

**MINUTES AND DETERMINATION OF THE  
LIVERPOOL LOCAL PLANNING PANEL MEETING**

**Monday 3<sup>rd</sup> May 2021**

Held Online  
**'Via MS Teams'**

Panel: Michael Mantei (Chair)  
Marjorie Ferguson (Expert)  
Lindsay Fletcher (Expert)  
Stephen Dobell-Brown (Community Rep)

There were no conflicts of interest declared by any panel members in relation to any items on the agenda.

## LIVERPOOL CITY COUNCIL

### LIVERPOOL LOCAL PLANNING PANEL MINUTES AND DETERMINATION PAGE 1

3<sup>rd</sup> May 2021

<b>ITEM No:</b>	1
<b>APPLICATION NUMBER:</b>	DA-275/2020
<b>SUBJECT:</b>	Demolition of existing structures and construction of a multi-dwelling housing development containing 6 x two-storey dwellings and 2 x single-storey dwellings above basement car park and associated strata title subdivision.
<b>LOCATION:</b>	Lot 184 & 183 DP 243075 162 & 164 Longstaff Avenue, Chipping Norton
<b>OWNER:</b>	Mr M A L Abrahaim & Mr M F G Ibrahim
<b>APPLICANT:</b>	Mr J Rafla
<b>AUTHOR:</b>	Nabil Alaeddine

#### ISSUES RELATED TO THE APPLICATION

The Panel has been provided with the Council officer's assessment report, supporting documents accompanying the development application and copies of written submissions received by Council. The Panel members have each familiarised themselves with the development site and its context.

The Panel received representations from a number of residents of the surrounding area and the applicant's architect.

The development site is within an area zoned R3 Medium Density Residential under Liverpool Local Environmental Plan 2008. As the name indicates, the primary objectives of the zone are to provide for housing in the form of medium density residential development, which includes multi dwelling housing.

Existing housing in the vicinity of the development site is predominately low density residential development. The Panel cannot refuse the application solely because the proposed development is of a different scale and density, or will generate more traffic compared to existing development in the vicinity. It is inevitable that the existing low density character will slowly change over time and traffic increase as older dwellings are replaced with a more denser form of housing development.

However, during this period of transition, and particularly in the early stages, the Panel considers it important that new development is designed in accordance with the planning controls, which are designed to protect the amenity of surrounding low density development and provide a high level of amenity for the occupants of the new proposed dwellings.

Council officers have undertaken a thorough assessment of the proposed development against the design controls. The assessment concludes that the design, in particular the ground floor layout and setbacks to side boundaries, do not comply with a number of controls that are designed to ensure the occupants of the proposed dwellings are provided with a high level of amenity and to protect the amenity of existing neighbouring properties. The proposed landscape design is also unsatisfactory and requires amendment.

3<sup>rd</sup> May 2021

The Panel agrees with the Council officers' assessment and recommendation. The Panel agrees that size, room layout and dimensions of the ground floor living areas for units 3 to 6 will not afford a high level of amenity for the future occupants of those dwellings. There are a number of side boundary setbacks that are non-compliant, which will result in impacts on the amenity of adjoining residences. The proposed front boundary setback and elevated basement facing Longstaff Avenue are also non-complaint with the Council's controls, which will result in an impact on the streetscape (both existing and future) of Longstaff Avenue.

The Panel considers that the proposed development requires a fundamental rethinking. This may require a reduction in the number of units proposed on the site.

**VOTING NUMBERS:**

4 – 0

**DETERMINATION OF PANEL:**

Development Application DA-275/2020 for 'Demolition of existing structures and construction of a multi-dwelling housing development containing 6 x two-storey dwellings and 2 x single-storey dwellings above basement car park and associated strata title subdivision' at 162 and 164 Longstaff Avenue, Chipping Norton be refused for the following reasons:

