

Record of Kick-Off Briefing Sydney Western City Planning Panel

PANEL REFERENCE, DA NUMBER & ADDRESS	PPSSWC-348 – Liverpool – DA-380/2023 – 28 McKay Avenue, Moorebank
APPLICANT / OWNER	Applicant: Morfosis Architects Pty Ltd Owner: Meika Group Pty Ltd
APPLICATION TYPE	Demolition of existing buildings, construction of residential flat building and associated landscaping.
REGIONALLY SIGNIFICANT CRITERIA	CIV > \$5M - Private infrastructure and community facilities
CIV	\$12,919,398 (excluding GST)
BRIEFING DATE	21 August 2023

ATTENDEES

APPLICANT	Kay Ahmad, Jean Ligadu, Nicholas Dowman, Bo Meng, Rod Meneses
PANEL	Justin Doyle (Chair), David Kitto, Karress Rhodes, Ned Mannoun
COUNCIL OFFICER	Nabil Alaeddine, Greg Mottram Andrijana Mijoski
CASE MANAGER	Kate McKinnon
PLANNING PANELS SECRETARIAT	Tim Mahoney, Sharon Edwards

DA LODGED & DAYS SINCE LODGEMENT: 5 July 2023 (47 days)

TENTATIVE PANEL BRIEFING DATE: Requirement not currently anticipated

TENTATIVE PANEL DETERMINATION DATE: Within 250 day target

Chair reviewed attendance and introduced Kick Off Briefing purpose and process.

Applicant

- The development includes reliance upon the bonus FSR provisions available under Division 1 of the Housing SEPP.
- The applicant described the proposed development for the Panel including its locality, and site context.
- A Clause 4.6 variation is proposed to the building height control, generally to accommodate lift overruns.
- A 3.1m floor to floor height has been adopted.
- The building would not significantly overshadow the school across the road, with the only part of the school affected the front setback area.

Council

- The preliminary assessment of the application is still being undertaken.
- The matter is due to be considered by the Design Excellence Panel on 14th of September 2023.
- Council is yet to confirm whether the development meets the CIV threshold requirements so as to qualify it as 'regionally significant development' for which this Panel is the consent authority. Relevant in that regard is the question of whether the entire development is properly considered to be '*used for the purposes of affordable housing*' such that the lower CIV threshold of \$5 million applicable to housing meeting that description applies. If it doesn't, then the application is not 'regionally significant development' and the Panel has no role in determination of the DA.
- Sydney Water are still undertaking its assessment, and Endeavour energy has responded to advise that it has no issues with the development.
- Public notification and exhibition are due to conclude on 24th August 2023.

Panel

- The panel advised the Council to confirm whether the development meets the criteria outlined in State Environmental Planning Policy (Housing) 2021 for affordable housing as a matter of priority. Particularly. The development must be within an accessible area, for which the SEPP requires the development to be within:

'... (c) 400m walking distance of a bus stop used by a regular bus service, within the meaning of the Passenger Transport Act 1990, that has at least 1 bus per hour servicing the bus stop between—

(i) 6am and 9pm each day from Monday to Friday, both days inclusive, and

(ii) 8am and 6pm on each Saturday and Sunday'.

Reference to available bus service timetables should resolve the question.

- In relation to the issue of the CIV threshold to be satisfied for the development be deemed to be “regionally significant development”, the Panel refers to section 21 of the Housing SEPP which reads:

21 Must be used for affordable housing for at least 15 years

- (1) Development consent must not be granted under this Division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued—
 - (a) the affordable housing component of the residential development will be used for affordable housing, and
 - (b) the affordable housing component will be managed by a registered community housing provider.

Use of the word “*component*” would seem to suggest that the remainder of the development is not affordable housing (to be contrasted with the wording in the similar provision at section 40 of the SEPP for Division 5 development).

- Clause 5 of Schedule 6 of the Planning Systems SEPP sets the relevant CIV threshold for ‘community facilities’ which are to be deemed to be “regionally significant development” if (relevantly) they constitute:

“Development that has a capital investment value of more than \$5 million for... *the following purpose... affordable housing*” (Panel’s emphasis)

- There are two questions that seem to arise.
 - (a) Is the whole development to be considered to be “*for the purpose of affordable housing*” because 20% of the dwellings are earmarked as affordable?
 - (b) If not, should the 20% “*component*” of the development comprising affordable dwellings be assessed separately, and if so how should that component be valued? (20% of the estimated CIV would not seem to exceed the \$5 million threshold)
 - (c) Alternatively, the affordable “*component*” might not be considered to be an independent use sufficient to displace the predominant use of market residential development.
- A considered assessment on that issue is needed as soon as practicable so the correct consent authority can be reliably identified.
- If the Panel is to remain the consent authority, it will require advice from the Department of Planning’s legal department to confirm whether the development is regionally significant.
- Council’s assessment should consider the cumulative impacts of on traffic on Muwarra Road.
- The potential for conflict between the proposed driveway location and the access points and pedestrian crossing servicing the school will require attention in the design.
- The panel targets determination of RSDAs within 250 days. The Panel asks that the applicant expedite its efforts to facilitate amendments or additional information required by Council to allow it to complete its assessment within that period.
- If the determination is that the DA is for regionally significant development, it should be reported back to the Panel within 60 days, at which time the notification and external referral process will be complete, and the DEP comments will be available.

Note:

Council is yet to undertake its full application assessment, so this record is not a final list of the issues they will need to consider in order to draft their recommendation.

The application is yet to be considered by the Sydney Western City Planning Panel and therefore future comment will not be limited to the detail contained within.