

DETERMINATION AND STATEMENT OF REASONS

SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	Monday, 31 August 2020
PANEL MEMBERS	Justin Doyle (Chair), Nicole Gurran and Noni Ruker
APOLOGIES	None
DECLARATIONS OF INTEREST	Wendy Waller: Mayor of the Council applicant. Ali Karnib: Deputy Mayor of applicant Council Peter Harle and Nathan Hagerty: Councilors of the Council applicant. Louise Camenzuli: A partner at her firm Corrs Chambers Westgarth has an open file for the applicant of the above development proposal. While the relevant file is unrelated to the proposal being assessed, this fact may result in a reasonably perceived conflict of interest.

Public meeting held Public Teleconference on 31 August 2020, opened at 11:08 am and closed at 12:21 pm.

MATTER DETERMINED

PPSSWC-30 – Liverpool City Council – DA-585/2019 at 40-46 Scott Street, Liverpool – Concept development application made pursuant to section 4.22 (as described in Schedule 1), specifically to permit:

- Building envelope with a maximum height of RL 43.45 for the purpose of an information and education facility –public library use, and public domain;
- Building envelope with a maximum height of RL 84.25 for the purpose of a public administration building use and / or a commercial premises or child care centre uses;
- Building envelope with a maximum height of RL 118.85 which all accommodate either commercial premises, educational establishments, tourist and visitor accommodation or boarding house (student accommodation) uses;
- Landscaping and public domain concept including the provision of a public through site link running north to south through the site, connecting Scott Street to the north through to Terminus Street to the south;
- Building envelope for a three-level shared basement car park across the entire site to accommodate parking for all future uses (approx. 413 spaces) and accommodating a public car park to be owned by Council. This basement envelope is also proposed to include information and education facility uses; and
- Two vehicular access points to the site.

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

There are two areas of non-compliance with Clause 7.4(2)(d) and Clause 7.4(2)(e) of the Liverpool LEP 2008 concerning building separation arising from the proposed concept:

- First, a nil separation is provided from the proposed south-western building envelope to the existing mixed-use building at 300 Macquarie Street up to nine storeys high. That non-compliance arises in the context of 300 Macquarie Street presenting a blank rear wall its western boundary,

with all apartments and tenancies of that building oriented to the north west. Issues of visual appearance, privacy and solar access which are the objectives of the standards are therefore unlikely to be compromised through that non-compliance.

- (ii) Second, adjacent to the central thoroughfare between Scott Street and Terminus Street, separation between the proposed south-western tower envelope and the eastern tower envelope is 12m above 45m in height, whereas the minimum separation required at this height by Clause 7.4(2)(e) strictly applied is 28m. The proposed variation to this development standard ranges from around 7m (25%) to 16m (57%).

Again however, the panel is satisfied that the aims of achieving a superior outcome in terms of visual appearance, privacy and solar access can be achieved without strict compliance provided that the final DA design responds to the pinch point between the two built forms with strong articulation and a creative approach to the final facades. That process has been begun with the rotation of the above podium tower on the western side of the thoroughfare. The issue of wind velocity between the two building elements will require further attention at detailed DA stage and potentially will require modelling of the final proposals to ensure a satisfactory result. Shadow modelling has been supplied to demonstrate that adequate compliance can be achieved in future detailed designs.

The Panel was particularly persuaded by the information included with the concept proposal to the effect that the envelopes for which approval is sought have been “deliberately designed as a ‘loose fit’ with sufficient excess volume to allow for design excellence to be achieved through the detailed building design and articulation”. The Panel will look to see that commitment carried through to the final design, and anticipates that it will be a strong theme in future consultation with Council’s Design Excellence Advisory Panel.

It is on that basis that following careful consideration of the design against the written request from the applicant, made under cl 4.6 (3) of the Liverpool Local Environmental Plan 2008 (LEP), that the Panel is satisfied that the proposal has demonstrated that:

- a) compliance with Clause 7.4(2)(d) and Clause 7.4(2)(e) of the Liverpool LEP 2008 is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standards.

The panel is satisfied that:

- a) the applicant’s written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of Clause 7.4(2)(d) and Clause 7.4(2)(e) of the LEP and the objectives for development in the B4 Mixed Use zone; and
- c) the concurrence of the Secretary to the variation has been assumed.

Development application

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

The decision was unanimous.

REASONS FOR THE DECISION

1. As has already been acknowledged with the approval of the preparatory and early works for the Liverpool Civic Place redevelopment, the project offers the potential to drive the rejuvenation of the core of the City of Liverpool as the heart of the Town Centre development strategy. As such it will form a key component of the establishment of Liverpool CBD as a vibrant source of

employment and civic life, completion of the Liverpool Civic Place will assist in the progress of the Western City District generally.

