

DETERMINATION AND STATEMENT OF REASONS
SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	10 October 2024
DATE OF PANEL DECISION	10 October 2024
DATE OF CIRCULATION OF PAPERS	24 September 2024
PANEL MEMBERS	Justin Doyle (Chair), David Kitto and Louise Camenzuli
APOLOGIES	Nil
DECLARATIONS OF INTEREST	Nil

MATTER DETERMINED

PPSSWC-376 – Liverpool – DA-1183/2016/C at 68-82 Stewart Avenue, Hammondville

Modification to Development Consent DA-1183/2016 under Section 4.55 (2) of the Environmental Planning and Assessment Act 1979, to modify the buildings and associated open space in Stages 3 and 4 of the approved development (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 listed at item 8 in Schedule 1.

Matters in dispute

After the final briefing on 12 August 2024, the Panel deferred the determination of the modification application to give Council and the Applicant more time to resolve the drafting of the recommended conditions relating to the:

- Staging of the development;
- Imposition of additional development contributions;
- Provision of street lighting; and
- Hazardous material survey.

Apart from the provision of street lighting, Council and the Applicant have now agreed on the drafting of the recommended conditions.

In relation to the provision of street lighting, Council initially sought to impose conditions on the Applicant requiring upgrades or the installation of street lights at all frontages to the development, including (see figure below) along:

- Judd Avenue (from Southwood Avenue to Thomas Avenue);
- Southwood Avenue;
- Katie Walsh Avenue; and
- Thomas Avenue.

The main reason given for imposing the conditions was that this is a standard requirement for all infill development.

The Applicant believes this condition is unreasonable as it does not reasonably relate to the modification application, which will not intensify the approved development on site. It is also raised concerns about its ability to undertake works on the opposite site of Judd Avenue where the existing street lighting is located.



In an email to the Panel dated 24 September 2024, Council revised the requirements in the recommended conditions to only require the provision of new street lighting along the Judd Avenue frontage adjoining the development subject to the modification application.

After careful consideration, the Panel does not support the imposition of the recommended conditions, even in their revised form because they do not reasonably relate to the modification. Further, Council's current proposal is unlikely to result in any meaningful improvements to street lighting in the area given Judd Avenue already has street lighting on the opposite side of the street.



Consequently, the Panel has decided to delete the recommended conditions relating to the provision of street lighting. This includes Conditions 9, 14, 46 and 58 relating to the imposition of new Conditions 21A, 21F, 96E and 117A.

Application for modification of consent

The Panel determined to approve the modification application pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the modification application for the reasons outlined in Council's Assessment Report.

In particular, the panel concluded that:




- The development as modified is substantially the same development for which consent was originally granted;
- The development is consistent with the provisions of the relevant environmental planning instruments, including the requirements in the *Liverpool Local Environmental Plan 2008* and *Liverpool Development Control Plan 2008*;
- The impacts of the proposed modifications are acceptable and can be suitably controlled with the recommended conditions;
- With the remediation required under the recommended conditions, the site can be made suitable for the development;
- The proposal will facilitate the provision of high-quality aged housing and associated support services, consistent with the strategic planning objectives for the area; and
- The development is in the public interest.

CONDITIONS

The modification application was approved subject to the conditions in Council's Supplementary Assessment Report with the deletion of Conditions 9, 14, 46 and 58 relating to the imposition of new Conditions 21A, 21F, 96E and 117A.

CONSIDERATION OF COMMUNITY VIEWS

Council exhibited the modification application from 7 November to 22 November 2023 and received no submissions.

PANEL MEMBERS	
 Justin Doyle (Chair)	 David Kitto
 Lousie Camenzuli	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-376 – Liverpool – DA-1183/2016/C
2	PROPOSED DEVELOPMENT	Modification to Development Consent DA-1183/2016 Under Section 4.55 (2) of the Environmental Planning and Assessment Act 1979, to Modification to buildings and associated open space in Stages 3 and 4 of the approved development.
3	STREET ADDRESS	68-82 Stewart Avenue, Hammondville
4	APPLICANT/OWNER	Applicant: HammondCare Owner: HammondCare
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Housing) 2021 Liverpool Local Environmental Plan 2008 Liverpool Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Development Control Plan 2008 (Part 1 General Controls for All Development) Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> 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.
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council's Assessment Report: 1 July 2024 Council's Supplementary Assessment Report: 16 August 2024 Council's emails to the Panel: 20 September 2024 and 24 September 2024 Applicant's email to the Panel: 17 September 2024 Written submissions during public exhibition: Nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 29 April 2024 <ul style="list-style-type: none"> <u>Panel members:</u> Justin Doyle (Chair), David Kitto, Louise Camenzuli, Karress Rhodes, Ned Mannoun <u>Council assessment staff:</u> Nabil Alaeddine, Amanda Merchant <u>Applicant:</u> Robert Allen, Katie Formston, Chris Forrester, Aaron Hogan, Don Wang Final briefing to discuss council's recommendation: 12 August 2024 <ul style="list-style-type: none"> <u>Panel members:</u> Justin Doyle (Chair), David Kitto, Louise Camenzuli, Karress Rhodes, Ned Mannoun <u>Council assessment staff:</u> Nabil Alaeddine, Amanda Merchant <u>Applicant representatives:</u> Robert Allen, Katie Formston, Chris Forrester, Aaron Hogan, Don Wang

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to Council’s Assessment Report and as amended by the Panel