

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY WESTERN CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	Monday, 5 July 2021
<b>PANEL MEMBERS</b>	Nicole Gurran (Acting Chair), Sue Francis and Noni Ruker
<b>APOLOGIES</b>	Justin Doyle & Sandra Hutton
<b>DECLARATIONS OF INTEREST</b>	<p>Louise Camenzuli: One of my Partners at Corrs Chambers Westgarth has advised the site owner or an affiliated entity of the site owner. As a Partner of the firm, I consider that this fact, while the relevant file is unrelated to the proposal being assessed, may result in a reasonably perceived conflict of interest.</p> <p>Wendy Waller: This DA is for a Council development and I am declaring a conflict of interest in this matter.</p> <p>Peter Harle: Liverpool City Council is the owner of the building I declare a significant interest</p> <p>Nathan Hagarty: I am a Councillor at Liverpool City Council. Liverpool City Council is the owner and will be the major occupant of this development. As such, I have a Conflict of Interest.</p> <p>Karen Rhodes: As the property is owned by Liverpool Council, I do have to declare an non-pecuniary interest</p>

Public meeting held by teleconference on 28 June 2021, opened at 11:04am and closed at 12:15pm.

#### MATTER DETERMINED

PPSSWC-114 – Liverpool – DA-836/2020 at 40-46, 48, 52 and 64 Scott Street, Liverpool 306-310 Macquarie Street, Liverpool Development Application (DA-836/2020) seeks detailed consent in accordance with approved Concept Proposal (DA-585/2019) for Stage 2 (Phase A) of the ‘Liverpool Civic Place’ (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.

#### Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Liverpool Local Environmental Plan 2008 (LEP), that has demonstrated that:

- compliance with cl. 7.4 (Building separation in Liverpool city centre) is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- the applicant’s written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 7.4 (Building separation in Liverpool City Centre) of the LEP and the objectives for development in the B4 Mixed Use zone; and
- the concurrence of the Secretary has been assumed.

## 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

The Panel determined to uphold the Clause 4.6 variation to building separation; and approve the application for the reasons outlined in the council assessment report.

In particular, the Panel notes that:

- A clause 4.6 request within the Concept Plan approval for the development varied the 12m building separation requirements (clause 7.4 of the Liverpool LEP), permitting separation distances between the northern portion of the public administration building podium and 300 Macquarie St of between 0.8m-4m. This proposal remains consistent with the Concept Plan approval but increases these building separation distances to 2.6-5.5m, reducing the scale of the variation. Accordingly, a new clause 4.6 request accompanied this proposal, to reflect the actual separation distances proposed. In considering the justification for the non-compliance, the Panel is of the view that the variation remains consistent with the objectives of the standard and the zone.
- The scheme has been endorsed by the Liverpool Design Excellence Panel as exhibiting design excellence, in accordance with clause 7.5 of the Liverpool LEP 2008, and has benefited from the input of a Design Integrity Panel which will continue to provide input as required, at critical stages of the development.
- Overall, the proposed development achieves a high-quality design outcome which will contribute much needed community facilities in this important site within the Liverpool city centre.

## CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments (shown as strikethrough deletions or bolded additions).

- Condition 2

c) Amended architectural and landscape design that incorporate the following amendments requested by Council's Public Domain and City Design Team:

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

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.

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.

- Condition 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. **The Strategy shall consider the relationship between the proposed development and 300 & 306-310 Macquarie Street and provide recommendations for wayfinding.**

- Condition 13

### **Design Integrity Panel**

1. A Design Integrity Panel is to be convened at the expense of the applicant to undertake a design review of the proposed development:

- (a) A design review is to be convened 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:
  - 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.

The Panel Chair is to nominate the 'relevancy' of each Construction Certificate and Occupation Certificate prior to any requirement for a design review.

The Panel Chair is to confirm in writing whether a design review is required to both Council and the PCA.

- (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.
- (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.
- (d) Any recommendations made by the Design Integrity Panel are to be incorporated by the applicant to the satisfaction of the Design Integrity Panel.
- (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:
  - i. Prior to the issue of any relevant Construction Certificate for design documentation, and
  - ii. Prior to the issue of any relevant Occupation Certificate for the completed building works.

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.

- Condition 14

### **Design Excellence and Design Quality**

2. In order to ensure the design quality excellence of the development is retained, the design architect, FJMT, is to ideally have direct involvement in the design documentation and construction stages of the project but at the minimum to sign off any required certifications at S4.55 applications, Construction Certificate and Occupation Certificate stages.

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 14 of this Development Consent and to Council's Manager of Development Assessment in all other instances where a design review is not required.

