

DETERMINATION AND STATEMENT OF REASONS

SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	Tuesday, 3 May 2022
DATE OF PANEL DECISION	Monday, 2 May 2022
DATE OF PANEL MEETING	Monday, 19 April 2022
PANEL MEMBERS	Justin Doyle (Chair), Nicole Gurran and Sandra Hutton
APOLOGIES	None
DECLARATIONS OF INTEREST	<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>Peter Harle: As a Councillor on Liverpool City Council and as this is a Development Application by Liverpool City Council, I declare I have a significant interest and therefore will not be part of the assessment Panel.</p> <p>Wendy Waller: This is for a Council development and I am declaring a conflict of interest in this matter, as will all councillors at Liverpool City Council.</p>

Papers circulated electronically on 11 April 2022.

MATTER DETERMINED

PPSSWC-127 – Liverpool City Council – DA-1080/2020 at 40-46, 48 and 52 Scott Street, Liverpool – Development Application (DA-1080/2020) seeks detailed consent in accordance with approved Concept Proposal (DA-585/2019) for Stage 2 (Phase B/C) 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 listed at item 8 in Schedule 1.

Application to vary development standards

The Panel has considered the applicant’s written requests made under clause 4.6 of Liverpool LEP 2008 (LEP) to permit a departure from the development standards recorded by Clause 7.3 - Car Parking in Liverpool City Centre and Clause 7.4 – Building Separation in Liverpool City Centre in the determination of the DA which are addressed separately as follows.

Numerical non-compliance with Clause 7.3- Car Parking in Liverpool City Centre

The shortfall against the numerical car parking requirement under Clause 7.3 of the LEP arises because 167 car parking spaces (5 car parking spaces for Ground Floor Uses, 142 spaces for commercial office uses and 20 spaces for Hotel Uses) have been calculated as required to be provided by Council staff. Only 150 car parking spaces (5 car parking spaces for Ground Floor Uses, 125 spaces for commercial office Uses and 20 spaces for Hotel Uses) are provided. The resulting shortfall totals 17 spaces, which have been allocated to the required commercial parking. Both TfNSW and Council’s Traffic and Transport Branch were referred the DA and raised no concern about the shortfall. Strict application of the development standard is not necessary given those matters and noting that the site is close to major transport hubs including Liverpool Council, that public parking to be provided in DA-836/2020, and that adequate bicycle parking and end-of-trip facilities are depicted in the plans.

Notably, the reduction in parking below that is required by the LEP also results in a shortfall when measured against the concept plan as originally approved. However, around the time of the public meeting Council approved a s.4.55(1A) modification to ensure there was no non-compliance.

Numerical noncompliance with Clause 7.4 – Building Separation in Liverpool City Centre

The strict application of clause 7.4 requires a separation distance from neighbouring buildings and between separate towers or other separate raised parts of the same building, of at least 12 metres for parts of buildings between 25 and 45 metres above finished ground level on land within Zone B3 Commercial Core or B4 Mixed Use. The separation required increases to 28 metres for parts of buildings 45 metres or more above ground level (finished) on land in those zones.

There are two distinct areas of non-compliance reported. They are:

- (a) non-compliance with the required building separation between the proposed commercial office building and the approved south-western public administration building reported to range from 19.7 to 27.7m above 45m in height (rather than 28m leading to a non-compliance extending from 0.3m (1.1%) to 8.3m (29.6%). These non-compliances are in fact substantially less than those allowed for in the approved concept plan.
- (b) non-compliance with the required building separation between the proposed commercial office building and hotel building ranging from 4.5m to 6.8m and between 25m and 45m in height above ground level. The minimum separation distance required by Clause 7.4(2)(d) is 12m, resulting in a variation ranging from 5.2m (43.3%) to 7.5m (62.5%). The non-compliance is however limited to two storeys of the hotel building only and does not create any new amenity issue that was not anticipated by the concept plan approval. Instead, the non-compliance is associated with changes to the design of the hotel building to introduce a physical separation from the office building to the south. This design change permits an east-west laneway connection between these buildings which increases the pedestrian permeability of the development.

