: William Inglis & Son Limited
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Planning Systems) 2021 Liverpool Local Environmental Plan 2008 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Liverpool Development Control Plan 2008 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> 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 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: 1 December 2023 • Clause 4.6 variation to the Height • 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"> • Kick Off Briefing: 20 March 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle, Loise Camenzuli, David Kitto, Peter Harle, Ned Mannoun ○ <u>Council assessment staff</u>: Nabil Alaeddine, Amanda Merchant, Michael Oliviero ○ <u>Applicant representatives</u>: Mark Webster, Cameron Thomson, Adam Haddow, Stuart Gordon • Final briefing to discuss council's recommendation: 4 December 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Karress Rhodes, Ned Mannoun ○ <u>Council assessment staff</u>: Nabil Alaeddine, Amanda Merchant
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report