

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY WESTERN CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	20 December 2024
<b>DATE OF PANEL DECISION</b>	20 December 2024
<b>DATE OF PANEL MEETING</b>	9 December 2024
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Brian Kirk, David Kitto, Anthony Krilich
<b>APOLOGIES</b>	Richard Ammoun
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held by videoconference on 9 December 2024, opened at 3:30pm and closed at 5:30pm.

#### MATTER DETERMINED

**PPSSWC-413 – Liverpool – DA-171/2024** - Soldiers Parade, Edmondson Park - Amendment to DA-1320/2021 to increase Building A to 4 storeys, Building B to 6 and 8 storeys and Building C to 8 storeys; resulting in a total GFA increase of 30% and an additional 41 apartments including 27 affordable housing apartments

#### 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 listed at item 8 in Schedule 1.

#### Matters raised at public meeting

The Panel was due to be addressed at the public meeting by a member of the public who objects to the development, but the objector did not end up attending the meeting. Nevertheless, in weighing up the merits of the proposal, the Panel carefully considered the matters raised in the objector's submission on the proposal.

Liverpool Council indicated that it did not have anything to add to its assessment report.

#### Building separation and setbacks

The Panel noted that the original approval allowed variations to the building separation and setback requirements in the Apartment Design Guide. This included reducing the building separation between buildings A and B to 6.485 metres (instead of 12 metres), reducing the building setback from Building B to the southern boundary to 4.5-6 metres (instead of 6-9 metres), and reducing the building setback from Building C to the southern boundary to 3 metres (instead of 9 metres).

The Panel sought clarification from both the Council and the Applicant that the increase in both density and height associated with the proposal would not result in unacceptable amenity impacts on the occupants of the Buildings B and C nor the adjoining properties, including the proposed open space to the south of Building C.

The Applicant's architects provided a detailed explanation of the measures that have been incorporated into the design of the proposal to reduce amenity impacts and argued that with these measures in place there were unlikely to be any unacceptable amenity impacts due to the proposal.

The Panel accepted these arguments and noted that the Design Excellence Panel is satisfied with the revised proposal, concluding that:

- it is a well-considered and high-quality design proposal that will set an appropriate precedent for future development in high density areas;

- the additional GFA has been “thoughtfully” distributed across the site; and
- the proposal will have an acceptable impact on adjoining properties.

### Parking requirements

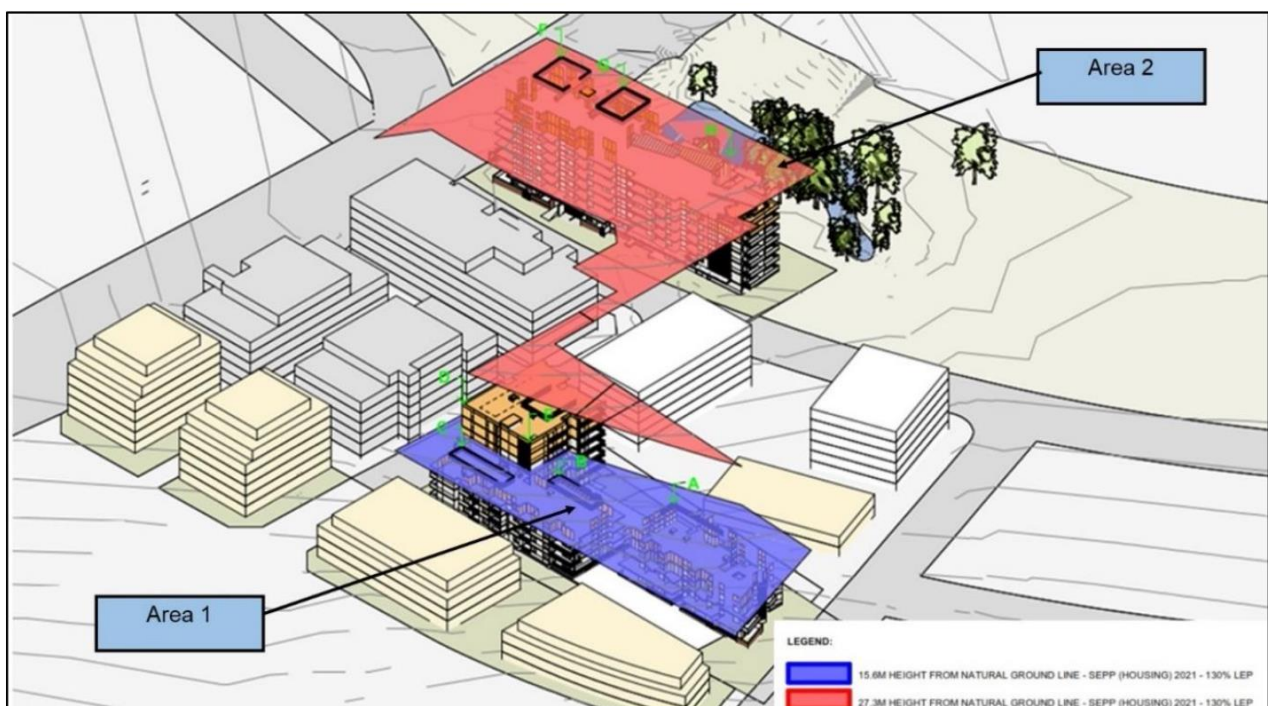
In its assessment report, the Council concluded that the proposal did not comply with the parking requirements in the *Liverpool Development Control Plan 2008* (DCP) and *State Environmental Planning Policy (Housing) 2021* (Housing SEPP).

