

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

Monday, 27 May 2024

Held at the
Liverpool Civic Centre, Council Chambers
Level 1, 50 Scott Street
LIVERPOOL

Panel:

Stephen Alchin - Chairperson
John Brockhoff - Expert
Stuart McDonald - Expert
Daryl Hawker - Community Representative

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

Speakers:

Item 1 – DA-581/2023

- Saman Al-Zohairy – Owner
- Philip Brzezinski – Objector
- Miroslaw Brzezinski - Objector

Item 2 – DA-347/2023

- Peter Bestawros - Owner
- Magy Bestawros – Owner
- Tony Guirguis (EI Australia) - Project Director on behalf of Proponent
- Harby Mansour (Monsour Contracting) – Builder on behalf of Proponent
- Paul Festa (DBB) – Architect on behalf of Proponent
- Cameron Jeans - Objector
- Neil Evans – Objector
- Danielle Huet-Joseph – Objector
- Monique Beaver - Objector

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ITEM No:	1
APPLICATION NUMBER:	DA-581/2023
SUBJECT:	DEMOLITION OF EXISTING STRUCTURES, CONSTRUCTION OF SIX X TWO STOREY ATTACHED DWELLINGS AND TORRENS TITLE SUBDIVISION INTO SIX LOTS
LOCATION:	75-77 LEACOCKS LANE, CASULA 2170
OWNER:	MR & MRS M A M AL-ZOHAIRY
APPLICANT:	SK BUILDING DESIGN PTY LTD
AUTHOR:	BEN PATERSON

ISSUES RELATED TO THE APPLICATION

The Panel inspected the site, and heard from resident objectors and the owner. The present proposal for six dwellings gives rise to the following issues:

- The presence of the easement across the front of the property facing Leacock Lane and the constraints that it imposes on the development on the site.
- The non-compliance with relevant development standards.
- Inadequate lot size and lot width to accommodate six dwellings.
- Consequential issues with the size, distribution and overshadowing of private open space.
- Concerns about safety and efficacy of three individual access points onto the head of the cul-de-sac at the end of Cusack Avenue and the junction with Keneally Avenue.

VOTING NUMBERS:

4-0

DETERMINATION OF PANEL:

The Panel resolved to refuse the development application for the following reasons:

1. The proposed development is inconsistent with the objectives in Section 1.3(c) and 1.3(g) of the Environmental Planning and Assessment Act 1979 as a result of non-compliances with planning controls. The proposed development would not facilitate good design and amenity of the built environment, the proposed variation to minimum lot width and size requirements would not result in the orderly development of land.
2. The proposed development does not achieve satisfactory compliance with the Liverpool Local Environmental Plan 2008, Part 4.1 Minimum Subdivision Lot Size, pursuant to Sections 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, for the reasons set out in the Council Officer's report.

3. The Clause 4.6 Variation request is not supported by Council as the proposal does not:
 - Demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
 - Provide sufficient environmental planning grounds to justify contravening the development standard.
 - The proposal is not consistent with the objectives of the zone or standard, and therefore approval would not be in the public interest.

4. The proposed development does not achieve satisfactory compliance with the Liverpool Development Control Plan 2008, Part 1 General Controls for all Development, pursuant to Sections 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, for the reasons set out in the Council Officer's report, in particular:
 - Section 21 – Subdivision of land and buildings (Minimum Lot Width).

5. The proposed development does not achieve satisfactory compliance with the Liverpool Development Control Plan 2008, Part 3.4 Semi-Detached and Attached Dwellings (Duplexes and Terraces) in the R2, R3 and R4* zone, pursuant to Sections 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, for the reasons set out in the Council Officer's report, in particular:
 - Section 2 – Site Planning
 - Section 4 – Landscaped Area and Private Open Space
 - Section 5 – Cut and Fill, Building Design, Streetscape and Layout
 - Section 6 – Landscaping and Fencing
 - Section 8 – Amenity and Environmental Impact.

6. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development has not adequately demonstrated the likely impacts of the development, and otherwise, based on the information submitted, is likely to have an adverse impact in terms of the following:
 - a) Natural Environment – the applicant has not demonstrated that the proposed development would not create a detrimental impact on the natural environment.
 - b) Built Environment – the applicant has not demonstrated that the proposed development would not create an adverse impact on the surrounding built environment.

7. The proposal does not demonstrate that the site would be suitable for the proposed development, pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.

8. The proposed development is not considered to be acceptable, having regard to the above reasons for refusal, it is considered that the proposal does not satisfactorily address concerns raised by public objectors, pursuant to Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979.

9. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposal is not considered to be in the public interest. Having regard to the

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above reasons for refusal, it would risk setting an undesirable precedent for other development within the locality, in the future.