The Panel is satisfied that it is in the public interest to grant the variation requests to each of clauses 7.3 and 7.4 of the LEP, and that the requests both adequately address the matters required to be addressed under cl 4.6 (3) of the LEP. There are sufficient environmental planning grounds identified and established in the written request to justify contravening the development standard such that compliance would be unreasonable or unnecessary in the circumstances.

The development as proposed will be consistent with the objectives of clauses 7.3 and 7.4 of the LEP and the objectives for development in the zones in which the building is located for the reasons set out in the Council Assessment Report.

The design remains one which plainly incorporates sophisticated architectural design, and the non-compliances are well resolved without any internal or external loss of amenity. Taking those matters into account, it is in the public interest to allow the non-compliances.

The concurrence of the Secretary is assumed (see Planning Circular PS 20-002 issued 5 May 2020).

Development application

The Panel determined unanimously to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

This stage 2 of the overall development anticipated by the approved concept plan for the site will add commercial and employment generating uses to the public uses included in Stage 1 approved by the consent granted to DA-836/2020 on 5 July 2021. Together, those two stages will mark a major contribution towards the rejuvenation of the core of the City of Liverpool as the heart of the Town Centre development strategy anticipated when the original staged development consent was granted.

The detailed architectural scheme for the new hotel and commercial building continues the sophisticated and refined design for the overall project developed with extensive work by the Council's Design Excellence Panel (DEP) and the Public Domain and Landscaping Design Excellence Panel (PDELAP) convened as a special initiative for this project (at the encouragement of this Panel). The Panel hopes that the standard of its design, and particularly the concentration on animated engagement of the public realm particularly at ground level and concentration on quality pedestrian access and permeability, will set a standard for the wider development of the commercial core.

One major change to this part of the Commercial Core will be the creation of the new through way between Terminus Street and the Terminus Street Plaza down to the shared way and public spaces fronting Scott Street, and associated landscaping. That connection should radically improve the area as part of Liverpool emerging as a liveable modern city. Notably, the improved resolution of the building separation in that area and associated reduction in the apparent bulk of the building in its relationship with the public parts of the project in the final design should accentuate that exiting new aspect of the city centre.

Recessed double height glazed frontages will engage the street in the pedestrian thoroughway, and allow good casual surveillance into the public spaces at ground level. Art is proposed to be visible from within the north-western corner in the foyer of the commercial office building, overlooking the through site link connecting Scott Street and Terminus Street. While in general art within commercial lobbies does not qualify as public art even where visible from the street, the high quality of the public engagement of these buildings and surrounding landscaping means that this aspect of the development is nonetheless viewed as a worthy contribution in this instance. The Council staff also report that other locations for public art in the overall scheme have been selected and will be further developed in consultation with Council as part of a Public Art Strategy to be conditioned.

The proposal includes significant plantings including the Terminus Street pocket park and proposed Scott Street pocket park, as well as elevated plantings at the Level 7 terrace in the office building and Level 8 of the hotel building. With that greening, the responsive elements of the podium and tower that connect with the surrounding development and public domain, and the engaged retail spaces, the building should be perceived and enjoyed as an interesting and welcoming destination in the city centre, that works well in the context of the surrounding nearby heritage items, having regard to clause 5.10 of the LEP and relevant parts of the DCP. No unacceptable impacts are anticipated to the significance of the adjacent 'Memorial School of Arts'.

While there is some numerical non-compliance in terms of the LEP requirements for parking, the management of traffic, vehicular access and parking provision for the new buildings should work well, and are supported by the Council's traffic section and TfNSW subject to conditions and terms of approval. No unacceptable impacts are anticipated on nearby intersections. A minor non-compliance with the approved Concept Plan was removed with approval of a s 4.55(1A) modification assessed concurrently and approved by Council. Good provision is made for bicycle parking and end of trip facilities.

Both the proposed high quality office space and hotel offering 84 rooms of accommodation (including 9 adaptable rooms) should add significantly to the Liverpool economy and available employment.

The extensive requirements of the Concept Plan approval (including particularly the required collaborative work associated with the Public Domain and Landscape Plan) are considered to have been met.