However, at the public meeting the Applicant presented information showing the proposal will exceed the parking requirements and Council accepted this information as being correct.

### Application to vary a development standard:

After considering the written request from the applicant - made under Clause 4.6 of *Liverpool Local Environmental Plan 2008* - to vary the height of buildings and floor space ratio development standards in Clause 4.3 and 4.4 of the LEP - the Panel is satisfied that the applicant has demonstrated that:

- Compliance with these development standards is unreasonable or unnecessary in the circumstances because the development:
  - is consistent with the objectives of the zone and both development standards;
  - the primary non-compliance relates to Building B, which straddles two areas with different controls (see figure below) that were once going to be separated by a road that is no longer to be constructed. With the road no longer to be built, there is no particular reason for the location of the boundary between the areas subject to differing controls. The form of building B will not result in any unacceptable overshadowing impacts on the adjoining properties to the east and south;
  - the minor non-compliance on Building C will have no material impact on the proposed open space to the south; and
  - the additional GFA has been carefully distributed across the site to ensure the bulk and scale of the proposal is acceptable and;
- There are sufficient environmental planning grounds to justify contravening the development standard, including that the development:
  - will deliver a high-quality, mixed-use development near the Edmondson Park railway station and town centre;
  - will provide essential housing for the growing population of Western Sydney, including 27 affordable housing units; and
  - has been designed to a high standard.



### Relationship with conditions of approved concept plan DA

The Panel queried the interaction between the recommended conditions and the conditions of the original approval, noting that the recommended conditions assumed that only one of the two consents would be implemented and that the other consent would be surrendered when this is not what was proposed in the development application.

The Applicant indicated that it had not had sufficient time to review and comment on the conditions.

The Panel asked the Council and Applicant to consult further on the recommended conditions and submit revised conditions to the Panel as soon as possible, clearly identifying any matters that are in dispute.

On 19 December 2024, Council submitted revised conditions to the Panel, which have been endorsed by the Applicant. These conditions retain the requirement for the Applicant to surrender one of the consents for the site.

### 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

The Panel determined to uphold the Clause 4.6 request to vary the height of buildings and floor space ratio development standards (see above) and approve the development application for the reasons outlined above and in the Council's assessment report.

In particular, the Panel concluded that:

- The development is generally consistent with the provisions of the relevant environmental planning instruments, including the requirements in the Housing SEPP and *Liverpool Local Environmental Plan 2008*;
- The proposed variation to the relevant height of buildings and floor space ratio development standards is justified;
- The proposed variations to the non-discretionary standards in Clause 147 of the Housing SEPP are generally minor and adequately justified;
- The development will result in high-quality residential apartment development, consistent with the principles and design requirements of the Apartment Design Guide;
- The impacts of the development are acceptable and can be suitably controlled by conditions;
- These conditions will ensure the site is made suitable for the development;
- The development will deliver essential housing, including 27 affordable housing units, close to the Edmondson Park railway station and town centre for the growing population of Western Sydney, consistent with the strategic planning objectives for the area; and
- The development is in the public interest.