ITEM No:	2
APPLICATION NUMBER:	DA-347/2023
SUBJECT:	DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A SINGLE STOREY 28 PLACE CENTRE-BASED CHILDCARE, CAR PARKING, FENCING AND ASSOCIATED SITE WORKS
LOCATION:	14 SATELBERG STREET, HOLSWORTHY
OWNER:	PETER VICTOR BESTAWROS AND MAGY HARBY BESTAWROS
APPLICANT:	MR PAOLO FESTA
AUTHOR:	AZMAL HUSSAIN

ISSUES RELATED TO THE APPLICATION

The Panel heard from a number of resident objectors, the owners and owners' representatives. The principal issues related to:

- The evidence available to the Panel concerning potential contamination of the site
- Traffic and safety implications of the development
- The provision of carparking
- The non-compliance with the DCP provision dealing with landscaping in front of the building line
- Internal configuration of the proposed childcare centre, particularly in relation to: security; proximity of the kitchen to the cleaning area; and toilet arrangements.

The applicant provided advice to the Council and Panel one business day before the Panel meeting challenging the arguments raised by Council's Environmental Health Officer regarding the contamination investigation. As the Environmental Health Officer was not provided with sufficient time to respond to the late information and was also unable to attend the Panel meeting, the Panel has insufficient information to assess the arguments presented by the applicant's representative.

The Panel noted the residents' concerns about traffic and safety issues but also noted that Council's traffic and transport section had reviewed the application and raised no objections. The Panel was also mindful that this area is zoned R3 and that over coming years additional development will occur in line with that zoning, increasing traffic in Satelberg Street and other roads in the area. Future residential development in the area is also likely to lead to increased demand for childcare in the area.

In conclusion, the Panel noted that childcare centres are a permissible use in the R3 zone and the demand for childcare exists and is likely to increase over time. However, the present proposal does not sufficiently respond to the site, especially in regard to the provision of car parking and the need for adequate landscaping in the street frontage. Additionally, internal design matters require further resolution.

VOTING NUMBERS:

4-0

DETERMINATION OF PANEL:

The Panel resolved to refuse the development application for the following reasons:

1. Insufficient information has been submitted to allow Council to carry out a full and proper assessment of the application pursuant to Sections 4.15(1)(a), 4.15(1)(b) & 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
2. The Panel was not in a position to make a decision concerning the suitability of the site for a childcare centre having regard to the potential contamination on the property, and in particular:
 - a) the provisions of Chapter 4 Remediation of land under State Environmental Planning Policy (Resilience and Hazards) 2021 with respect to the required sampling for the presence of contamination
 - b) certification of the analysis and report on contamination by a suitably qualified and experienced consultant.
3. The proposal is unsatisfactory with the following provisions of the Child Care Planning Guideline 2021:
 - i. Part 3.2 Local character, streetscape and the public domain interface
 - ii. Part 3.3 Building orientation, envelope and design
 - iii. Part 3.4 Landscaping
 - iv. Part 3.5 Visual and acoustic privacy
 - v. Part 3.8 Traffic, parking and pedestrian circulation
 - vi. Part 4.2 Laundry and hygiene facilities
 - vii. Part 4.3 Toilet and hygiene facilities
 - viii. Part 4.6 Nappy change facilities
 - ix. Part 4.13 Soil assessment.
4. The proposal is unsatisfactory with the following provisions of the Liverpool Development Control Plan 2008 – Part 1:
 - i. Section 10 – Contaminated Land Risk
 - ii. Section 20 – Car parking and access
 - iii. Section 29 – Safety and security.
5. The proposal is unsatisfactory with the following provisions of the of the Liverpool Development Control Plan 2008 – Part 3.8:
 - i. Section 2.3 – Site Planning – site location
 - ii. Section 2.5 – Landscaped area
 - iii. Section 2.8 – Car parking and access – location
 - iv. Section 2.9 – Amenity and environmental impact – Contaminants.
6. Due to the above reasons, approval of the application as submitted would be contrary to the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

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ITEM No:	3
APPLICATION NUMBER:	DA-224/2023
SUBJECT:	FIT-OUT AND OPERATION OF LEVEL 6 WITHIN THE APPROVED MIXED USE CIVIC BUILDING FOR THE PURPOSE OF A CHILDCARE CENTRE FOR 90 CHILDREN.
LOCATION:	40-46, 48, 52 & 64 SCOTT STREET LIVERPOOL AND 306-310 MACQUARIE STREET LIVERPOOL NSW 2170.
OWNER:	LIVERPOOL CITY COUNCIL
APPLICANT:	BUILT DEVELOPMENT GROUP PTY LTD
AUTHOR:	NELSON MU – FINELINE PLANNING

ISSUES RELATED TO THE APPLICATION

There were no issues.

VOTING NUMBERS:

4-0

DETERMINATION OF PANEL:

The Panel resolved to approve the development application subject to the conditions of consent as recommended in the Council officer's report to the Panel.