

DATE OF DETERMINATION	11 March 2019
PANEL MEMBERS	Justin Doyle (Chair), Bruce McDonald. Nicole Gurrán, Cr Peter Harle and Cr Wendy Waller
APOLOGIES	Nil
DECLARATIONS OF INTEREST	Nil

Public meeting held at Liverpool City Council Library on 11 March 2019, opened at 2.13pm and closed at 3.23pm.

MATTER DETERMINED

Panel Ref – 2018SSW020 - LGA – Liverpool – DA507/2018 AT 277 Bigge Street & 11-23 Scott 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 additional commercial activity and associated employment within the City of Liverpool consistent with its planned strategic role within the Sydney Western City, in a location with ready access to the metropolitan transport services available within Liverpool Central Business District. The proposed development will also provide a prominent entry statement to the railway precinct sector of the Liverpool centre and activate this sector which is currently relatively dormant in terms of commercial activity.
2. The proposed development includes conditions requiring to ensure the relevant State Environmental Planning Policies including SEPP 55 - Remediation of Land, SEPP (Infrastructure) 2007, Greater Metropolitan Regional Environmental Plan No2- Georges River Catchment is adequately satisfied.

3. The Panel has considered the Applicants requests made under clause 4.6 to vary the following development standards contained in Liverpool LEP 2008.

Cl. 4.4(2B) relating to maximum floor space ratio.

The Panel considers that requiring compliance with the standard is unreasonable and unnecessary in the circumstances of this case. While the proposal is in excess of the FSR that applied at the time of lodgement, it is consistent with the increased FSR for this site now adopted in the recent amendment to the LEP. Under the applicable savings provision that amended LEP is to be considered as though it had been exhibited but not made. That LEP amendment has since been adopted and the subject development is now consistent with the FSR applying to the site.

Cl.7.4(2)d and 4(2)e relating to building separation.

The Panel considers that compliance with the standard is unreasonable and unnecessary in the circumstances of this case because the area where the breach of the standard is breached is a small section of the adjoining building on Bigge Street. The siting and orientation of buildings on the adjoining Bigge Street site result in the impact of the breach to be minimal with a reasonable outlook preserved from the relevant affected windows Accordingly, there will be no loss of amenity due to privacy loss or building overshadowing and will not add further constraint to the development of adjoining premises.

CL7.3(2) relating to car parking.

The Panel considers that compliance with the standard is unreasonable and unnecessary in the circumstances of this case as the site is located near to the metropolitan transport system focus of Liverpool Rail Station, the reduced parking capacity will encourage use of public transport as an alternative to motor vehicle use and will reduce the impact of the proposal on the surrounding local road system

Having regard to the matters outlined above the Panel considers the variations remain consistent with the objectives of the standards and the objectives of the B3 Commercial Core Zone.

4. The proposal adequately satisfies the applicable objectives and provisions of Liverpool Local Environmental Plan 2008 and Liverpool DCP 2008. Notably, the Director General has certified that this development does not require an architectural design competition, and the Design Integrity Panel (which has been appointed as required by the terms of the Director General's decision) considers the proposal provides an exceptional urban design outcome.
5. Further, the proposed development has been reviewed on three occasions by a Design Excellence Panel composed of design experts from the Council, the Applicant and the Government Architect. The final design was found by that Panel to have carefully considered its advice. Having regard to the matters raised in the recommendations and conclusions of the Design Excellence Panel considers that the proposal, subject to the conditions imposed, exhibits design excellence so satisfying Cl. 7.5 of the LEP and is of acceptable form and scale consistent with the planned context and character of the locality within which the site is placed.

