

Memo -

Date created:	30 June 2021
Application Number:	DA-836/2020 (Your reference PPSSWC-114)
Author:	Architectus Australia Pty Ltd
To:	Planning Panel Secretariat

Comments:	<p>This application was presented to the Sydney Western City Planning Panel (SWCPP) at the meeting on 28 June 2021. At the meeting on 28 June 2021, the SWCPP requested that amendments be made to the revised Attachment 1 – <i>Draft Conditions of Consent</i> to address matters raised from a briefing meeting with the Council assessment staff as well as from submissions made during the public meeting. This memo has been prepared to detail changes to the conditions for determination by the SWCPP.</p> <p>Attached to this Memo is a copy of Attachment 1 – <i>Draft Conditions of Consent</i> which includes the changes detailed in the table overleaf.</p>
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Subject Condition	Reasons for change	Proposed condition
A. General Conditions		
<p>2. Amended details and documentation must be submitted to and approved by Council's Manager of Development Assessment prior to the issue of the first Construction Certificate. These documents must include:</p> <p>a) Amended civil and stormwater design details that are consistent with the final layout inclusive of the following amendments as requested by Council's Development Engineers:</p> <p>i. In addition to the installation of the proposed butterfly grate in Scott Street, an additional grated gully pit must be provided clear of the new driveway with a minimum 1.8m EKI.</p> <p>ii. Full details of how the basement levels are to be drained must be included in the application for a Construction Certificate. Plans must include details of pump out pits, subsoil drainage pipes and pits and grate details for driveways and other entry points.</p> <p>b) The applicant shall develop a prototype of the façade system for the proposed library building and prepare 1:1 scale VMU (visual mock ups) to demonstrate the functioning of the façade system.</p> <p>c) Amended architectural and landscape design that incorporate the following amendments requested by Council's Public Domain and City Design Team:</p> <p>i. The minimum clear trunk height for tree planting is to be 4m within the public domain, except where the trees are required to mitigate wind impacts, in accordance with the recommendations contained in the Pedestrian Wind Environment Study prepared by Windtech dated 24 September 2020.</p>	<p>A public submission raised concerns relating to the proposed development and its relationship with the adjoining site, particularly in relation to both privacy, access and landscaping.</p> <p>Relevantly, the public submission referred to a Deed of Agreement (DoA) that had been prepared between the landowners of 300 Macquarie Street and Council as the owner of 306-310 Macquarie Street.</p> <p>The draft DoA (note, not yet executed) stipulates the agreed terms between Council and the adjoining landowner to vary a Light & Air easement burdening 306-310 Macquarie Street (Lot 201) and benefiting 300 Macquarie Street (Lot 200) in DP 1224084.</p> <p>The easement is limited in depth to RL 40.00 and is unlimited in height. The library building proposes an RL 41.35 which encroaches into the Light and Air Easement. The DoA will enable the library building to be built up to an RL 44.45, by varying the easement, subject to the agreed terms.</p> <p>Concerns raised in relation to both privacy and landscaping are discussed below with regard to the agreed terms of the DoA. Concerns relating to access were addressed by the applicant's response to the public submission, at the meeting.</p> <p><u>Note: only particular terms of the DoA have been provided where relevant, given the DoA is a privileged and confidential document. Council has also advised that the DoA has not been executed yet between the parties.</u></p> <p><u>Landscaping</u></p> <p>The DoA stipulates the following terms in relation to landscaping:</p> <p>"4 Landscaping</p> <p>4.1 On or around the time the Library Building is completed and prior to LCC landscaping Lot 201 in the Deposited Plan, LCC will consult with the Owners about the proposed landscaping and will submit to the Owners for consent landscaping plans.</p>	<p><i>Amended details and documentation must be submitted to and approved by Council's Manager of Development Assessment prior to the issue of the first Construction Certificate. These documents must include:</i></p> <p><i>a) Amended civil and stormwater design details that are consistent with the final layout inclusive of the following amendments as requested by Council's Development Engineers:</i></p> <p><i>i. In addition to the installation of the proposed butterfly grate in Scott Street, an additional grated gully pit must be provided clear of the new driveway with a minimum 1.8m EKI.</i></p> <p><i>ii. Full details of how the basement levels are to be drained must be included in the application for a Construction Certificate. Plans must include details of pump out pits, subsoil drainage pipes and pits and grate details for driveways and other entry points.</i></p> <p><i>b) The applicant shall develop a prototype of the façade system for the proposed library building and prepare 1:1 scale VMU (visual mock ups) to demonstrate the functioning of the façade system.</i></p> <p><i>c) Amended architectural and landscape design that incorporate the following amendments requested by Council's Public Domain and City Design Team:</i></p> <p><i>i. The minimum clear trunk height for tree planting is to be 4m within the public domain, except where the trees are located in 306-310 Macquarie Street and where the trees are required to mitigate wind impacts, in accordance with the recommendations</i></p>

