

DATE OF DEFERRAL	27 May 2025
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, David Kitto, Kevin Lam, Ninos Khoshaba
APOLOGIES	None
DECLARATIONS OF INTEREST	None

MATTER DEFERRED

PPSSWC-372 – Fairfield – DA 294.1/2023 – 17 Lupin Avenue, Fairfield East - Demolition of existing structures, Tree removal and the Construction of a 6-storey Residential Flat Building containing thirty – nine (39) dwellings over a basement car park containing 28 car spaces and associated landscaping and civil works.

DEFERRAL DECISION

By electronic circulation of papers, the Panel has considered the additional material supplied since the public meeting convened on 7 April 2025.

REASONS FOR DEFERRAL

The panel has formed the opinion that the DA should be approved, and that the written request from the applicant, made under cl 4.6 (3) of the Fairfield Local Environmental Plan 2013 (LEP) should be upheld.

Briefings have been convened in relation to the DA on 6 November 2023, 26 February 2024 and 28 October 2024 during which the Panel has endeavoured to assist the Applicant and the Council in resolving issues raised by the Council in relation to the DA with partial success.

The Assessment Report from Council staff dated 24 March 2025 recommended deferral of the DA to allow issues raised in Council's Assessment Report to be resolved through provision of further information, amendments to the plans, and discussion as to appropriate conditions.

The Panel considered that report in light of the matters raised by the Applicant, Council staff and objectors at the public meeting convened on 7 April 2025. On 9 April 2025, the Panel published a report which considered the concerns of the objectors who addressed the meeting and deferred the determination of the DA to allow the Council and the Applicant to seek to reach agreement as to:

1. Terrace of unit G.03: The preferred design outcome of the ground floor terrace of unit G.03 in relation to the adjacent corner of Belmore St and Lupin Ave.
2. Location of substation and air-conditioning unit: The applicant advised that the air conditioning plant will go behind the disabled toilet forming part of the rooftop terrace, and that the location of the substation has been agreed to with Council if it is required.
3. Waste collection: Various matters surrounding waste collection issues were raised.
4. Driveway Access: Issues surrounding the driveway and carpark design were canvassed including the size of truck to be accommodated within the site, whether accommodation of two way traffic

within the driveway ramp would be required, and whether the driveway should be located under the building.

5. Other outstanding matters raised in the Council's Assessment Report.

A table containing the parties exchange of views concerning the conditions which cover those matters has been supplied.

The Council also queried whether the clause 4.6 objection made was in sufficient form.

Having considered each of those matters further in light of the Council Assessment Report and further correspondence supplied since the public meeting, the Panel has resolved that the DA ought to be approved pursuant to section 4.16 of the Environmental Planning and Assessment Act 1979, having regard to each of the matters identified in s 4.15.

It is in the public interest for the additional affordable housing to be supplied by construction of this development covered by Division 1 of SEPP (Housing) 2021 taking into account the need for affordable housing to meet the needs of very low, low and moderate income households identified by that instrument.

The Panel's reasons include:

- a) The DA design when modified to comply with the conditions will exhibit design excellence when considered against the matters in Clause 6.12 of the LEP as well as the design principles for residential apartment development as set out in Schedule 9 of SEPP (Housing) 2021 and the Apartment Design Guidelines. The Council Assessment Report has identified important considerations relating to design excellence in relation to the presentation of the car park ramp and layover and its preference to have the drive under the building. Those changes would result in the loss of accommodation and the Application is supplied with significant planting in the road reserve and building setback. The architecture of the building will present well and the relationship of the building to the public domain is sufficiently well considered. A rooftop open space area with sufficient design is also proposed. In these circumstances, the presentation of the car park ramp and layover is acceptable.
- b) The proposal will be managed by BlueCHP which is a registered social housing provider and 100% of the dwellings will be affordable housing.
- c) With revised conditions incorporating the matters in the attached response document, issues of access, open space and waste management will be satisfactorily resolved, and the landscaped open space will be of sufficient size and quality.
- d) Other than issues of form, the Council has not identified adverse aspects of the development in relation to the proposed height and gross floor space which the Panel views to be unacceptable, having regard to the objectives of the zoning and clause 4.3 Building Height and Clause 4.4 FSR of Fairfield LEP 2013. A building height of 22.65m is proposed whereas 20 metres is permissible under the LEP. Notably however, the 2.65 metre high non-compliant portion of the building is generally set back from the building's facades and obscured from the public domain. The Panel agrees that the length of only one frontage is relevant to the application of the FSR control such that a maximum FSR of 2.07:1 would ordinarily be permitted. Noting the bonuses applicable under the Housing SEPP if the DA was made today, the Panel is satisfied that the development is acceptable in its context in relation to those matters.
- e) Council advises that the Preliminary Site Investigation (PSI) Report has adequately considered issues of site contamination.
- f) Having regard to the discussion above, the proposal includes sufficient landscaping, deep soil planning and common open space.