6. The proposed development subject to the conditions imposed will have no unacceptable adverse impacts on the natural or built environments including the amenity of nearby buildings, the utility of the local road system.
7. The proposal delivers a good outcome in terms of conserving and presenting the heritage significance of the heritage listed hotel forming part of the site, or the nearby heritage listed items to the south of the subject site. While part of the item is to be demolished, the Panel accepts the advice and recommendations of Council's expert heritage architect that the restoration of the preserved part of the hotel with the greatest architectural detailing is acceptable.
8. In consideration of conclusions 1-7 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

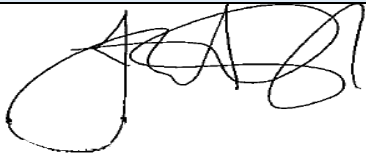

The development application was approved subject to the conditions in the Council Assessment Report with amendments made as per the attached document (recommended conditions of consent 2018SSW020 dated 11 March 2019).

One issue which was debated at the meeting was the condition recommended by Council's consultant heritage architect that the two retail units (designed as restaurants with al fresco dining options) be set back a further 1.2 metres from the heritage hotel. The Panel was satisfied that additional setback was desirable having regard to the objective of providing a better presentation of the heritage building and by ensuring the new built form of the retail units do not visually dominate the heritage building.

The Panel was advised by Council assessment staff that the NSW Government Architect had only agreed to waiver of the requirement for a design competition for the DA on the basis that a condition would be imposed on the development consent providing for the Design Integrity Committee convened to consider the DA (including a representative of the NSW Government Architect) to ensure that the building was constructed in accordance with the design intent of the DA and the advice of that Panel. A condition was included to that effect addressing construction certificate and occupation certificate stages, but with a proviso that the developer would not be obliged to satisfy that Panel if the Panel failed to respond within 14 days to notification that the relevant stage had been reached, to protect the developer against undue delay in that regard.


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

A handwritten signature in black ink, appearing to read 'N. Gurran', with a long horizontal stroke extending to the right.

Nicole Gurran

A handwritten signature in black ink, appearing to read 'Peter Harle', with a large circular loop at the beginning and a long horizontal stroke extending to the right.

Peter Harle

A handwritten signature in black ink, appearing to read 'Wendy Waller', with two distinct horizontal strokes and a small flourish at the end.

Wendy Waller

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	Panel Ref – 2018SSW020 - LGA – Liverpool – DA507/2018
2	PROPOSED DEVELOPMENT	Construction of a 23 storey commercial building including the conservation and adaptive reuse of the existing heritage listed commercial Hotel, ground floor retail spaces and the demolition of existing structures.
3	STREET ADDRESS	277 Bigge Street & 11-23 Scott Street, Liverpool
4	APPLICANT/OWNER	Applicant – Mackycorp Pty Ltd Owner – Topgrange Pty Ltd and Tsop Pty Ltd and Mr E Fassoulas and Ms C Oliveri and Mr N S Sandal and Mrs M K Sandal
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"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No. 55 – Remediation of Land Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment Liverpool Local Environmental Plan 2008 Draft environmental planning instruments: Draft Liverpool Local Environmental Plan 2008 – Amendment 52 Development control plans: <ul style="list-style-type: none"> Liverpool Development Control Plan 2008: <ul style="list-style-type: none"> Part 1 – General Controls for all development Part 4 – Development in the Liverpool City Centre Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development 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 The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 15 February 2019 Written submissions during public exhibition: 0

		<ul style="list-style-type: none"> • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Support – Nil ○ Object – Nil ○ On behalf of Council - Lina Kakish and George Nehme, David Petrie (Manager, City Design Public Domain), Geoff Ashley (Principal Heritage Consultant engaged by Council) ○ On behalf of the applicant – Mike Hercus, Dan Budai and Andrew Cowan
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site Inspection and briefing – 3 September 2018 • Site Inspection – 11 March 2019 • Final briefing meeting to discuss council’s recommendation, 11 March 2019, 1.00pm to 2.00pm. • Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald Nicole Gurrin, Cr Peter Harle and Cr Wendy Waller ○ <u>Council assessment staff</u>: Lina Kakish and George Nehme, David Petrie (Manager, City Design Public Domain), Geoff Ashley (Principal Heritage Consultant engaged by Council)
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report