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	ii. Provide low planting at the back of kerb along Scott Street, where there are no pedestrian or vehicle crossing or entry points, in accordance with Liverpool Council Public Domain Master Plan.	<p>4.2 The Owners' consent referred to in clause 4(a):</p> <p><i>(a) must not be unreasonably withheld or delayed; and</i></p> <p><i>(b) will be deemed to have been given if the Owners does not either consent or comply with clause 4(c) within 10 Business Days and in that case LCC may landscape as it chooses.</i></p> <p>4.3 If the Owners does not consent to the landscaping plans, it must give LCC written notice within 10 Business Days giving detailed reasons as to why it does not consent and provide LCC with alternative landscaping. LCC must then consider the Owners' alternative landscaping and re-submit landscaping plans for the Owners' consent in accordance with clause 4(a)."</p> <p>The public submission raised concerns with the tree species (i.e. Chinese Tallowood) proposed at 306-310 Macquarie Street as these trees screen the exposure of ground floor retail from the public domain and impact on light and air to residences above.</p> <p>In particular, the concern relates mainly to the Chinese Tallowoods which are proposed to be planted within the "existing planter (modified)" and not the Chinese Tallowood in the new curved planter at the street frontage.</p> <p>In its current form, the "existing planter (modified)" predominantly comprises of low scale plantings such as shrubs. Accordingly, it is considered that the retention of these species within the modified planter would alleviate the concerns raised by the submission.</p> <p>A condition will be imposed for amendments to the architectural and landscape plans for a planting arrangement that is consistent in scale with the current planter.</p> <p><u>Privacy</u></p> <p>Although there are no terms of agreement within the DoA that are specific to these matters, the public submission raised concerns with the privacy impacts and light spill. In response, the applicant indicated that fixed privacy screening is proposed on Level 01 and</p>	<p>contained in the Pedestrian Wind Environment Study prepared by Windtech dated 24 September 2020.</p>
	iii. Appropriate treatments to the paths where they cross with vehicle entry/exit points is to be provided along Terminus Street to promote pedestrian priority.		ii. Provide low planting at the back of kerb along Scott Street, where there are no pedestrian or vehicle crossing or entry points, in accordance with Liverpool Council Public Domain Master Plan.
	iv. A clear solution around cyclist movements is required, and should consider the various uses on the site and anticipated hours of usage for the various buildings.		iii. Appropriate treatments to the paths where they cross with vehicle entry/exit points is to be provided along Terminus Street to promote pedestrian priority.
	v. Details around tree planting, including location, heights, canopy spread, and species.		iv. A clear solution around cyclist movements is required, and should consider the various uses on the site and anticipated hours of usage for the various buildings.
	vi. Details on material selections nominated for the public domain and landscaped areas.		v. Details around tree planting, including location, heights, canopy spread, and species.
	vii. Provide evidence that access through the public domain is compliant and adequately planned and sized.		vi. Details on material selections nominated for the public domain and landscaped areas.
	viii. Awnings are required to be incorporated along the Terminus Street frontage to provide weather protection to pedestrians.		vii. Provide evidence that access through the public domain is compliant and adequately planned and sized.
	ix. Evidence that tree locations are optimal and will not provide any safety risks.		viii. Awnings are required to be incorporated along the Terminus Street frontage to provide weather protection to pedestrians.
	x. Detail the proposed paths of travel, access points to buildings, rest areas, and activation zones within the public domain areas, and also the connections to the street network and contribution to the existing public domain.		ix. Evidence that tree locations are optimal and will not provide any safety risks.
			x. Detail the proposed paths of travel, access points to buildings, rest areas, and activation zones within the public domain areas, and

