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| DATE OF DETERMINATION | 13 December 2023 |
| DATE OF PANEL DECISION | 12 December 2023 |
| DATE OF PANEL BRIEFING | 11 December 2023 |
| PANEL MEMBERS | Justin Doyle (Chair), Louise Camenzuli, David Kitto, Karress Rhodes |
| APOLOGIES | Ned Mannoun |
| DECLARATIONS OF INTEREST | None |

Papers circulated electronically on 4 December 2023.

MATTER DETERMINED

PPSSWC-312 – Liverpool – DA – 28/2022 – Lot 11 & 12 DP 1204506 – 20 Hume Highway, Warwick Farm - Construction of a 10-storey residential flat building comprising 28 residential units above two levels of basement car parking, landscaping, and associated works. The application is submitted under the State Environmental Planning Policy (Affordable Rental Housing) 2021.

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.

Overshadowing

The panel queried the overshadowing impacts of the development.

Council indicated that the development complies with the solar access requirements in the ADG but will cause some cumulative overshadowing impacts on the north-facing units and landscaping of the properties to the south of the site with the other high-density buildings along the Hume Highway.

Council says this overshadowing is an inevitable consequence of the higher density zoning, and that it is satisfied that the applicant has taken all reasonable and feasible measures to improve solar access to the properties to the south of the site, including reducing the footprint of the building and introducing a slender built form.

Front Setbacks

The panel is satisfied that the non-compliance with the setback requirements in the Liverpool DCP 2008 are justified, given the irregular shape of the site. It also notes that the proposed setbacks are consistent with the setbacks on the adjoining sites and necessary to improve solar access to the buildings on these sites.

External materials, finishes and colours

The panel noted that the proposed external materials, finishes and colour scheme have changed under the recommendation of the DEP. For the success of an innovative colour presentation the selection of materials and co-ordination by a registered architect will be important to ensure a high-quality presentation and compatibility with the surrounding area.

Consequently, the panel has imposed a condition on the development requiring the applicant to submit a detailed schedule of the proposed external materials, finishes and colours to Council for approval prior to the issue of a construction certificate, and to submit the architectural plans revised and further detailed if and as necessary to the satisfaction of the Certifying Authority.

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 the building height development standard and to approve the application for the reasons outlined in Council's assessment report

In particular, the panel concluded that:

- The development is permissible with consent in the R4 High Density Residential zone;
- The development is consistent with the provisions of the relevant environmental planning instruments, including the requirements in *State Environmental Planning Policy (Housing) 2021* and the *Liverpool Local Environmental Plan 2008*, and the relevant controls in the *Liverpool Development Control Plan 2008*;
- Transport for NSW has provided its general terms of approval for the development, which have been incorporated into the recommended conditions;
- The development exhibits design excellence, subject to specification and refinement of the external materials, finishes and colours required under the conditions;
- The impacts of the development are acceptable and can be suitably controlled with the recommended conditions;
- The is suitable for the development;
- The development will provide affordable housing to support the growing population in Liverpool, consistent with the strategic planning objectives for the area; and
- The development is in the public interest.

CONDITIONS

The development application was approved subject to the conditions in Council's assessment report with the following amendment:



- Insert the following condition after condition 5
- 5A The external materials, finishes and colour scheme in the Architectural Plans in condition 1 are to be reconsidered, refined and specified in the construction certificate plans endorsed by a registered architect, with written confirmation from Liverpool Council's Principal Planner of its satisfaction in that regard to be provided to the certifier, prior to the issue of a Construction Certificate:



CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered the objection to the development made during public exhibition. The panel notes this objection raised concerns about the:

- Development not achieving the minimum deep soil zone of 15% required by the Housing SEPP.
- Overshadowing of the landscaped area and communal open space on the adjoining property to the south of the site.
- The structural engineering risks associated with constructing the basement car park on southern boundary.

The panel is satisfied that these concerns have been adequately addressed in Council's assessment report.

| PANEL MEMBERS | |
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| Justin Doyle (Chair)  |  Louise Camenzuli |

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|  David Kitto |  Karress Rhodes |
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| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DA NO. | PPSSWC-312 – Liverpool – DA – 28/2022 |
| 2 | PROPOSED DEVELOPMENT | Construction of a 10-storey residential flat building comprising 28 residential units above two levels of basement car parking, together with vehicle accessed landscaping and associated works. The application is submitted under the State Environmental Planning Policy (Affordable Rental Housing) 2021. |
| 3 | STREET ADDRESS | Lot 11 & 12 DP 1204506 - 20 Hume Highway, Warwick Farm |
| 4 | APPLICANT/OWNER | Applicant: Gran Associates Australia Architects Pty Ltd Owner: VM & KTP Holdings Pty Ltd |
| 5 | TYPE OF REGIONAL DEVELOPMENT | Private infrastructure and community facilities over \$5 million |
| 6 | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 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>: 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 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: 25 November 2023 Written submissions during public exhibition: One (1) Total number of unique submissions received by way of objection: One (1) |

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| 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>: David Kitto (Acting Chair), Peter Harle, Ned Mannoun ○ <u>Council assessment staff</u>: Nabil Alaeddine, Amanda Merchant, Michael Oliviero, William Attard ○ <u>Applicant representatives</u>: Peter Reed, Krystal Narbey, Dr Van Minh Nguyen, Joseph Le-Phan • Final briefing to discuss council's recommendation: 11 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, Nelson Mu |
| 9 | COUNCIL RECOMMENDATION | Approval |
| 10 | DRAFT CONDITIONS | Attached to the council assessment report |