The requirements of the applicable State instruments have been met, including the requirements associated with the potential for contamination on site. Notably a Preliminary Site Investigation (PSI) was considered and conditions to address minor contamination were approved at an earlier stage of the concept plan approval process. A further condition picking up the requirements of the earlier approvals is included in the approval of this DA. Impacts on the Georges River and other biodiversity considerations are reported to be acceptable.

The development as approved is encouraging of the relevant objectives of the District Plan, and particularly those associated with Liverpool succeeding as a liveable and economically vibrant city.

Having regard to the matters discussed above and those reported on by the Council staff, the Panel saw the development as warranting approval. The Panel endorses the Council staff's reasons for approval being:

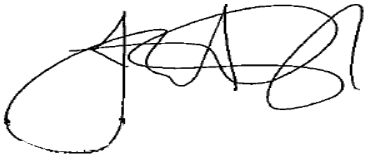


- The subject development application has been assessed having regard to the matters of consideration pursuant to Section 4.15(1) and 4.24 of the Environmental Planning and Assessment Act 1979 and is considered satisfactory;
- The proposal is consistent with the intended desired future character of the area, particularly when having regard to LLEP 2008;
- The proposal is consistent with the objectives of the B4 Mixed Use zone that is applicable to the site under the LLEP 2008;
- The proposed development is considered to acceptable with regards to the relevant considerations of Clause 4.6 of LLEP 2008, notwithstanding non-compliance with the development standards in Clauses 7.3 and 7.4 of LLEP 2008;
- The proposal has undergone an extensive design review process and has satisfied the applicable objectives and provisions of LLEP 2008 including the provisions of Clause 7.5 relating to design excellence; and
- The proposal is consistent with the Concept Development Consent and provides a scheme that is consistent with all the additional provisions of Clause 7.5A relating to land in the City Centre.

CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered one written submission made during public exhibition by the adjacent property owner at 300 Macquarie Street, who generally supported the development.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Nicole Gurran
 Sandra Hutton	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-127 – Liverpool City Council – DA-1080/2020
2	PROPOSED DEVELOPMENT	<p>Development Application (DA-1080/2020) seeks detailed consent in accordance with approved Concept Proposal (DA-585/2019) for Stage 2 (Phase B/C) of the 'Liverpool Civic Place'.</p> <ul style="list-style-type: none"> - Construction and use of a 22-storey commercial office building, comprising lower ground and upper ground retail floor space and 19 commercial office levels (excluding plant level); - Construction and use of a 9-storey hotel building, comprising lower ground level retail floor space and 8 hotel levels; - Construction of a 4-level basement, that will accommodate car, bicycle and motorbike parking as well as loading facilities; - Landscaping and public domain works; and - Extension and augmentation of services and infrastructure as required.
3	STREET ADDRESS	40-46, 48 and 52 Scott Street, Liverpool
4	APPLICANT/OWNER	<p>Applicant: Built Group</p> <p>Owner: Liverpool City Council</p>
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ Liverpool Local Environmental Plan 2008 (LLEP2008) • Draft environmental planning instruments: <ul style="list-style-type: none"> ○ Draft State Environmental Planning Policy (Remediation of Land); and ○ Draft State Environmental Planning Policy (Environment). • Development control plans: <ul style="list-style-type: none"> ○ Liverpool Development Control Plan 2008 ○ 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>: Consideration of the provisions of the Nation Construction Code of Australia • 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 • 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: 7 April 2022 • Clause 7.3 and Clause 7.4 of LLEP 2008 • Written submissions during public exhibition: 1
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: Monday, 8 March 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran and Sandra Hutton ○ <u>Council assessment staff</u>: Boris Santana and George Nehme ○ <u>Consultant assessment staff</u>: Jane Fielding - Architectus • Final briefing to discuss council's recommendation: Tuesday, 19 April 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran and Sandra Hutton ○ <u>Council assessment staff</u>: Boris Santana (Architectus), Jane Fielding (Architectus), Kevin Kim, Brenton Toms, William Attard, Michael Oliveira ○ <u>Applicant Representatives</u>: Luke Feltis, Chris Ferreira, Daniel Brabant, Emma Bernardi, Jonathan Lynn
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report