2. To achieve those goals it is vital that innovative and sophisticated urban design is employed to deliver an engaging relationship between the public domain spaces, the civic buildings and the adjacent commercial and residential towers. The Panel is satisfied that his concept proposal does this.
3. Notably, a condition is included in the development consent which implements a requirement for a Public Domain and Landscape Plan to be developed in close consultation with a *Public Domain Design Panel* through workshops involving the various areas of expertise within the Council. That condition is reflective of the key importance of the public domain elements of this proposal to the success of the project in adding life to this part of Liverpool's Centre.
4. While the Panel considered the Applicant's suggestion that a plan for the different elements of the public domain be developed 'prior to the determination of the relevant Detailed DA', the Panel were of the view that the public domain should be considered holistically at the outset, to better allow the buildings interacting responsively to it, rather than the public domain being left to respond to buildings that have already been conceived to an advanced stage. A set of design principles have been incorporated into the conditions which the Public Domain and Landscape Plan is to respond to. The extent to which resolved details of different parts of the public domain can be deferred will be a matter to be considered by the *Public Domain Design Panel*.
5. That process is one way of ensuring the final design achieves strong street level activation (including at the Terminus and Terminus Street Plaza building frontages).
6. The concept development proposal to the extent it has been resolved has demonstrated that future buildings will be able to meet the criteria necessary for the site to qualify for the bonus provisions allowed for under Clause 7.5A in relation to maximum height.
7. To a degree appropriate for this concept stage of the planning for this key site, issues of heritage, traffic impacts, efficient and safe pedestrian movement through the site, permeability and integration with the surrounding central Liverpool precinct have been sufficiently resolved, including with reference to the requirements and objectives of State Environmental Planning Policy (Infrastructure) 2007. The relevant objectives of B4 Mixed use will be achieved.
8. Issues of compliance with Liverpool LEP 2008, SEPP 55 and other applicable instruments have been considered, including during the assessment of DA-906/2019 for site preparation and early works on site.
9. The panel determined to uphold the Clause 4.6 variation to building height for the reasons outlined above; and to approve the concept development application having regard to the reasons outlined in the independent assessment report produced by Council's consultant planners - Architectus.

CONDITIONS

The development application was approved subject to the conditions at Attachment A to this determination.

CONSIDERATION OF COMMUNITY VIEWS

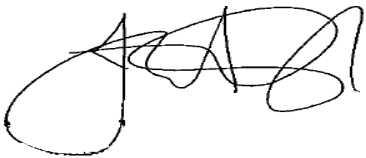
In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- The setback of the library building from 300 Macquarie Street
- Noise and access during construction
- Hoarding
- Access between Macquarie Street and 300 Macquarie Street, Liverpool
- Public domain interface

- Proposed site layout
- Wind assessment
- Light and air easement encroachment
- On site car parking

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

The panel notes that in addressing these issues conditions have been imposed to ensure a satisfactory outcome.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Nicole Gurrán
 Noni Ruker	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-30 – Liverpool City Council – DA-585/2019
2	PROPOSED DEVELOPMENT	The application seeks consent for the following land uses and building envelopes on the site: • Building envelope with a maximum height of RL 43.45 for the purpose of an information and education facility – public library use, and public domain; • Building envelope with a maximum height of RL 84.25 for the purpose of a public administration building use and / or a commercial premises or child care centre uses; • Building envelope with a maximum height of RL 118.85 which all accommodate either commercial premises, educational establishments, tourist and visitor accommodation or boarding house (student accommodation) uses; • Landscaping and public domain concept including the provision of a public through site link running north to south through the site, connecting Scott Street to the north through to Terminus Street to the south; • Building envelope for a three-level shared basement car park across the entire site to accommodate parking for all future uses (approx. 413 spaces) and accommodating a public car park to be owned by Council. This basement envelope is also proposed to include information and education facility uses; and • Two vehicular access points to the site.
3	STREET ADDRESS	40, 48, 52 and 64 Scott Street, Liverpool 306-310 Macquarie Street, Liverpool
4	APPLICANT/OWNER	Applicant: Built Group Owner: Liverpool City Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	• Environmental planning instruments: ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (State and Regional Development) 2011 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment ○ Liverpool Local Environmental Plan 2008 • Draft environmental planning instruments: Nil • Development control plans: ○ Liverpool Development Control Plan 2008 ○ Part 1 - Controls applying to all development ○ Part 4 – Development in Liverpool City Centre • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Environmental Planning and Assessment Regulation 2000 • 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	- Council assessment report: 19 August 2020 - Clause 4.6 request to vary Liverpool LEP 2008 Clause 7.4 Building separation in Liverpool City Centre - Written submissions received during public exhibition - Verbal submissions at the public meeting: - On behalf of the applicant – Gerard Turrisi, Luke Feltis and Andrew Morse - Total number of unique submissions received by way of objection: 3
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Briefing: Monday, 10 February 2020 <u>Panel members</u>: Nicole Gurran (Acting Chair) and Noni Ruker <u>Council assessment staff</u>: Katrina Burley Associate Urban Planner & Geoff Kwok Urban Planner - Re-Briefing: Tuesday, 14 April 2020 <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran and Noni Ruker (post the meeting via email) <u>Council assessment staff</u>: Katrina Burley Associate Urban Planner & Geoff Kwok Urban Planner - Final briefing to discuss council's recommendation: Monday, 31 August 2020 <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran and Noni Ruker <u>Council assessment staff</u>: Boris Santana and Lina Kakish <u>Consultants</u>: Katrina Burley and Geoff Kwok
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached