

8 October 2024

Our Ref: 12137 - Letter to Panel - Application of FSR and HOB

Renah Givney
Planning Panels, Housing & Key Sites Assessment
Department of Planning, Housing and Infrastructure

Dear Ms Givney,

**RE: PPSSWC-413 – Liverpool – DA171/2024 – Council Request for Confirmation
Property: Lot 101 DP1267563, Somme Avenue, Edmondson Park**

This letter has been prepared by GLN Planning (**GLN**) on instruction from Croatia 88 Pty Ltd, the Applicant in relation to development application (**DA**) DA171/2024 over land at Lot 101 DP1267563 (the **Site**). The DA relates to Proposal to amend an existing consent by incorporating an affordable housing component as well as additional height and floor space ratio (**FSR**) in accordance with the incentives under *State Environmental Planning Policy (Housing) 2021* (**Housing SEPP**).

I refer to your recent email received 4 October 2024 advising that Liverpool City Council (**Council**) has advised the Sydney Western City Planning Panel (the **Panel**) that they are undertaking further investigation on whether the provisions of the Housing SEPP (specifically bonus height and adjusted car parking rates) can apply to Building C, noting Building C will operate independently of Building A and B (with Building A containing the affordable housing component).

The following sections of this letter demonstrate our interpretation of the Housing SEPP and the application of its provisions.

Clause 15C – Development to which this Division Applies

The Housing SEPP is clear that the provisions of *Division 1 – In-fill Affordable Housing* (the **Division**) apply to residential development that;

- Is permitted with consent,
- Contains at least 10% affordable housing component, in which “affordable housing component” of a development means the percentage of the gross floor area (**GFA**) used for affordable housing (Clause 15B), and
- When in the Six Cities Region is in an accessible area.

The Proposal is permitted with consent and the Site is in an accessible area. The Proposal includes an amendment to an existing Consent under DA-1320/2021. The development being amended includes the following as described the Notice of Determination;

“Two lot Torrens Title subdivision and construction of three residential flat buildings ranging from three to six storeys comprising 137 flats and basement car parking with associated Strata subdivision, site preparation works, civil works, and landscaping”

The development being amended therefore includes residential development in the form of three residential flat buildings (Building A, B and C) and the Proposal provides an affordable housing component comprising of 15% of the amended development's GFA.

The Division therefore applies to the development that includes three residential flat buildings.

Clause 16 - Affordable housing requirements for additional floor space ratio & Clause 19 - Non-discretionary development standards

In accordance with Clause 16 an additional FSR (up to 30%) can be applied to the development to which Division 1 applies, where the minimum affordable housing component exceeds 10%. Further, Clause 16(3) applies additional building height that is the same percentage as the additional floor space ratio permitted. The additional FSR and height is applied to the relevant controls that apply to the land.

Similarly, Clause 19 applies non-discretionary development standards (including car parking rates) to the "residential development to which this division applies".

The Housing SEPP is deliberate in its language, applying additional FSR, height and non-discretionary development standards to the "development", and not individually to "resultant buildings" or "resultant lots". The additional FSR, height and non-discretionary standards all apply to the entire development, and in terms of calculating the additional FSR and height, the addition is applied to the controls that apply the "land" subject of the development, which in this case includes the entire Site.

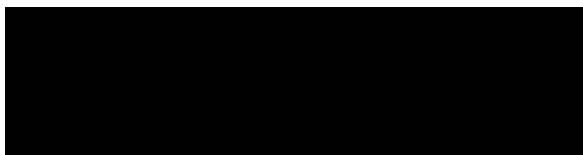
Council has questioned whether the additional height, FSR and non-discretionary development standards should be calculated based on individual buildings or lots regardless of whether they are the subject of the same DA. As detailed in this correspondence, the clause cannot reasonably be interpreted in this way. The relevant clauses have been worded to maximise delivery of affordable housing, being the the objectives of the Division.

We understand that the proposal is scheduled to be determined at the next available Panel meeting. The information provided in this letter demonstrates that there is no ambiguity in the application of the Housing SEPP provisions and that there is no reason the determination of this application should be deferred on this basis.

Should you have any questions regarding the content of this letter, please don't hesitate to contact me directly on 0403 239 230 or michael@glplanning.com.au.

Yours faithfully

GLN PLANNING PTY LTD



**MICHAEL HANISCH
ASSOCIATE DIRECTOR**