

DETERMINATION AND STATEMENT OF REASONS
SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	20 August 2024
DATE OF PANEL DECISION	16 August 2024
DATE OF PANEL BRIEFING	12 August 2024
PANEL MEMBERS	Justin Doyle (Chair), David Kitto, Lousie Camenzuli and Karress Rhodes
APOLOGIES	Ned Mannoun
DECLARATIONS OF INTEREST	Nil

Papers circulated electronically on 9 August 2024. Panel briefing held by videoconference on 12 August 2024.

MATTER DETERMINED

PPSSWC-303 – Liverpool – DA-1099/202 at 164 Croatia Avenue, Edmondson Park

Demolition of the existing structures and construction of a mixed-use development comprising 598 apartments, 1289.90sqm of retail space, basement parking accommodating 926 car parking spaces, landscaping and associated structures over 4 Stages (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 listed at item 8 in Schedule 1.

Application to vary a development standard

The Panel does not support the applicant's written request to vary a development standard made under cl. 28 of State Environmental Planning Policy (Precincts – Western Parkland City) 2021. The Panel is not satisfied that the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP.

Development application

The Panel determined to refuse the development application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous

REASONS FOR THE DECISION

The site the subject of this development application is located across the boundary of the Edmondson Park Town Centre precinct approximately 100 metres to the west of Edmondson Park Railway Station, and is in the vicinity of existing and proposed high density housing. As such it is well located to make a substantial contribution to the housing crisis affecting metropolitan Sydney.

A concept plan for the site was approved by the Panel on 5 September 2022 with development consent granted to DA/33/2021. The approved concept plan set out building envelopes to be adopted in future detailed development applications for development on the site. The approved concept plan has the status of a Development Control Plan, consistent with clause 36 of the SEPP (Precincts – Western Parkland City) 2021. Under s 4.24 of the EP&A Act, the development proposed in any development application in respect of the site cannot be inconsistent with the consent granted for the approved concept proposal.

The Council assessment reports, and the Panel accepts, that the present development application does not comply with the approved concept plan in the following respects:

- a) The proposal adds additional buildings and substantial new building form in addition to that approved by the concept plan (Building I and additional east to west connections for Building A to B and Building C)
- b) The proposed footprints exceed in area those approved by the concept masterplan giving rise to non-compliances with part 2B, 'Building Envelope' of the Apartment Design Guidelines (ADG). The increased footprints reduce the front setbacks of Buildings A and B. Issues with the required building setbacks also arise.
- c) The car parking basements protrude beyond the building footprints into areas marked in the approved concept plan as intended for deep soil planting of mature trees.
- d) The floor area of the commercial / retail portion of the development is 1289.90m² whereas 2000m² was proposed in the concept development approval.

In view of the above, the Panel agrees that the proposal is not consistent with the concept plan. Accordingly, the Panel cannot lawfully approve the development in its current form.

Another issue arises because the Council assessment report states that the development application, in the form reported to the panel, proposes construction of a new road partly over land owned by the Transport Asset Holding Entity (TAHE). It was not clear from the Panel's own review of the development application documents whether the development proposed in the development application in fact includes construction of the road over TAHE land, but the Panel agreed that is also an issue which must be resolved before the development application could be approved (noting that Section 23(1) of the *Environmental Planning and Assessment Regulation 2021* states that a development application cannot be lawfully made without the consent of the owner of all land to which it relates).

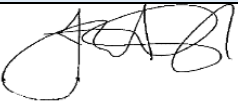



The development application is presently the subject of an appeal against the Panel's deemed refusal, which may yet offer an avenue for the development application to be approved. The Panel was informed at the final determination briefing that the Applicant is in advanced negotiations with the Council directed at resolving plans which the Council sees as offering potential to resolve the departures from the concept plan, and Council's merit concerns.

At this stage, the present development application must be refused for the above reasons.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- The proposed 9m setback to the southern boundary for the 9th storey in Building B of Stage 1 is noncompliant with the ADG requirement of 12m.
- That traffic generated by the proposal may also affect the future development potential of the TAHE site.
- That the development during construction and ongoing use may rely on the use of TAHE's commuter car park.
- That landowner's consent is required for the use of the adjoining road - 'the future Macdonald Road' - which is partially owned by TAHE.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Louise Camenzuli
 David Kitto	 Karress Rhodes

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-303 – Liverpool – DA-1099/202
2	PROPOSED DEVELOPMENT	<p>Demolition of the existing structures and construction of a mixed-use development comprising 598 apartments, 1289.90sqm of retail space, basement parking accommodating 926 car parking spaces, landscaping and associated structures over 4 Stages.</p> <p>Stage 1: Construction of a 1 x 4-storey and 9 x 8-storey mixed-use development containing 94 apartments.</p> <p>Stage 2: Construction of a 1 x 4-storey and 1 x 8-storey, and 1 x 9-storey development with 164 apartments.</p> <p>Stage 3: Construction of 2 x 8-storey residential flat building containing 148 apartments.</p> <p>Stage 4: 1 x 5-storey, 1 x 8-storey and 1 x 9-storey residential flat building containing 192 apartments.</p> <p>The proposed development is identified as Nominated Integrated Development requiring an approval from the Department of Planning and Environment – Water under the Water Management Act 2000.</p> <p>The proposed development is identified as Integrated Development requiring an approval from the NSW Office of Environment and Heritage under the National Parks and Wildlife Act 1974.</p> <p>The proposed development is identified as Integrated Development requiring an approval from the NSW Rural Fire Service under the Rural Fires Act 1997.</p>
3	STREET ADDRESS	164 Croatia Avenue, Edmondson Park
4	APPLICANT/OWNER	<p>Applicant: ABC Planning Pty Ltd</p> <p>Owner: Super Star Holding Group</p>
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Concept Development Application - DA-33/2021 (applies as a site specific DCP to the development site under Clause 4.23 of the EP&A Act) (Concept Masterplan) • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Precincts – Western Parkland City) 2021 (Western Parkland City SEPP) ○ State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development; (SEPP 65) ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP) ○ 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 • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>

		<ul style="list-style-type: none"> • 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: 5 August 2024 • Request to vary cl.18 (Height of building) of State Environmental Planning Policy (Precincts – Western Parkland City) 2021 • Written submissions during public exhibition: One (1)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 24 April 2024 <ul style="list-style-type: none"> ○ Panel members: Justin Doyle, David Kitto (Acting Chair), Louise Camenzuli, Karress Rhodes ○ Council assessment staff: Nabil Alaeddine, Amanda Merchant, Michael Oliviero, William Attard • Final briefing to discuss council's recommendation: 12 August 2024 <ul style="list-style-type: none"> ○ Panel members: Justin Doyle Chair), David Kitto, Louise Camenzuli, Karress Rhodes ○ Council assessment staff: Nabil Alaeddine, Amanda Merchant,
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Nil