1. The proposed development is inconsistent with the objectives of the R3 – Medium Density Residential zoning in so far as it does not conform to a number of development controls that relate to provisions in the LLEP 2008 and DCP 2008 that are designed to ensure a high level of residential amenity is achieved and maintained.
2. The proposed development does not achieve satisfactory compliance with the objectives and controls as stipulated in Liverpool Development Control Plan 2008 Part 1 – General Controls for all Development, Section 3 – Landscaping and incorporation of Existing Trees, Section 6 – Water Cycle Management, Section 8 – Erosion and Sediment Control, Section 22 – Water Conservation, and Section 23 – Energy Conservation, pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
3. The proposed development does not achieve satisfactory compliance with the objectives and controls of DCP 2008 Part 3.6 - Multi Dwelling Housing (Villas and Townhouses) in the R3 and R4 zones, Front, Side and Rear Setbacks, Landscaping, Private Open Space, Cut and Fill, Building Design and Appearance, Amenity and Environmental Impact, and Waste Management, pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
4. The site is not suitable for the proposed development as the built form of the proposed development is not compatible with the existing and desired character of the area and is unlikely to preserve and maintain the character of the area pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
5. The proposed development is considered to be inconsistent with the provisions of Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (now deemed SEPP); in that insufficient evidence has been submitted to satisfy the consent authority that the stormwater plan is adequately designed and will be suitable for the

## LIVERPOOL CITY COUNCIL

### LIVERPOOL LOCAL PLANNING PANEL MINUTES AND DETERMINATION PAGE 3

**3<sup>rd</sup> May 2021**

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intended land use without impacting the Georges River. The proposed development is also inconsistent with the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 in that no BASIX Certificate was provided for the amended proposal pursuant to the provisions of Section 4.15(1)(a)(i), Section 4.15(1)(b), and Section 4.15(3A) of the Environmental Planning and Assessment Act 1979.

6. The proposed development is not considered to be acceptable having regard to the concerns raised during the exhibition of the proposal and from internal referrals within Council, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979.
7. It is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest, pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.
8. Insufficient information has been submitted to allow a full and proper assessment of the application, pursuant to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

## LIVERPOOL CITY COUNCIL

### LIVERPOOL LOCAL PLANNING PANEL MINUTES AND DETERMINATION PAGE 4

3<sup>rd</sup> May 2021

<b>ITEM No:</b>	2
<b>APPLICATION NUMBER:</b>	DA-109/2020
<b>SUBJECT:</b>	Demolition of existing structures and construction of an eight (8) room double storey boarding house. The application is submitted pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.
<b>LOCATION:</b>	Lot 57, DP 26304 27 Marsh Parade, Casula
<b>OWNER:</b>	Mr A Ayash
<b>APPLICANT:</b>	Archilab Architects
<b>AUTHOR:</b>	Gorana Dubroja

#### ISSUES RELATED TO THE APPLICATION

The Panel has been provided with the Council officer's assessment report, supporting documents accompanying the development application and copies of written submissions received by Council. The Panel members have each familiarised themselves with the development site and its context.

The Panel received representations from a number of residents of the surrounding area, the applicant's town planning consultant and the owner of the site.

The residents are primarily concerned about the social impacts of the proposed boarding house, including the potential for anti-social behaviour of the future occupants, potential criminal activity which might affect the personal safety of existing residents, particularly young children. Other concerns include increased traffic and on-street parking, impact on existing amenity and ambience of the neighbourhood, impact on property values and inconsistent with the character of the area.

A preliminary issue is the nature of the application. The application seeks consent for a boarding house. The owner of the site advised the Panel at the meeting that all the occupants will be overseas students who are enrolled to study at the Australian Global College in Liverpool. The Panel has **not** assessed the potential impacts of the development on the basis that the occupants of the units will be students, rather than general members of the public. The Panel has assessed and will determine the application on the basis outlined in the Council officers report, being the application as lodged.

The potential for anti-social behaviour including criminal activity and its impacts on the safety and amenity of the neighbourhood have been the subject of a social impact assessment prepared on behalf of the applicant and assessed by Council's community and social planning officer. The Council officers' assessment report to the Panel indicates that the Council's community and social planning officer has raised no objection to the proposal. The report also notes that a plan of management is proposed to be implemented should the application be approved. Council officers consider that there are sufficient measures to ensure personal safety is maintained in the locality in accordance with the Affordable Rental Housing SEPP.