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	<p>xi. Provide various functional overlays for the public domain areas, such as event scenarios and test-fits. This is to ensure the design for the public domain spaces are fit for purpose, and provide appropriate flexibility from a functional and servicing perspective.</p> <p>xii. Provide detail on materials and finishes to buildings.</p>	<p>02 at the interface of the library facing the residences to protect the privacy of the residences.</p> <p>In relation to light spill, the floor layouts would be designed to locate low use areas at this interface in order to limit the lighting requirements. Furthermore, it was noted that any design would need to comply with the applicable standards so as not to impact upon the amenity of the occupants of adjoining and nearby premises.</p> <p>Notwithstanding, it was requested that the fixed privacy screens located on Level 01 and 02 also be provided on the upper ground level to further reduce the potential for privacy impacts and light spill. The applicant agreed to increase the amount of fixed privacy screens to the library. A condition has been imposed to this effect.</p>	<p><i>also the connections to the street network and contribution to the existing public domain.</i></p> <p>xi. <i>Provide various functional overlays for the public domain areas, such as event scenarios and test-fits. This is to ensure the design for the public domain spaces are fit for purpose, and provide appropriate flexibility from a functional and servicing perspective.</i></p> <p>xii. <i>Provide detail on materials and finishes to buildings.</i></p> <p>xiii. The “existing planter (modified)” at 306-310 Macquarie Street shall provide an alternative planting arrangement that is consistent in scale with the current planting in that planter.</p> <p>xiv. Fixed privacy screening proposed on Level 01 and 02 of the library building should also be provided on the upper ground level to protect privacy of the residences.</p>
6.	Prior to the issue of the first Construction Certificate, a detailed signage and wayfinding strategy must be submitted to and approved by Council's Manager City Design and Public Domain Manager. The Strategy shall include a suite of custom-designed signs for the public domain which are designed in accordance with any applicable wayfinding specifications.	It was requested that Condition 6 be amended so that any wayfinding strategy would incorporate the adjoining development at 300 & 306-310 Macquarie Street into the overall strategy. This would ensure that the development is designed not only so that it provides the best outcome for pedestrian movement between these sites, but also enhances these connections via a suitable wayfinding strategy.	Prior to the issue of the first Construction Certificate, a detailed signage and wayfinding strategy must be submitted to and approved by Council's Manager City Design and Public Domain Manager. The Strategy shall include a suite of custom-designed signs for the public domain which are designed in accordance with any applicable wayfinding specifications. The Strategy shall consider the relationship between the proposed development and 300 & 306-310 Macquarie Street and provide recommendations for wayfinding.
13.	A Design Integrity Panel is to be convened at the expense of the applicant to undertake a design review of the proposed development:	The Panel mirrored concerns in relation to the ability of Council's Manager to direct matters concerning the Design Integrity Panel, being an independent panel commissioned to oversee the design quality of a project, being undertaken by Council. As such, it is	A Design Integrity Panel is to be convened at the expense of the applicant to undertake a design review of the proposed development:

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<p>a) A design review is to be convened at the discretion of Council's Manager of Development Assessment at each of the following stages to ensure that the proposed development achieves the design intent of the DA approved plans in a manner consistent with the advice of the Design Excellence Panel and Public Domain Design Panel:</p> <ul style="list-style-type: none"> i. Prior to the determination of any Section 4.55 which modifies the design intent, ii. Prior to the issue of any relevant Construction Certificate, and iii. Prior to the issue of any relevant Occupation Certificate. <p>b) As part of each design review, a Design Integrity Panel is to be convened, made up of at least three (3) members of Council's Design Excellence Panel. The Panel is to be chaired by the nominated chair of Council's Design Excellence Panel or his or her nominee.</p> <p>c) At the conclusion of the review, the Design Integrity Panel is to record the outcome of its review and any recommendations within a report or minutes.</p> <p>d) Any recommendations made by the Design Integrity Panel are to be incorporated by the applicant to the satisfaction of the Design Integrity Panel.</p> <p>e) Written confirmation that the proposed development achieves the design intent of the DA approved plans in a manner consistent with the advice of the Design Excellence Panel and Public Domain Design Panel is to be obtained from Design Integrity Panel:</p> <ul style="list-style-type: none"> i. Prior to the issue of any relevant Construction Certificate for construction certificate plans, and 	<p>considered that the Design Integrity Panel would be better placed to determine the relevancy of each construction stage for a design review. This would ensure that the PCA is not responsible for determining which construction stage is relevant for the consideration of the Panel. The condition is to be modified accordingly.</p>	<p>a) A design review is to be convened at the discretion of Council's Manager of Development Assessment at each of the following stages to ensure that the proposed development achieves the design intent of the DA approved plans in a manner consistent with the advice of the Design Excellence Panel and Public Domain Design Panel:</p> <ul style="list-style-type: none"> i. Prior to the determination of any Section 4.55 which modifies the design intent, ii. Prior to the issue of any relevant Construction Certificate, and iii. Prior to the issue of any relevant Occupation Certificate. <p>The Panel Chair is to nominate the relevancy of each Construction Certificate and Occupation Certificate for a design review.</p> <p>The Panel Chair is to confirm in writing whether a design review is required to both Council and the PCA.</p> <p>b) As part of each design review, a Design Integrity Panel is to be convened, made up of at least three (3) members of Council's Design Excellence Panel. The Panel is to be chaired by the nominated chair of Council's Design Excellence Panel or his or her nominee.</p> <p>c) At the conclusion of the review, the Design Integrity Panel is to record the outcome of its review and any recommendations within a report or minutes.</p> <p>d) Any recommendations made by the Design Integrity Panel are to be incorporated by the</p>

