

<b>DATE OF DETERMINATION</b>	Tuesday, 9 June 2020
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli and Peter Harle
<b>APOLOGIES</b>	Wendy Waller
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held via Teleconference Call on 9 June 2020, opened at 10:16am and closed at 10:45am.

#### **MATTER DETERMINED**

2018WCI015 – Liverpool City Council – DA-886/2018 at 22-26 Elizabeth Street Liverpool (Lot 1 in Deposited Plan 217460 and Lot 10 in Deposited Plan 621840)– 34 storey mixed use development (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.

#### **Development application**

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 allow for the ordered development of the site for substantial mixed-use development within the Liverpool City Centre consistent with the Town Centre development strategy. When the development is complete, it will provide additional commercial and retail capacity including a ground floor restaurant to activate the street front. There will also be a hotel and residential accommodation at a location with ready access to the metropolitan transport services available from Liverpool rail station.
2. Overall the mix of uses will contribute to the diversity and progress of Liverpool town centre to reinforce the role of Liverpool Town Centre as a civic hub. It will add to available employment as well as increasing housing supply and choice within the City of Liverpool and the Western City District.
3. Significant issues raised during the assessment process of height, ground floor level and public domain layout, the direction of access towards Elizabeth Street access, landscaping and other items have been managed during the assessment process and are sufficiently addressed in the staff assessment report. In particular the proposed access to the ground floor and proposed ground floor uses will make a contribution to activation of the Street.
4. Non-compliances identified by Council officers with carparking provision deficiencies with the submitted stormwater concept plans and DRAINS modelling, are satisfactorily addressed in the conditions of consent recommended in the assessment report. Both Air Services (air traffic control) and the Civil Aviation Safety Authority (CASA) have reviewed the proposal and are satisfied subject to conditions to be imposed, as has the NSW Police Service.

5. The important issue of potential overshadowing of Bigge Park was carefully examined by the Panel, due both to its heritage listing and the role of the park as the principal area of greenspace and passive recreation in the Liverpool Town Centre. Notably, the Liverpool DCP contains a control which requires that at least 70% of Bigge Park, Apex Park, Pioneer Park and any other public open space in the city centre has a minimum of 3 hours of sunlight between 10am and 3pm on 21 June (Winter Solstice). The Panel was satisfied that for most of the five hour period covered by the control the Park will remain essentially in full sun. However, it appeared to the panel that the south western corner would be increasingly in shadow in the period of 2:30pm to 3pm at the relevant solstice. No calculation was provided but the maximum 30% of shadow allowed by the control may be exceeded. However, the Panel observed that the portion of the building which would cast the shadow was not the top, but the middle of the building, such that the issue would be difficult to overcome with any alternative design. Further the development of the buildings on the lots to the immediate east and west would cast similar shadow. The contribution to the shadow on the Park was an inevitable consequence of permitting taller buildings on the sites in this block fronting Elizabeth Street under the LEP, with the positive effects discussed above. The Panel was satisfied that the design had adopted appropriate setbacks to minimise the issue to address the control, but flagged the issue of shadow as an important matter to be monitored closely in future developments in the locality.
6. The proposed development has been reviewed by Council's Design Excellence Panel (DEP) on two occasions. The recommendations of the Panel have been satisfactorily adopted into the concept design.
7. Development in accordance with the proposed concept subject to appropriate conditions can adequately satisfy 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, and will be consistent with the provisions of the draft SEPPs.
8. Taking all of these matters into account, and the discussion of the community submissions below, approval of the application is in the public interest.

## **CONDITIONS**

The development application was approved subject to the conditions in the council assessment report.

