

<b>DATE OF DETERMINATION</b>	Monday, 26 July 2021
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran, Peter Harle and Wendy Waller
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 30 June 2021.

#### **MATTER DETERMINED**

PPSSWC-83 – Liverpool City Council – DA-2020/2020 at 18 Randwick Close, Casula – Construction of a Seniors Housing 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 matters observed at site inspections listed at item 8 in Schedule 1.

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

The panel has considered the applicant's written request made under cl 4.6 (3) of the Liverpool Local Environmental Plan (LEP) 2008 to permit a departure from the development standard recorded by Clause 4.3 Height of Buildings of that instrument in the determination of the DA.

The non-compliance arises in relation to the maximum height of 15m fixed for the site by the height control map. The majority of the proposed development complies with the exception of the front (northern) portions of Buildings A and B.

Importantly, a differently constituted regional panel considered the built form of a development of this kind for the site when issuing a 'site compatibility certificate' for the seniors living development. When issuing that certificate, the regional panel reported that if important nominated design requirements were met, a maximum height of 18 metres along the northern portion of the development presenting to the north-western boundary of the site adjacent to the M5 Motorway and Kurrajong Road would be acceptable.

Despite that maximum height of 18m fixed by the requirements of the site compatibility certificate, the proposal presented to the Panel's final briefing proposed a maximum height of 19.15m at its greatest extent, which represented a numerical variation of up to 4.15 metres or 20% to the maximum height limit.

The Panel informed the applicant through the Council that the maximum height of 18m stipulated in the site compatibility certificate would have to be met if the development was to be approved.

The Panel also indicated that while it accepted and agreed with the conclusion of the Panel constituted to issue the site compatibility certificate that a height to 18 metres along the northern boundary was generally acceptable, the eastern-most extent of the building along the northern boundary should be modified to improve its relationship with the immediately adjoining residences further to the east.

Specifically, the eastern-most apartment on the upper level (unit 4.08) should be removed so that a maximum five storey high façade would present to the adjoining residences to the east. Removal of the volume incorporating unit 4.08 would also lessen the shadow impacts on two of the adjoining backyards. The non-compliant aspect of the building would not directly present to any adjoining residential boundary.

The large site area and careful distribution of bulk within the development would then allow for the proposed height to be satisfactorily accommodated.

The developer indicated through the Council that it would agree to conditions requiring those changes to be made to the plans before the issue of a construction certificate, and the panel sees they have been incorporated in the latest edition of the conditions supplied (marked as uploaded to the NSW Planning Portal on 14 July 2021).

It is only on the above basis that the panel was ultimately satisfied that it is in the public interest to grant the cl 4.6 request, and that the request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP. With those changes required by condition accepted by the applicant, there are sufficient environmental planning grounds identified in the written request to justify contravening the development standard in the manner proposed, such that compliance is unreasonable or unnecessary in the circumstances.

The concurrence of the Secretary is assumed (see Planning Circular PS 20-002 issued 5 May 2020).

### **REASONS FOR THE DECISION**

The panel determined to uphold the Clause 4.6 variation to building height; and approve the application on the basis that:

This suitably located and well-designed facility will increase the available stock of much needed accommodation for high care and dementia patients, with associated facilities.

The proposed height and the modulation of bulk within the development has been assessed to be acceptable for the reasons set out above.

The permitted FSR (allowing for the bonus with reference to the “Vertical Village” provisions) is not exceeded by the proposal.

The proposed development has otherwise been assessed as receiving satisfactory exposure to the sky and sunlight. With the deletion of unit 408 at the request of the panel following the final briefing as discussed above, the shadowing impacts on adjoining properties and the transition between the built form of the proposal and the residences to the south east are considered to be acceptable.

With the changes made to respond to the recommendations of Council’s Design Excellence Panel results in an architectural scheme of sufficient quality. Of particular note is the extent of landscaping proposed including additional landscaping to improve the laneway connection to Daruk Park, and the inclusion of solar panels to achieve improved ecological performance.

A detailed site investigation report was submitted for review by Council which found no significant contamination, such that the Panel is satisfied that the requirements of SEPP 55 have been addressed.

Stormwater is reported to be sufficiently managed to achieve satisfaction of the relevant considerations under Greater Metropolitan Regional Environmental Plan No. 2 –Georges River Catchment.

The decision was unanimous.

### **CONDITIONS**

The development application was approved subject to the conditions recommended by Council staff as posted to the NSW Planning Panel Portal on 14 July 2021.

### **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



Justin Doyle (Chair)



Louise Camenzuli



Nicole Gurran



Peter Harle



Wendy Waller

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-83 – Liverpool City Council – DA-220/2020
2	PROPOSED DEVELOPMENT	<p>Construction of a Seniors Housing Development comprising a 142-room residential care facility and 93 independent living units in 3 buildings over basement parking, together with associated facilities, services and associated healthcare services facility.</p> <p>The application is lodged pursuant to the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.</p>
3	STREET ADDRESS	18 Randwick Close, Casula
4	APPLICANT/OWNER	<p>Applicant: Centurion Group</p> <p>Owner: Besol Pty Ltd</p>
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 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 (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy (Housing for Seniors or People with a Disability) 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 <ul style="list-style-type: none"> <li>- Part 1 – General Controls for all Development</li> <li>- Part 3.7 – Residential Flat Building in the R4 Zone (Outside Liverpool City Centre)</li> </ul> </li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</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: 30 June 2021</li> <li>• Clause 4.6 to vary the maximum height limit under Clause 4.3 of the LLEP 2008</li> <li>• Written submissions during public exhibition: 0</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 10 August 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurrán, Louise Camenzuli, Peter Harle and Wendy Waller</li> <li>○ <u>Council assessment staff</u>: Adam Flynn and Boris Santana</li> </ul> </li> <li>• Briefing: 31 August 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurrán, Louise Camenzuli, Peter Harle and Wendy Waller</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Council assessment staff</u>: Adam Flynn, Boris Santana and Lina Kakish</li> <li>• Final briefing to discuss council's recommendation: 12 July 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli, Peter Harle and Wendy Waller</li> <li>○ <u>Council assessment staff</u>: Adam Flynn and George Nehme</li> </ul> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Approval
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report