

<b>DATE OF DETERMINATION</b>	28 June 2019
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Bruce McDonald, Peter Brennan and Cr Peter Harle
<b>APOLOGIES</b>	Cr Wendy Waller and Nicole Gurran
<b>DECLARATIONS OF INTEREST</b>	Nil

Public meeting held at Liverpool City Council Library on 28 June 2019, opened at 3.00pm and closed at 6.27pm.

#### **MATTER DETERMINED**

Panel Ref – 2017SSW010 - LGA – Liverpool – DA1257/2016 AT Lot 1 DP1040368, Lot 1 DP1215551, Lot 1 DP 1208552, 149 Terminus Street, Liverpool, 151 Terminus Street, Liverpool and 360 Macquarie Street, Liverpool (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.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

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**

1. The site formed part of the various areas of the City Centre affected by Amendment 52 to Liverpool LEP 2008 which introduced specific development standards for the land designated as an “intensive urban development area”, and particularly added clauses 6.4A and 7.5A.
2. Notably, clause 6.4A prohibits development consent being granted:  

“that results in an increase in the number of dwellings in that area, unless the Secretary has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to the land on which the development is to be carried out”.

No such certificate has yet issued. However, a concept plan does not in the opinion of the Panel “result in an increase in the number of dwellings in that area”, but rather such an increase will only be permitted if a detailed development consent issues which permits construction. Any development consent granted for a concept proposal for the site for the proposed building will need to be subject to a condition which requires the Secretary’s

certificate before any development consent permitting development to occur issues. With that requirement, the Panel was of the opinion that adequate provision was made to ensure that the express requirements and evident intent of clause 6.4A would be satisfied.

3. Clause 7.5A(3) provides:

7.5A(3) Development consent must not be granted under this clause unless:

- (a) a development control plan that provides for the matters specified in subclause (4) has been prepared for the land, and
- (b) the site on which the building is located also includes recreation areas, recreation facilities (indoor), community facilities, information and education facilities, through site links or public car parks.

However, s.4.23 of the Environmental Planning & Assessment Act (EP&A Act) provides that where an environmental planning instrument requires the preparation of a development control plan before any particular or kind of development is carried out on any land, that obligation may be satisfied by the making and approval of a concept development application in respect of that land.

4. On the basis of the Council staff assessment report, the Panel was satisfied that the matters listed at clause 7.5A(4) can be adequately addressed by a development carried out in the form of the proposed concept.
5. An important issue arises from the responses from RMS to the proposal by letters of 24 March 2017 and 27 March 2019. Both letters emphasise the RMS understanding that a comprehensive traffic and transport study is being conducted by the Council to assess the cumulative impacts of development with the CBD as permitted by amendments to the planning controls which allow for increased density. The first letter says among other things:

“Roads and Maritime is of the view that Council should not give consideration to supporting such applications until the outcome of the Liverpool City Centre traffic and transport study, proposed changes to the surrounding road network, determination of any required transport mitigation works (including road widening requirements for the Terminus Street corridor) and funding mechanisms are finalised.”

Notably, the more recent letter notes as an “advisory comment” the RMS’s continued position to be that Council “should not consider” the application until “... the Liverpool Collaboration Area Place Strategy has determined the transport mitigation works (including road widening requirements for the Terminus Street corridor).

6. Noting that work on the Liverpool Collaboration Area Place Strategy has been current now for more than two years, that the assessment staff of Council which is participating in the preparation of that strategy supports the concept plan, and yet no specific issue of concern with the subject concept proposal is identified, the Panel was of the view that the concerns of the RMS could adequately be protected by a condition which required RMS satisfaction on these matters prior to the issuing of a development consent permitting construction to proceed.
7. Another issue arose in relation to a resolution of an Ordinary meeting of Council made the evening before which was accordingly not discussed in the Council assessment report. The resolution is minuted to have been:

## **COUNCIL DECISION**

### **Motion: Moved: Cllr Hagarty Seconded: Cllr Kaliyanda**

That Council:

1. Notes the update on the design investigations for the Bathurst Street Extension project;
2. Notes that a road layout which would operate with acceptable traffic conditions in the long term, may require partial rather than full road closure of the section of Pirie Street, between Terminus Street and Macquarie Street; and
3. Proceeds with plans for a multi-storey carpark at the site. Council to receive a report on the matter by November 2019.

On being put to the meeting the motion was declared CARRIED.

The Panel questioned Council assessment staff present at the Panel meeting as to the significance of that resolution to the assessment of the subject concept plan application, specifically noting that the design of the building recorded in the concept presented a distinctive facade towards the potential carpark referred to in the resolution, and included a commercial entry which had clearly been designed assuming a public road in that direction. The Council staff advice was that these were not matters which altered the advice and conclusions within the assessment report to the Panel. The Panel accepts that advice and leaves the integration of the concept plan proposal and any future carpark on the adjacent site as a matter for resolution at the stage of a final DA for development in accordance with the concept plan.