## **CONSIDERATION OF COMMUNITY VIEWS**

1. In coming to its decision, the panel considered the three written submissions made during public exhibition. No member of the public attended to address the panel.
2. There were 3 submissions received from the public within the notification and advertising period, raising issues of potential impacts on the adjoining schools, place of worship, Liverpool Court House, and Liverpool Hospital. Issues were also raised concerning parking as well as the impact on the heritage significance of Bigge Park, and the bulk and scale resulting from the proposed height.
3. These issues are adequately resolved in the assessment report noting the comments made above.
4. As to the issues raised associated with the proposed height of this building, the inclusion of this site within the areas to which the generous floor space controls apply is reflective of the goal of encouraging a rejuvenation of this part of the Liverpool commercial core through intensive development. While the impact of the proposed height was an important issue considered carefully, it would be out of step with the controls adopted for this site in the LEP to impose a low height profile on development of this development site.

PANEL MEMBERS



Justin Doyle (Chair)



Nicole Gurrán



Louise Camenzuli



Peter Harle

**SCHEDULE 1**

<b>1</b>	<b>PANEL REF – LGA – DA NO.</b>	2018WCI015 – Liverpool City Council – DA-886/2018
<b>2</b>	<b>PROPOSED DEVELOPMENT</b>	<p>The proposal seeks consent for the following:</p> <ul style="list-style-type: none"> <li>• Construction of a 34-storey mixed-use development over four levels of basement car parking;</li> <li>• Three hundred twenty-one car parking spaces from Basement 4 up to Level 1;</li> <li>• Ground floor level incorporating building services, a cafe, separate foyers and lift lobbies servicing each of the commercial, hotel and residential levels above;</li> <li>• Public domain improvements including the construction of a shared pedestrian/vehicular laneway for hotel drop-off along the eastern boundary and a 8m wide service laneway to the rear boundary, landscape treatment to the laneways and street frontage to Elizabeth street;</li> <li>• Approximately 5,764m<sup>2</sup> of commercial floor space from Levels 2 to 4;</li> <li>• Approximately 5,928m<sup>2</sup> of hotel floor space from Level 1 and 5 to Level 8 (113 hotel apartments);</li> <li>• Approximately 15,855m<sup>2</sup> of residential floor space from Level 9 to Level 33 (179 apartments); and</li> <li>• Residential amenity facility on Level 9 incorporating shaded outdoor terrace areas, indoor lap pool and lounge, gym and various activity rooms.</li> </ul>
<b>3</b>	<b>STREET ADDRESS</b>	22-26 Elizabeth Street Liverpool (Lot 1 in Deposited Plan 217460 and Lot 10 in Deposited Plan 621840)
<b>4</b>	<b>APPLICANT/OWNER</b>	<p>Applicant: Binah Developments</p> <p>Owner: Elizabeth Street Partnership Pty Ltd</p>
<b>5</b>	<b>TYPE OF REGIONAL DEVELOPMENT</b>	General development over \$30 million
<b>6</b>	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment</li> <li>○ State Environmental Planning Policy No.55 – Remediation of Land.</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>○ State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development</li> <li>○ Liverpool Local Environmental Plan 2008</li> </ul> </li> <li>• Draft environmental planning instruments: <ul style="list-style-type: none"> <li>○ The Remediation of Land SEPP</li> <li>○ Draft SEPP (Environment)</li> </ul> </li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Liverpool Development Control Plans 2008</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: 4.15(1)(a)(iv)</li> <li>• Consideration of the provisions of the National Construction Code of Australia.</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</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: <b>29 May 2020</b></li> <li>• Written submissions during public exhibition: 3</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Council assessment officer – Boris Santana and Emmanuel Torres</li> <li>○ On behalf of the applicant - Amen Zoabi and Ben Pomroy</li> </ul> </li> </ul>
8	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Briefing: Monday, 11 March 2019 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald and Nicole Gurrán</li> <li>○ <u>Council assessment staff</u>: Lina Kakish and Emmanuel Torres</li> </ul> </li> <li>• Briefing: Monday, 11 March 2019 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald and Nicole Gurrán</li> <li>○ <u>Council assessment staff</u>: Lina Kakish and Emmanuel Torres</li> </ul> </li> <li>• Final briefing to discuss council’s recommendation, Tuesday, 9 June 2020, 9:25pm. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurrán, Louise Camenzuli and Peter Harle</li> <li>○ <u>Council assessment staff</u>: Emmanuel Torres and Boris Santana</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report