

<b>DATE OF DETERMINATION</b>	Monday 13 July 2020
<b>PANEL MEMBERS</b>	Nicole Gurran (Acting Chair), Louise Camenzuli, Susan Budd, Peter Harle and Wendy Waller
<b>APOLOGIES</b>	Justin Doyle
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Teleconference Call on 13 July 2020, opened at 12:10pm and closed at 12:25pm.

#### **MATTER DETERMINED**

PPSSWC-37 – Liverpool City Council – DA-639/2019 at Lots 22 & 23 of DP 35110, 4-6 Biggie Street, Warwick Farm – Construction of an 11 storey residential flat building (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 the matters observed at site inspections listed at item 8 in Schedule 1.

#### **Application to vary a development standard**

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Liverpool Local Environmental Plan 2008 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 (Height of buildings) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (Height of buildings) of the LEP and the objectives for development in the R4 High Density Residential zone; and
- c) the concurrence of the Secretary has been assumed.

#### **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**

1. The proposed development will provide much needed affordable rental housing within the Liverpool area, in a location that is well served by access to public transport and the services of the Liverpool City Centre.
2. The Panel has considered the Applicant's request to vary the development standard contained in Cl. 4.3 of Liverpool LEP 2008 relating to the maximum height limit. The proposed height variation is limited to the lift overrun and some parts of the parapet, and constitutes a numerical variation of

up to 1.5m. This amounts to a 4.2% exceedance to the maximum height control for the site of 35m.

3. The Panel considers that compliance with the standard is unreasonable and unnecessary in the circumstances of this case, given the limited nature of the exceedance, which primarily reflects the topography of site, will cause minimal additional overshadowing confined to a small extent of the road reserve along Bigge Street and the roof of 8-10 Bigge St. Further, the building has been carefully designed to reduce its bulk and minimise additional shadow cast to southern neighbours. At 11 storeys, the building is consistent with objective of the height control and anticipated built form in the zone, and it is considered that strict compliance may result in inferior design outcome. In this regard the Panel notes that the total floorspace ratio of 2.5:1 permissible under the State Environmental Planning Policy (Affordable Rental Housing) 2008 has not been fully taken up.
4. The proposed development subject to the conditions imposed adequately satisfies the relevant State Legislation and State Environmental Planning Policies including the State Environmental Planning Policy (Affordable Rental Housing) 2008, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65), SEPP 55 (Remediation of Land), State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, and Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment.

In relation to State Environmental Planning Policy (Affordable Rental Housing) 2008, the Panel is of the view that the proposed development is consistent with the character of the local area, which is generally comprised of high density residential flat buildings.

In relation to SEPP 65 and the Apartment Design Guidelines (ADG), the Panel notes that the building reduces solar access to the adjoining property No. 8 Bigge Street 25% - with 4 additional units receiving less than 2 hours of sunlight as a consequence of the development. This reduction is 5% more than that prescribed by Objective 3B-2 of the ADG. However, the affected building = 8 Bigge Street, was built before the ADG and does not meet the currently prescribed building setbacks. The proposed development already incorporates a greater setback along the northern boundary of the site to assist with solar amenity to 8 Bigge Street, and the Panel is of the view that an additional setback is not equitable or necessary.

5. The proposal adequately satisfies the requirements and provisions of the Liverpool LEP 2008 and Liverpool Development Control Plan 2008.
6. The proposed development, subject to the conditions imposed, will not unacceptably impact on the natural or built environment including;
  - The area of the canopy of the scented gum tree to the rear of the property
  - The operation of the local road system

#### Privacy and overshadowing of neighbouring **buildings**

7. In consideration of the above the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

#### **CONDITIONS**



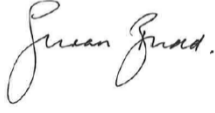


The development application was approved subject to the conditions in the council assessment report with the following amendments.

- Condition 1 has been amended to reference the revision numbers for the latest set of architectural plans as submitted by the applicant. Condition 2 - Amendments in Red has been deleted as the latest set of architectural plans incorporate the specified amendments to the satisfaction of Council;
- Condition 1 has been amended to reference the correct Contamination Report as prepared by Geotechnique Pty Ltd, dated 25 November 2019;

- Condition 6 which relates to Section 7.11 contributions has been deleted;
- Condition 18 which relates to street lighting has been deleted;
- Condition 20 has been amended to relate to footpath paving and landscaping works only and not the street lighting upgrade;
- Condition 97 has been amended to reference the correct Contamination Report as prepared by Geotechnique Pty Ltd, dated 25 November 2019.

#### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Nicole Gurrán (Acting Chair)	 Louise Camenzuli
 Susan Budd	 Peter Harle
 Wendy Waller	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-37 – Liverpool City Council – DA-639/2019
2	PROPOSED DEVELOPMENT	<p>Construction of an 11 storey residential flat building containing 52 apartments comprising of a mix of 1br and 2br units above 1 level of basement parking and the removal of all vegetation on the site and associated landscaping and civil works. All units will be used for the purpose of affordable housing,</p> <p>The application is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.</p>
3	STREET ADDRESS	<p>Lots 22 &amp; 23 of DP 35110</p> <p>4-6 Bigge Street, Warwick Farm</p>
4	APPLICANT/OWNER	Hutchinson Builders on behalf of Land and Housing Corporation/NSW Land and Housing Corporation
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 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 (Affordable Rental Housing) 2009.</li> <li>○ State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development.</li> <li>○ State Environmental Planning Policy No.55 – Remediation of Land.</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.</li> <li>○ Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.</li> <li>○ Liverpool Local Environmental Plan 2008.</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Liverpool Development Control Plan 2008</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Consideration of the provisions of the National Construction Code of Australia.</li> <li>• Coastal zone management plan: Nil</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 Memo received: 13 July 2020</li> <li>• Council assessment report: 25 June 2020</li> <li>• The applicant has provided an assessment under Clause 4.6 to vary the maximum height limit under Clause 4.3 of LLEP 2008.</li> <li>• Written submissions during public exhibition: 0</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ On behalf of the applicant – Kate McMullen</li> </ul> </li> </ul>

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: Monday, 23 March 2020               <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Wendy Waller and Nathan Hagerty</li> <li>○ <u>Council assessment staff</u>: Emmanuel Torres</li> </ul> </li> <li>• Final briefing to discuss council's recommendation, Monday, 13 July 2020, 11:00am. Attendees:               <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Nicole Gurran (Acting Chair), Louise Camenzuli, Susan Budd, Peter Harle and Wendy Waller</li> <li>○ <u>Council assessment staff</u>: Emmanuel Torres, Boris Santana and George Nehme</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report