

<b>DATE OF DETERMINATION</b>	29 May 2024
<b>DATE OF PANEL DECISION</b>	29 May 2024
<b>DATE OF PANEL BRIEFING</b>	15 April 2024
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Louise Camenzuli, Karress Rhodes, Ned Mannoun
<b>APOLOGIES</b>	David Kitto
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 12 April 2024.

#### **MATTER DETERMINED**

PPSSWC-320 – Liverpool – DA-140 140/2023 – 280 Fifth Avenue, Austral - Demolition all existing structures, dam dewatering, tree and vegetation removal, bulk earthworks, remediation works, civil and road works, and Torrens title subdivision into 58 lots with integrated housing to construct a mix of 54 two storey dwellings. The development is identified as Nominated Integrated under the Water Management Act 2000 requiring approval from the NSW Department of Planning and Environment - Water. The development is identified as Integrated Development under the Rural Fires Act 1997 requiring approval from NSW Rural Fire Service.

#### **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.

#### **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 approve the application for the reasons outlined in the council assessment report.

Specifically, the Panel accepts that the requirements of the applicable planning instruments have been addressed, and acknowledges the following conclusions in the Council report:

- The proposed development complies with the relevant provisions of the SEPP (Precincts—Western Parkland City) 2021 and Liverpool Growth Centre Precincts DCP 2021.
- Conditions of consent will be imposed to minimise any potential negative environmental impacts resulting from the development.
- The proposed development is appropriate for the site and approval is in the public interest.
- Developer contributions have been applied to the development in accordance with the Liverpool City Council Section 7.11 – Austral and Leppington North Contributions Plan 2021.
- A Special Infrastructure Contribution Condition has been imposed.

Issues previously raised by Endeavour Energy have been resolved with a letter from Endeavour Energy dated 16 February 2024 recommending conditions to imposed requiring a site-specific management plan for works within the relevant easement, which are to be included in the determination.

One complicating issue for the DA is the fact that the subdivision layout allowed for reservation of a lot passing diagonally through the centre of the site being a portion of the site zoned SP2 Infrastructure which had been anticipated to be employed for the construction of a new collector road and adjacent public road reserve. The Council assessment report records how that dedication was in alignment with the Indicative Layout Plan in Council's DCP for local roads. On that basis the Council reported that the work proposed in the DA to be carried out in the SP2 zone was permissible, as well as being acceptable and compatible with the future delivery of infrastructure in the locality.

Late in the assessment of the DA it has emerged that TfNSW no longer intends to construct that collector road. In correspondence exchanged in the context of the referral made to TfNSW under 'Clause 2.122 Traffic-generating development' of SEPP (Transport and Infrastructure) 2021, TfNSW has indicated that TfNSW is not presently intending to construct the planned collector road to the south of the subject site, such that the dedication of the SP2 zoned land within the DA site is unlikely to proceed on presently available information.

If that remains the case, the particular subdivision configuration shown in the DA design may well be appropriate for future amendment.

The Council staff reports however, and the Panel accepts, that the proposed subdivision remains essentially compliant with the applicable planning instruments and acceptable whether or not the TfNSW collector road proposal proceeds.

### CONDITIONS





The development application was approved subject to the conditions in the council assessment report as updated by email to the Panel Secretariat by email of 1 May 2024.

One matter to be corrected is that the draft notice of determination supplied refers at Attachment 2 to conditions to be imposed under s 7.12 of the Act whereas the conditions and the staff report advise that the contributions for the various approved stages are in fact calculated in accordance with the *Liverpool City Council Section 7.11 – Austral and Leppington North Contributions Plan 2021*.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered the single written submission made during public exhibition which referred generally to a lack of recreational space in Austral.

As Council notes, the site is not zoned for recreational purposes, and the SEPP has reserved lands for public recreation which is planned to be delivered as the development of Austral progresses. Notably the developer contributions levied under the conditions require substantial sums to fund "Local Recreation – Land", including payment of \$1,105,038 for Stage 1.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Louise Camenzuli
 Ned Mannoun	 Karress Rhodes

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-320 – Liverpool – DA-140 140/2023
2	PROPOSED DEVELOPMENT	Demolition all existing structures, dam dewatering, tree and vegetation removal, bulk earthworks, remediation works, civil and road works, and Torrens title subdivision into 58 lots with integrated housing to construct a mix of 54 two storey dwellings. The development is identified as Nominated Integrated under the Water Management Act 2000 requiring approval from the NSW Department of Planning and Environment - Water. The development is identified as Integrated Development under the Rural Fires Act 1997 requiring approval from NSW Rural Fire Service.
3	STREET ADDRESS	280 Fifth Avenue, Austral
4	APPLICANT/OWNER	<b>Applicant:</b> Devcore/Fifth Avenue Estates No 1 Pty Ltd <b>Owner:</b> Solstice Property Corporation Pty Ltd/Matautia Development 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>State Environmental Planning Policy (Precincts - Western Parkland City) 2021</li> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Hazards and Resilience) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Building)</li> <li>Sustainability Index: BASIX) 2004;</li> <li>State Environmental Planning Policy (Planning Systems) 2021.</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Liverpool Growth Centres Development Control Plan 2021.</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: The assessment report considers the National Construction Code and Australian Standards.</li> <li>Coastal zone management plan: N/A</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: 8 April 2024</li> <li>Written submissions during public exhibition: One (1)</li> <li>One (1)</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Kick Off Briefing: 15 May 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: David Kitto (Acting Chair), Louise Camenzuli, Karress Rhodes, Ned Mannoun</li> <li><u>Council assessment staff</u>: Nabil Alaeddine</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Applicant representatives</u>: Matt Cooper, Sandy So, Harrison Dormer, Andrew Cooper, Paul Thompson</li> <li>• Council/Applicant Briefing: 15 May 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Karress Rhodes, Ned Mannoun</li> <li>○ <u>Council assessment staff</u>: Nabile Alaeddine</li> <li>○ <u>Applicant representatives</u>: Declined to attend</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 15 April 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Karress Rhodes, Ned Mannoun</li> <li>○ <u>Council assessment staff</u>: Nabil Alaeddine</li> <li>○ <u>Applicant representatives</u>: Andrew Cooper</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report