## LIVERPOOL CITY COUNCIL

### LIVERPOOL LOCAL PLANNING PANEL MINUTES AND DETERMINATION PAGE 5

3<sup>rd</sup> May 2021

Most objectors are concerned that their well-being will be adversely affected by the potential anti-social behaviour of future occupants of the proposed boarding house. The objectors appear to give little or no weight to the requirements of the plan of management, saying that the requirement will not be obeyed by the occupants or enforced by the owner or Council. Many objectors gave as examples, premises apparently housing boarders at 62 and 64 Marsh Street, Casula and at the Fontainebleau Motor Inn at 467 Hume Highway Casula.

A consent authority must assume that a person who has the benefit of a development consent will comply with the conditions of the development consent. There are processes and powers in the Environmental Planning and Assessment Act that enable a council to investigate breaches of conditions and enforce compliance. Plans of management are a common way of mitigating potential impacts of boarding houses across Sydney and NSW. The plan of management lodged with this application contains objective and tangible measures that can be enforced if required.

Enquiries made by the Panel indicate that there is no planning approval to use the dwelling above the shops at 62 and 64 Marsh Street as a boarding house. It is unclear whether the Fontainebleau Motor Inn has been approved to be used as a boarding house. The Panel suspects it is not approved. The impacts arising from these uses are not a reliable indication of the impacts arising from a well managed and approved boarding house. The Panel must assume that the proposed boarding house will be well managed in accordance with the terms of the approval, and if it is not, Council has the powers to ensure that it is well managed. The Panel also relies on the results of the applicant's social impact assessment and Council officers' review of that assessment as being satisfactory.

The proposed development provides the minimum number of onsite parking spaces required by the Affordable Rental Housing SEPP. Neither Council nor the Panel can legally insist on more than the minimum number of spaces required by the SEPP. The proposed development will increase traffic in Marsh Street, which may exacerbate existing traffic congestion in the local area. However, traffic congestion is not an issue unique to this development or Marsh Street. Traffic congestion and road safety is a Metropolitan wide issue and is managed by Liverpool City Council in conjunction with Transport for NSW and NSW Police.

The Panel has considered the scale and form of the proposed building and is satisfied it is consistent with the character of the local area.

The Panel accepts and adopts the Council officers' assessment of the development application. For the reasons outlined by the Council officers in the assessment report the Panel has decided to approve the application on the basis of the draft conditions contained in the Council officers report, with minor alterations as indicated in the determination.

#### **VOTING NUMBERS:**

4-0

#### **DETERMINATION OF PANEL:**

Development Application DA-109/2020 seeking consent for the demolition of existing structures and construction of a double storey boarding house comprising of eight (8) rooms

## LIVERPOOL CITY COUNCIL

### LIVERPOOL LOCAL PLANNING PANEL MINUTES AND DETERMINATION PAGE 6

3<sup>rd</sup> May 2021

at Lot 57, DP 26304, 27 Marsh Parade, Casula pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009 be approved, subject to the conditions of consent contained in the Council officers report, amended as follows:

- a. draft condition 118(a) be amended to read:

*A total of four (4) off street car parking spaces (including 1 accessible parking space), two motorcycle spaces and three spaces for bicycles must be provided in accordance with Council's relevant Development Control Plan. One (1) of the spaces must be designed and signposted/marked for the specific use of persons with a disability.*

- b. An additional condition be inserted after draft condition 118(c) as follows:

*The proposed turning bay must be used solely for this purpose and cannot not be used as a car parking space. Turning bay to remain clear at all times.*

- c. An additional paragraph be inserted at condition 9 as follows:

*A 1.8 m high lapped and capped timber fence shall be installed along the eastern and northern boundaries of the site at full cost to the proponent.*

- d. An additional condition be inserted after condition 9 as follows:

#### *9A Amended carparking layout*

*The turning bay shall be relocated to the position of the northern most carparking space and the northern most carparking space shall be relocated to the position of the turning bay as shown on the approved plan. Details must be shown on the plans submitted with the construction certificate.*