The Council Assessment Report states that the Clause 4.6 written document currently relied upon does not state the correct variation to the development standard and does not specifically address that compliance

with the development standard is unreasonable or unnecessary in the circumstances of the case (as required under Clause 4.6(3)(a) of the Fairfield LEP 2013). That complaint has not been addressed by the Applicant and the DA cannot therefore be determined until it is. As discussed at the determination meeting, while the Panel can see the arguments in favour of varying the applicable development standards, an updated request should be supplied.

While that is being done, the proposed conditions can be updated to reflect the Panel's assessment of the regrettably long list of disputed matters concerning the conditions contained in the document at Attachment 1 to this report. That document is best understood with reference to the table last supplied by the Council indicating the state of the Council's and the Applicant's response to the Conditions. Where the Council had indicated substantial agreement between the Council and the Applicant in relation to a particular condition, the Panel is accepting of that position.

The Application would be assisted if the Applicant would urgently:

- (a) Provide the updated clause 4.6 request prepared to be consistent with the contents of this report.
- (b) Provide a document identifying in plan form the location of the air conditioning plant and the substation if needed.
- (c) Provide a document identifying where waste will be collected from the Council verge so as not disrupt parking or traffic.
- (d) Provide a detail of the landscaping and terrace to unit G.03 which addresses the matters raised in the attached Panel response to the correspondence on conditions.

The Panel expects that the Applicant will take no longer than 7 days to provide that material, and that the updated conditions will be supplied within 7 days thereafter.

The decision was unanimous.






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:

- Potential to increase opportunities for crime and safety concerns;
- Traffic generation and impacts;
- Limited parking available on the street and insufficient car parking has been provided for the development;
- Waste management and bin pickup;
- Immediate residential properties concerned with loss of privacy, overlooking and noise impacts;
- Up to six storey buildings being out of character;
- Overshadowing of residential properties;
- Overlooking of residential properties from windows and openings;
- Loss of tree canopy and the natural environment;
- Limited infrastructure available for the development and poor servicing by public transport;
- Construction impacts, noise and dust nuisance;
- Property devaluation;
- Lack of energy efficiency and BCA compliance;
- No Visual Impact assessment or Social Impact Statement;
- No loading facilities are provided; and
- Impact on community self of identity.

Oral submissions made at the public meeting have been summarised in an earlier report.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
Justin Doyle (Chair) 	 Louise Camenzuli
David Kitto 	Ninos Khoshaba 
Kevin Lam 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-372 – Fairfield – DA 294.1/2023
2	PROPOSED DEVELOPMENT	Demolition of existing structures, Tree removal and the Construction of a 6-storey Residential Flat Building containing thirty – nine (39) dwellings over a basement car park containing 28 car spaces and associated landscaping and civil works.
3	STREET ADDRESS	Three (3) lots consisting of: 15 Lupin Avenue, Fairfield East (Lot 1 in DP 1154467) 17 Lupin Avenue, Fairfield East (Lot 185 in DP 15560) 82 Belmore Street, Fairfield East (Lot 2 in DP 1154467)
4	APPLICANT/OWNER	Applicant: BCL2 Limited Owner: BlueCHP Limited
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"> SEPP (Building Sustainability Index: BASIX) 2004 SEPP (Planning Systems) 2021 SEPP (Resilience & Hazards) SEPP (Transport & Infrastructure) 2021 SEPP (Housing) 2021: Chapter 2 Affordable Housing and Chapter 4 Design of Residential Apartment Development Apartment Design Guide Fairfield Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Fairfield City Wide Development Control Plan 2024 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: 24 March 2025 Clause 4.6 – Height of Buildings Written submissions during public exhibition: 27 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Shallyna Lo, Ly Tran Council assessment officer – Tia Mills, Liam Hawke On behalf of the applicant – Gareth Bird, Brendon Clendenning Total number of unique submissions received by way of objection: 17
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 6 November 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Kevin Lam, Hugo Morvillo <u>Council assessment staff</u>: Tia Mills, Liam Hawke <u>Applicant representatives</u>: Gareth Bird, Theo Loucas, Jared Phillips, Brendon Clendenning

		<ul style="list-style-type: none"> • Briefing: 26 February 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Kevin Lam, Hugo Morvillo ○ <u>Council assessment staff</u>: Tia Mills, Liam Hawke, Sunnee Cullen ○ <u>Applicant representatives</u>: Gareth Bird • Briefing: 28 October 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Kevin Lam, Ninos Khoshaba ○ <u>Council assessment staff</u>: Liam Hawke, Sunnee Cullen ○ <u>Applicant representatives</u>: Gareth Bird, Theo Loucas, Jared Phillips, Brendon Clendenning, Glenn Amanonce • Final briefing to discuss council's recommendation: 7 April 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Kevin Lam, Ninos Khoshaba ○ <u>Council assessment staff</u>: Tia Mills, Liam Hawke • Consideration of additional material by circulation of papers on 12 May 2025.
9	COUNCIL RECOMMENDATION	Deferral
10	DRAFT CONDITIONS	Draft conditions and reporting of Council and Applicant's position in memorandum communicated by email dated 12 May 2025

