

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY WESTERN CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	15 December 2023
<b>DATE OF PANEL DECISION</b>	14 December 2023
<b>DATE OF PANEL BRIEFING</b>	12 December 2023
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Louise Camenzuli, David Kitto, Karress Rhodes, Ned Mannoun
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 5 December 2023.

#### MATTER DETERMINED

PPSSWC-304 – Liverpool – DA-1262/2022 – 402 Macquarie Street, Liverpool - Concept Development Application for the construction of a 31 storey mixed-use development consisting of the establishment of the building envelope, gross floor area, maximum building height, design excellence, public domain works, vehicular access and car parking provision, stormwater management and concept landscape design.

#### PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings and the matters 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:

- a) compliance with cl. 7.4 (building separation) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard,

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 cl. 7.4 (building separation) of the LEP and the objectives for development in the MU1 – Mixed Use zone.

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

#### 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

The panel determined to uphold the Clause 4.6 variation to building height; and approve the application for the reasons outlined in the Council's Assessment Report. In particular, the Panel was satisfied that the reduced setback to Carey Street is not considered to be unreasonable, given the prominent corner position of the site within the Liverpool City Centre and the need to accentuate the corner location of the site with a building that punctuates the site. In addition, the reduced setback to Carey Street does not have any impact on the building separation between the proposal and neighbouring buildings and there is no environmental impact upon the locality and adjoining sites.

While the Council's Assessment Report recommended refusal of the application on the sole basis of insufficient information regarding the environmental condition of the land, the Council informed the Panel at the meeting on 12 December 2023 that the outstanding information required to establish that the site could be made suitable for the proposed development had now been provided to the Council in advance of the Panel meeting, but post the Assessment Report.

On the basis of the additional information provided by the Applicant, the Panel was satisfied that compliance with clause 4.6 of the Resilience and Hazards SEPP had been achieved and the application could be determined favourably.





The Panel accepts and adopts the reasons for approval in the assessment report, but in relation to the requirements of Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021, notes that after that report was prepared, an additional DPI has been provided for the part of the site which had remained of concern to the Council which has been assessed to sufficiently address the statutory requirements. Issues of contamination will continue to be assessed when the detailed development applications are made as anticipated by the concept approval.

## CONDITIONS

The development application was approved subject to the conditions of consent dated 12 December 2023 and uploaded to the portal on 13 December 2023.

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
Justin Doyle (Chair) 	Louise Camenzuli 
David Kitto 	Karress Rhodes 

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-304 – Liverpool – DA-1262/2022
2	PROPOSED DEVELOPMENT	Concept Development Application for the construction of a 31 storey mixed-use development consisting of the establishment of the building envelope, gross floor area, maximum building height, design excellence, public domain works, vehicular access and car parking provision, stormwater management and concept landscape design.
3	STREET ADDRESS	402 Macquarie Street, Liverpool
4	APPLICANT/OWNER	Applicant: The Planning Hub/Kingdom Towers 1Pty Ltd Owner: Kingdom Towers 1Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 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 (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy (Planning Systems) 2021</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: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Liverpool Development Control Plan 2008</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil</li> <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	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: <b>23 November 2023</b></li> <li>clause 4.6 variation – building separation</li> <li>Written submissions during public exhibition: 0</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 13 November 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Karress Rhodes, Ned Mannoun</li> <li><u>Council assessment staff</u>: Shaun Yong, Nabil Alaeddine</li> <li><u>Applicant representatives</u>: Kalinda Li</li> </ul> </li> <li>Final briefing to discuss council's recommendation: 12 December 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Karress Rhodes, Ned Mannoun</li> <li><u>Council assessment staff</u>: Shaun Yong, Nabil Alaeddine</li> </ul> </li> </ul>

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report