The PCA must be satisfied that the above matters are complied with prior to the issue of any relevant Construction and Occupation Certificates.

- Condition 104

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.

The total contribution is \$4,534,716 and will be adjusted at the time of payment in accordance with the contributions plan.

A breakdown of the contribution's payable is provided in the attached payment form.

The Contributions Plan may be inspected online at [www.liverpool.nsw.gov.au](http://www.liverpool.nsw.gov.au).




Payment must be accompanied by the attached form. The payment must be made prior to the first Construction **Occupation** Certificate.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- Privacy, landscaping and wheelchair accessibility
- Traffic and parking
- The assessment process
- Heritage
- Site isolation
- LEP controls
- Light spill
- Wayfinding

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report, public meeting, and revised conditions, and that no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing these issues the proposal was independently assessed by urban planning consultants Architectus Australia; and that appropriate conditions have been imposed to address privacy and landscaping concerns.

PANEL MEMBERS	
 Nicole Gurrán (Acting Chair)	 Sue Francis
 Noni Ruker	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-114 – Liverpool – DA-836/2020
2	PROPOSED DEVELOPMENT	<p>Modification to Development Consent DA-585/2019 under Section 4.55(1A) of the Environmental Planning and Assessment Act 1979. The application seeks to modify the approved consent as follows:</p> <ul style="list-style-type: none"> <li>• to increase the depth of the approved basement concept envelope from RL 8.00 to RL 4.00 for the component of the envelope associated with the Phase A basement and part of the Phase B/C basement of the Liverpool Civic Place development;</li> <li>• rectification of a drafting error in the approved Concept Consent condition 3, to make clear that a boarding house use is approved within the Phase B/C envelope, in accordance with the stamped approved building envelope drawings;</li> <li>• deletion of condition 10, with associated changes to plans in Condition 1 to reference plans that were submitted in satisfaction of Condition 10;</li> <li>• modification of the wording of condition 23 to remove the requirement for SIDRA analysis using traffic generation rates in the TfNSW guide as part of traffic impact assessments submitted with the Stage 2 Detailed DAs;</li> <li>• deletion of condition 7 requiring a Local Area Traffic Management Plan to be provided to Council prior to the determination of a Stage 2 Detailed DA, and</li> <li>• deletion of condition 27 relating to the requirement submit a Travel Plan with any future Stage 2 Detailed DA.</li> </ul>
3	STREET ADDRESS	40-46, 48, 52 and 64 Scott Street, 306-310 Macquarie Street, Liverpool NSW 2170 Known as 52 Scott Street, Liverpool ('Liverpool Civic Place')
4	APPLICANT/OWNER	<p>Applicant: Ethos Urban</p> <p>Landowner: Liverpool City Council</p>
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<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 (SEPP55)</li> <li>○ State Environmental Planning Policy (State and Regional Development) 2011</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment</li> <li>○ Liverpool Local Environmental Plan 2008 (LLEP2008)</li> </ul> </li> <li>• Draft environmental planning instruments: <ul style="list-style-type: none"> <li>○ Draft State Environmental Planning Policy (Remediation of Land)</li> <li>○ Draft State Environmental Planning Policy (Environment)</li> </ul> </li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Liverpool Development Control Plan 2008 (LDCP2008)</li> <li>○ Part 1 – Controls to all development</li> <li>○ Part 4 – Development in Liverpool City Centre</li> </ul> </li> <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> </ul>

		<ul style="list-style-type: none"> <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 memo and updated draft conditions received: 25 June 2021</li> <li>• Council assessment report: 16 June 2021</li> <li>• Clause 4.6 Variation request to development standard – building separation</li> <li>• Written submissions during public exhibition: 1</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Gerard Turrisi and Ned Mannoun</li> <li>○ On behalf of the applicant – Andrew Duggan, Chris Bridge, Luke Feltis, Andrew Morse and Barry Teeling</li> </ul> </li> <li>• Total number of unique submissions received by way of objection: 1</li> </ul>
8	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Briefing: Tuesday, 15 December 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurrán and Sandra Hutton</li> <li>○ <u>Council assessment staff</u>: George Nehme, Boris Santana and Lina Kakish</li> <li>○ <u>Applicant representatives</u>: Jane Fielding and Boris Santana - Architectus</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: Monday, 28 June 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Nicole Gurrán (Acting Chair), Sue Francis and Noni Ruker</li> <li>○ <u>Council assessment staff</u>: George Nehme, Ariz Ashraf, Charles Wiafe and Salih Suleiman</li> <li>○ <u>Applicant representatives</u>: Jane Fielding and Boris Santana - Architectus</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report