### CONDITIONS

The development application was approved subject to Council's revised conditions, dated 19 December 2024, excepting that the Council is to make amendments to resolve the following matters:

- References in **condition 32 Design Verification Statement** and **condition 185 Design Verification Statement** to SEPP 65 (now repealed) ought to be to Chapter 4 inserted into *State Environmental Planning Policy (Housing) 2021 (the Housing SEPP)* to replace it.
- The amendments required to the Detailed Site Investigation be submitted to Councils Environmental Health Team and endorsed, addressing the RE1 Land identified on the site required by **Condition 68. Contamination** are to be particularised.

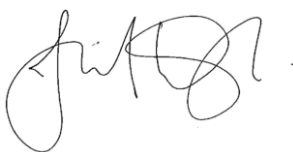
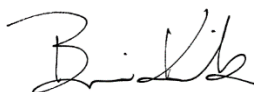


- To the extent that storage on the site would be affected by the 1% AEP flood, the height datum left blank in **Condition 215 Flooding** should be completed. If not, the condition should be deleted.
- **Condition 221 Operating Hours** should be deleted as no commercial activity is being approved.
- References to ***Principal Certifying Authority*** should be replaced with ***principal certifier*** wherever they occur to reflect the current wording of the legislation.

### CONSIDERATION OF COMMUNITY VIEWS

Council exhibited the DA from 6 February to 4 March 2024 and received 107 submissions. These submissions raised several concerns about the DA, including:

- Overlooking and privacy impacts;
- Traffic, parking and pedestrian safety;
- Noise and air pollution;
- Impact on/Lack of Infrastructure;
- Environmental impacts;
- Impact of character of area;
- Safety; and
- Waste management.

In coming to its decision, the panel considered these concerns carefully and is satisfied that they have been adequately addressed in Council's assessment report and revised conditions.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Brian Kirk
 David Kitto	 Anthony Krilich

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-413 – Liverpool – DA-171/2024
2	PROPOSED DEVELOPMENT	Amendment to DA-1320/2021 to increase Building A to 4 storeys, Building B to 6 and 8 storeys and Building C to 8 storeys; resulting in a total GFA increase of 30% and an additional 41 apartments including 27 affordable housing apartments
3	STREET ADDRESS	Soldiers Parade, Edmondson Park
4	APPLICANT/OWNER	Applicant: Aland/Croatia 88 Development Pty Ltd Owner: Croatia 88 Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 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 (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (<i>Sustainable Buildings</i>) 2022</li> <li>State Environmental Planning Policy (Housing) 2021</li> <li>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>Liverpool Local Environmental Plan 2008</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: Liverpool Development Control Plan 2008</li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil</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 assessment report: 25 November 2024</li> <li>Clause 4.6 variation request: Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio (FSR)</li> <li>Written submissions during public exhibition: 63</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>Council assessment officer – Nail Alaeddine, Emily Lawson, Amanda Merchant</li> <li>On behalf of the applicant – Andrew Hrsto, Anas Rahhal, Andrew Stacey, David Hamilton, Frank Stanisic, Jason Nowosad, Michael Hanisch</li> </ul> </li> <li>Total number of unique submissions received by way of objection: 56</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 23 September 2024 <ul style="list-style-type: none"> <li>Panel members: Justin Doyle (Chair), David Kitto, Louise Camenzuli, Ned Mannoun and Karress Rhodes</li> </ul> </li> </ul>

		<ul style="list-style-type: none"><li>○ <u>Council assessment staff</u>: Nabil Alaeddine, Emily Lawson, Peter Oriehov, Amanda Merchant</li><li>○ <u>Applicant representatives</u>: Andrew Hrsto, Anas Rahhal, Andrew Stacey, David Hamilton, Frank Stanisic, Jason Nowosad, Michael Hanisch</li></ul> <ul style="list-style-type: none"><li>● Final briefing to discuss Council’s recommendation: 9 December 2024<ul style="list-style-type: none"><li>○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Brian Kirk, Anthony Krilich</li><li>○ <u>Council assessment staff</u>: Nabil Alaeddine, Emily Lawson, Peter Oriehov,</li></ul></li></ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	The revised conditions provided to the Panel on 19 December 2024