8. On the basis of the matters discussed above, the Panel concluded that the proposed development will provide an approved concept plan which will facilitate the ordered staged development of the site for substantial mixed-use development within the Liverpool City Centre consistently with the Town Centre development strategy. That development will in turn provide additional commercial and retail capacity, residential development and a child care centre at a location with ready access to the metropolitan transport services available from Liverpool rail station. The staged development will reinforce the role of Liverpool Town Centre by providing additional employment and housing supply and choice within the City of Liverpool and the Western City District.
9. The assessment of compliance with relevant planning instruments has been undertaken to the extent considered appropriate for this concept application. Further assessment of each stage of the site's development is required to be further assessed against the applicable instruments and a number of conditions on the concept approval are proposed to ensure key matters are addressed.
10. The proposed development subject to the conditions imposed adequately satisfied the relevant State Environmental Planning Policies including SEPP 65 – Design Quality of Residential Apartment Development, SEPP 55 – Remediation of Land, SEPP (Infrastructure) 2007 and Greater Metropolitan Regional Environmental Plan No. 2 Georges River Catchment. In that regard, it is anticipated that a proposed remedial action plan would accompany any development application for development in accordance with the proposed concept.
11. The proposal development, subject to the conditions imposed adequately satisfies the requirements and provisions of Liverpool LEP 2008 (Amendment 4). The Panel particularly notes:

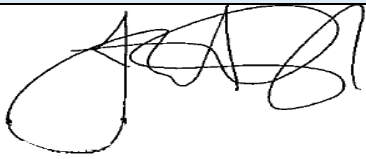

- In regard to Local Environmental Plan Clause 6.5A(3) a condition is necessary requiring arrangements for designated State Public Infrastructure must be undertaken prior to any development application for residential accommodation being made.
  - In regard to Local Environmental Plan Clause 7.5A(3) the provisions of Clause 4.22 of the Environmental Planning & Assessment Act enables a concept plan to be submitted in lieu the need for a site specific Development Control Plan. It is considered the submitted concept plan adequately addresses the matters a DCP would address.
12. The proposed development adequately satisfies the provisions of Liverpool DCP 2008 noting that the site-specific concept plan is considered in certain respects to prevail over the DCP provisions.
13. It is expected that the proposed development subject to the conditions imposed which require rigorous assessment of future development applications can be managed to have no unacceptable adverse impacts on the natural or built environments including the amenity of existing or proposed nearby premises or the operation of the town centre road upgrades now being planned, but a condition requiring RMS satisfaction in that regard to any development consent permitting the development to proceed is included as a further protection
14. The proposed development is considered to be of a scale and form consistent with the existing and planned development of this planned intense urban development sector of Liverpool CBD.
15. In consideration of matters discussed above the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.



#### **CONDITIONS**

The development application was approved subject to the conditions in the Council Assessment Report with amendments in line with the amended conditions included at attachment "A".

#### **CONSIDERATION OF COMMUNITY VIEWS**

There were no community submissions and no person other than representatives of the Applicant presented at the meeting.

PANEL MEMBERS	
	
Justin Doyle (Chair)	Bruce McDonald

	
Peter Brennan	Peter Harle

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	Panel Ref – 2017SSW010 - LGA – Liverpool – DA1257/2016
2	PROPOSED DEVELOPMENT	<p>Concept development application pursuant to section 4.22 of the Environmental Planning &amp; Assessment Act for a future mixed-use development including commercial business/retail and residential floor space, child care centre and parking.</p> <p>The application is for a concept approval only and seeks approval for site layout, location of future buildings, vehicular access from Macquarie Street, maximum building envelopes including setbacks and height, maximum gross floor area (GFA) across the site and location and maximum number of car spaces.</p>
3	STREET ADDRESS	Lot 1 DP1040368, Lot 1 DP1215551, Lot 1 DP 1208552, 149 Terminus Street, Liverpool, 151 Terminus Street, Liverpool and 360 Macquarie Street, Liverpool
4	APPLICANT/OWNER	<p>Applicant – GAT and Associates</p> <p>Owner – Cannavo Capital Pty Ltd and Cannavo Capital 2 Pty Ltd</p>
5	TYPE OF REGIONAL DEVELOPMENT	The proposal has a capital investment value of over \$30million
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. 55 – Remediation of Land</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 4 – Development in the 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> </ul>

		<ul style="list-style-type: none"> <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: Consideration of the provisions of the Buildings Code of Australia</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Council assessment report: 14 June 2019</li> <li>• Written submissions during public exhibition: 0</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Support – Nil</li> <li>○ Object – Nil</li> <li>○ On behalf of Council – Boris Santana and George Nehme</li> <li>○ On behalf of the applicant – Gerard Turrisi and Craig McLaren</li> </ul> </li> </ul>
8	<b>MEETINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Site Inspection and briefing – 11 December 2017</li> <li>• Site Inspection – 28 June 2019</li> <li>• Final briefing meeting to discuss council’s recommendation, 28 June 2019, 12.00pm.</li> <li>• Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald, Peter Brennan and Cr Peter Harle</li> <li>○ <u>Council assessment staff</u>: Boris Santana and George Nehme</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report