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	<p>ii. Prior to the issue of any relevant Occupation Certificate for the completed building works.</p> <p>The Principal Certifying Authority (PCA) will not issue these certificates unless they have been provided with a copy of this written confirmation from the Design Integrity Panel.</p>		<p><i>applicant to the satisfaction of the Design Integrity Panel.</i></p> <p>e) <i>Written confirmation that the proposed development achieves the design intent of the DA approved plans in a manner consistent with the advice of the Design Excellence Panel and Public Domain Design Panel is to be obtained from Design Integrity Panel:</i></p> <p>i. <i>Prior to the issue of any relevant Construction Certificate for design documentation construction certificate plans, and</i></p> <p>ii. <i>Prior to the issue of any relevant Occupation Certificate for the completed building works.</i></p> <p><i>The Principal Certifying Authority (PCA) will not issue these certificates unless they have been provided with a copy of this written confirmation from the Chair of the Design Integrity Panel.</i></p>
		<p>The Panel also highlighted the importance of retaining the design architect throughout the process. Retaining the involvement of the design architect at each construction stage, coupled with the added scrutiny of the Design Integrity Panel provides for a mechanism that ensures the design quality and excellence of the scheme through to project completion. A condition will be added to this effect.</p>	<p><i>In order to ensure the design quality excellence of the development is retained, the design architect, FJMT, is to have direct involvement in the design documentation and construction stages of the project including signing off any required certifications at S4.55 applications, Construction Certificate and Occupation Certificate stages.</i></p> <p><i>Evidence of the design architect's commission must be provided to the Design Integrity Panel for any construction stages nominated for a design review as per Condition 13 of this Development Consent and to Council's Manager of Development Assessment in all other instances where a design review is not required.</i></p> <p><i>The design architect for the project must not change without prior approval of the Design Integrity Panel and Council.</i></p>

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			<i>The PCA must be satisfied that the above matters are complied with prior to the issue of any relevant Construction and Occupation Certificates.</i>
B. Conditions to be complied with or addressed prior to issue of a Construction Certificate			
15	<p>As a consequence of this development, Council has identified an increased demand for public amenities and public services. The following payment represents 3% of the cost of the development and is imposed in accordance with Section 7.12 of Liverpool Contributions Plan 2018 - Liverpool City Centre.</p> <p>The total contribution is \$4,534,716 and will be adjusted at the time of payment in accordance with the contributions plan.</p> <p>A breakdown of the contributions payable is provided in the attached payment form.</p> <p>The Contributions Plan may be inspected online at www.liverpool.nsw.gov.au.</p> <p>Payment must be accompanied by the attached form. The payment must be made prior to the first Construction Certificate.</p>	<p>The Minister issued the <i>Environmental Planning and Assessment (Local Infrastructure Contributions – Timing of Payments) Direction 2020</i> on 25 June 2020. The direction prohibits a consent authority from imposing a condition on the grant of development consent for the payment of a levy under section 7.12 of the Act at any time that is earlier than before the issue of an occupation certificate. An extension was made to the prescribed period for timing of local infrastructure contribution payments until 31 March 2022. As such, the condition for payment of contributions and levies will require payment of contributions prior to OC and not CC. This is numbered as condition 104.</p>	<p><i>As a consequence of this development, Council has identified an increased demand for public amenities and public services. The following payment represents 3% of the cost of the development and is imposed in accordance with Section 7.12 of Liverpool Contributions Plan 2018 - Liverpool City Centre.</i></p> <p><i>The total contribution is \$4,534,716 and will be adjusted at the time of payment in accordance with the contributions plan.</i></p> <p><i>A breakdown of the contributions payable is provided in the attached payment form.</i></p> <p><i>The Contributions Plan may be inspected online at www.liverpool.nsw.gov.au.</i></p> <p><i>Payment must be accompanied by the attached form. The payment must be made prior to the first Construction Occupation Certificate.</i></p>