

## SYDNEY WESTERN CITY PLANNING PANEL

### SUPPLEMENTARY COUNCIL ASSESSMENT REPORT

SSWPP No	2017SSW034
DA Number	DA-284/2017
Local Government Area	Liverpool City Council
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, medical facility, child care centre and residential floor space, and parking.</p> <p>This application is for a concept approval only and seeks approval for site layout, location of future buildings, vehicular access, maximum building envelopes including setbacks and height, maximum gross floor area (GFA) across the site and location and maximum number of car spaces.</p> <p>Liverpool City Council is the assessment authority and the Sydney Western City Planning Panel has the function of determining the application</p>
Street Address	1-5 Speed Street Liverpool
Owner	Mount Pritchard and District Community Club and Mr Momir Dubocanin,
Date of DA Lodgement	21 April 2017
Applicant	Dreamscape Architects
Number of Submissions	One
Regional Development Criteria pursuant to Clause 2 of Schedule 7 of the SEPP (State and Regional Development) 2011.	The future proposal has a capital investment value of over \$30 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• <i>List all of the relevant environmental planning instruments: Section 4.15(1)(a)(i)</i></li> <li>• <i>State Environmental Planning Policy No.55 – Remediation of Land.</i></li> <li>• <i>Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.</i></li> <li>• <i>Liverpool Local Environmental Plan 2008.</i></li> </ul>

	<ul style="list-style-type: none"> <li>• <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: Section 4.15(1)(a)(ii)</i></li> <li>• <i>N/A</i></li> <li>• <i>List any relevant development control plan: Section 4.15(1)(a)(iii)</i> <ul style="list-style-type: none"> <li>• <i>Liverpool Development Control Plan 2008.</i> <ul style="list-style-type: none"> <li>• <i>Part 1: General Controls for All Development.</i></li> <li>• <i>Part 4 – Development in the Liverpool City Centre.</i></li> </ul> </li> </ul> </li> <li>• <i>List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: Section 4.15(1)(a)(iiia)</i> <ul style="list-style-type: none"> <li>• <i>No planning agreement relates to the site or proposed development.</i></li> </ul> </li> <li>• <i>List any relevant regulations: 4.15(1)(a)(iv)</i> <ul style="list-style-type: none"> <li>• <i>Consideration of the provisions of the Building Code of Australia.</i></li> </ul> </li> </ul>
List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none"> <li>1) Revised Conditions of Consent</li> <li>2) Original Assessment Report</li> <li>3) Approved Building Envelope Plans</li> <li>4) Valuation Assessment dated 10 July 2019</li> <li>5) June 2016 negotiations between owners (confidential)</li> <li>6) Letter to adjoining owner from Council dated 30 July 2019</li> </ol>
Recommendation	Approval
Report by	George Nehme
Report date	26 August 2019

<b>Summary of Section 4.15 matters</b> Have all recommendations in relation to relevant Section 4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Yes</b>

<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (S7.11)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	<b>N/A</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	<b>N/A</b>

## 1. EXECUTIVE SUMMARY

### 1.1 Reasons for the Supplementary report

This supplementary report has been prepared for determination by the Sydney Western City Planning Panel. This application was previously presented to the SWCPP at the meeting on 28 June 2019.

At the meeting on 28 June 2019, the SWCPP deferred the application for the following reasons;

- 1) The provision of further information to satisfy and address the potential site isolation of the adjoining sites (i.e. 32-36 Terminus Street Liverpool), in accordance with the published Land and Environment Court planning principle for site isolation, namely;
  - a) Clarification of negotiations with the adjoining owner.
  - b) An independent valuation addressing the issue of whether the applicant has made a sufficient offer to the adjoining owner to address the issue of site isolation.
- 2) The notification of the adjoining owner of the decision of the SWCPP on 28 June 2019.

#### 1) Site Isolation

##### a) Clarification of Negotiations

As stated in the previous assessment report presented to the SWCPP (attached) that several written offers were made to purchase the adjoining site at Nos 32-36 Terminus Street during the 2015-2016 period.

