

<b>DATE OF DETERMINATION</b>	9 September 2019
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Bruce McDonald 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 9 September 2019, opened at 3.00pm and closed at 5.30pm.

#### **MATTER DETERMINED**

2017SSW034 - Liverpool – DA284/2017 AT 1-5 Speed 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 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. Development in accordance with the proposed concept 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.
2. The assessment of compliance with relevant planning instruments has been undertaken to the extent considered necessary and 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.
3. On that basis, the proposed development subject to the conditions imposed adequately satisfies the relevant State Environmental Planning Policies including SEPP 65 -Design Quality of Residential Apartment Development, SEPP (Infrastructure) 2007 and Greater Metropolitan Regional Environmental Plan No.2- Georges River Catchment.
4. The Panel accepts the advice of Council staff that SEPP 55 (Remediation of Land) has been sufficiently addressed for the purposes of this concept approval. Further assessment will be required when development applications including detailed plans in compliance this concept

approval are determined to ensure that the land is sufficiently remediated to accommodate the proposed mixed use.

5. Another important issue which arose was the impact on surrounding roads including classified roads as addressed in responses from RMS to the proposal.
6. The first RMS response dated 25 July 2017 contained some specific issues which the Panel understands the Council to consider to be adequately addressed in the concept plan.
7. The second response dated 13 March 2019 states that:
  - Roads and Maritime is of the view that Council should not give consideration to supporting such applications until the outcome of the Liverpool Collaboration Area reservations are identified and a clear policy direction regarding an infrastructure plan is endorsed.
  - Roads and Maritime is not in a position to comment of the subject application until such time that the Liverpool Collaboration Area reservations are identified and a clear policy direction regarding an infrastructure plan is endorsed.

That position must be considered along with the rezoning of specifically identified sites such as this one to specifically permit this form of more intensive development, and the fact that any final development consent will no doubt be subject to further scrutiny with regards to the matters identified by the RMS.

8. The last response concerns the likelihood of greater pedestrian activity along Terminus Street which the RMS sees as justifying a Masterplan for development along Terminus Street, potentially including developer contributions for a pedestrian bridge. That last issue can be addressed at DA stage for this development, noting that no Masterplan has been adopted now, some two years after the date of that letter. The Panel was of the view that the issues which have properly been raised by the RMS are best addressed by a condition requiring them to be resolved prior to the issuing of a development consent permitting construction to proceed.
9. The proposal development, subject to the conditions imposed adequately satisfies the requirements and provisions of Liverpool LEP 2008 (Amendment 4). The Panel particularly notes,

- a. 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, the proposed concept plan does not in the opinion of the Panel “result in an increase in the number of dwellings in that area”. Instead, such an increase will only be permitted if a development consent issues which permits construction of the proposed buildings. To prevent that occurring a condition is proposed to require the Secretary’s certificate before any development consent issues 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 will be satisfied.

- b. 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. That is what this application proposes.

- c. Clause 7.5 of Liverpool LEP requires new buildings in the city centre to exhibit design excellence. The assessment report records that the views of the Council's Design Excellence Panel (**DEP**) resulted in significant amendment of the proposal. With the amendments made, the DEP ultimately concluded that with appropriate conditions the concept allowed for a development which would achieve design excellence sufficient to satisfy clause 7.5.
10. An adjoining site 32-36 Terminus Street will be potentially isolated from taking advantage of the uplift in development potential made available to the "intensive urban development area" under Clauses 6.4A and 7.5A of the LEP. To address that issue correspondence recording negotiations with the owner of 32-36 Terminus Street which was unresolved. At its initial meeting to consider the DA, the Panel was not satisfied that the correspondence adequately addressed the planning principles for considering potential site isolation established by the NSW Land and Environment Court had been satisfactorily addressed. The Panel adjourned the meeting and required the applicant to procure a further valuation of the site to demonstrate that its offers were reasonable, and directed the Council to notify the adjoining owner of the Panel's interim findings. The Panel has been supplied with further valuation material and is advised that no response was received to the further notification made to the adjoining owner. On that basis, the Panel is satisfied that the issue of site isolation has been sufficiently addressed.
  11. The proposed development subject to the conditions imposed which require rigorous assessment of future staged 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, the significance of the adjacent heritage item or the operation of the town centre road upgrades now being planned.
  12. The proposed concept is considered to be of a scale and form consistent with the existing and planned development of this sector of Liverpool CBD which is planned for intense urban development.
  13. In consideration of conclusions 1-12 above, the Panel considers the proposed development to be 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 an amendment:

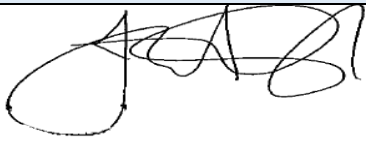


- Additional condition to require the inclusion of solar panels and battery storage.

## **CONSIDERATION OF COMMUNITY VIEWS**

- In coming to its decision, the Panel considered written submissions made during public exhibition and heard from those wishing to address the Panel as listed at item 7 in Schedule 1. The Panel notes that issues of concern included issues in relation to:
  - Design
  - Drainage for development
  - Noise impact

- On-street car parking

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report with conditions and that no further new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Bruce McDonald
 Peter Harle	

SCHEDULE 1		
1	<b>PANEL REF – LGA – DA NO.</b>	2017SSW034 - Liverpool – DA284/2017
2	<b>PROPOSED DEVELOPMENT</b>	<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>The 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>
3	<b>STREET ADDRESS</b>	1-5 Speed Street, Liverpool
4	<b>APPLICANT/OWNER</b>	<p>Applicant – Dreamscape Architects</p> <p>Owner – Mount Pritchard and District Community Club and Mr Momir Dubocanin</p>
5	<b>TYPE OF REGIONAL DEVELOPMENT</b>	The proposal has a capital investment value of over \$30million
6	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<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:</li> </ul> </li> </ul>

		<p>Part 1 – General Controls for all development</p> <p>Part 4 – Development in the Liverpool City Centre</p> <ul style="list-style-type: none"> <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: 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>• Original council assessment report: 14 June 2019</li> <li>• Council addendum report: 26 August 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 Lou Tasich</li> <li>○ Correspondence with adjoining neighbour and valuation report.</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 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Bruce McDonald (Acting Chair), Peter Brennan, Mazhar Hadid, Nicole Gurrán and Tony Hadchiti</li> <li>○ <u>Council assessment staff</u>: George Nehme and Lina Kakish</li> </ul> </li> <li>• Site Inspection and Public meeting – 28 June 2019 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald, Peter Brennan and Peter Harle</li> <li>○ <u>Council assessment staff</u>: Boris Santana and George Nehme</li> </ul> </li> <li>• Site inspection and final briefing meeting to discuss council's recommendation, 9 September 2019, 1.30pm.</li> <li>• Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald and 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