A written offer to the owner of the adjoining property at Nos. 32 – 36 Terminus Street was made in December 2015, which was valued at \$4,200,000. This offer was rejected.

A subsequent offer was made in May 2016 for \$4,000,000 plus a 1 x 2-bedroom apartment generating an overall estimated value of \$4,600,000. This offer was also rejected. A third offer of \$4,400,000 was again made in May 2016 with alternative settlement arrangements. This offer was also rejected.

Another offer was made in May 2016 for a completed retail spaces in the new building with a maximum area of 300sqm fronting Terminus Street plus 15 secure car parking spaces and a right to share the delivery dock. This offer was also rejected.

A final offer of \$5,000,000 was then made in June 2016 which was also rejected.

Of particular concern of the SWCPP at its meeting on 28 June 2019 was the discrepancy in the final correspondence circa June 2016 and in particular the “missing” correspondence dated 24 June 2016 from adjoining owner.

Subsequent to the SWCPP meeting on 28 June 2019 the applicant provided clarification with regards to the correspondence in June 2016.

On 21 June 2016, the applicant through their legal representatives made an offer to the adjoining property which included a purchase price of \$5,000,000.00 and a request for a put and call option. Correspondence from the adjoining owners’ legal representatives was subsequently sent back to the legal representatives of the subject site with a counter offer, which primarily detailed an agreement of the sale price of \$5,000,000 but a rejection of the put and call option. It is with second round of correspondence in which confusion has occurred. The date on the top of the correspondence sent from the adjoining owners in which the offer from 21 June 2016 of \$5million was rejected was incorrectly dated 24 June 2015 and not 2016.

The incorrect date is further evidenced by the fact the request for a response to the counter offer at the bottom of the correspondence is 8 July 2016. Having regard to the above, based on the evidence provided to date it is considered fairly safe to assume that the correspondence sent by the adjoining owners should have been dated 2016 and not 2015 and has addressed the SWCPP concerns that have arisen from the previous meeting of 28 June 2016. All June 2016 correspondence between property owners is attached to this report.

### **b) Independent Valuation**

To satisfy the final element of the planning principle the applicant has provided an independent valuation, prepared by Estate Valuations dated 10 July 2019 (attached). For completeness the valuation provided 2 separate valuations. One valuation as at 26 May 2016 and another as at 10 July 2019. In summary the valuation estimated as at May 2016, the adjoining site (i.e. 32-36 Terminus Street) will have an added value with amalgamation of \$3,450,000.00.

Furthermore, the valuation estimated as at 10 July 2019, the adjoining site will have an added value with amalgamation of \$2,700,000.00. As such, having regard to the valuation provided it is considered that offers made to the adjoining site are considered reasonable and it is considered that the applicant has addressed the final element of the planning principle with regards to site isolation.

### **2) Notification of the adjoining owner of the SWCPP decision**

For completeness it was considered prudent by the SWCPP that the adjoining owner of 32-36 Terminus Street be notified of the SWCPP decision and be invited to make a submission.

Consequently, Council prepared a letter dated 30 July 2019 (attached) which was sent to the adjoining owners advising them of the decision of the panel and outlined the potential impacts of the approval of this application on their site. The owners were provided 21 days to respond to the letter. Council has yet to be provided with a response to the letter sent.

### **Conclusion**

In conclusion, the following is noted:

- This supplementary report has adequately addressed the reasons for deferral put forward by the SWCPP from its meeting of 28 June 2019.
- For the reason above, and the reasons outlined in the original SWCPP assessment report attached, the proposed concept application is considered to be satisfactory and, the subject application is recommended for approval, subject to conditions.

### **6 ATTACHMENTS**

- 1) Revised Conditions of Consent
- 2) Original Assessment Report
- 3) Approved Building Envelope Plans
- 4) Valuation Assessment dated 10 July 2019
- 5) June 2016 negotiations between owners (confidential)
- 6) Letter to adjoining owner from Council dated 30 July 2019