

DETERMINATION AND STATEMENT OF REASONS

SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	12 March 2025
DATE OF PANEL DECISION	12 March 2025
DATE OF PANEL BRIEFING	16 December 2024
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, David Kitto, Anthony Krilich
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 16 December 2024.

MATTER DETERMINED

PPSSWC-444 - Liverpool - DA-364/2024 - 402 Macquarie Street, Liverpool - The construction of a 31-storey mixed-use development comprising hotel or motel accommodation (198 Rooms), recreational facility (indoor), 168 residential apartments, and associated site works.

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), the Panel is satisfied that the applicant has demonstrated that:

- compliance with cl. 7.4 Building Separation is unreasonable or unnecessary in the circumstances as addressed further below under the heading 'Clause 4.6 Request'.
- there are sufficient environmental planning grounds to justify contravening the development standard as addressed further below under the heading 'Clause 4.6 Request'.

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 and as addressed further below.

This DA was briefed to the Panel on 16 December 2024. Prior to that meeting it was anticipated that the DA would be deferred until a later time for determination. However, it was reported at the meeting that the Applicant and the Council were close to agreement as to the terms of the conditions of consent, and the Panel agreed to delay its reporting on the briefing until discussions in that regard had concluded.

The Panel has been provided with what it is informed are agreed conditions of consent under cover of an email from Council's Principal Planner dated Tuesday, 4 March 2025.

The Panel is now in a position to finally consider and determine the development application based on the Council assessment report dated 13 December 2024, but with reference to the updated agreed conditions.

The Panel determined to uphold the Clause 4.6 variation to building separation (as addressed in more detail below) and approve the application under s 4.16 of the Environmental Planning & Assessment Act 1979 (EP&A Act), in substance based on the assessment of the relevant s 4.15 matters and for the reasons outlined in the council assessment report. That decision was unanimous.

CONCEPT PLAN AND CLAUSE 7.5A

On 15 December 2023, the Sydney Western City Planning Panel approved concept development application DA-1262/2022 which approved a concept for the building envelope, gross floor area, maximum building height, vehicular access and car parking provision, stormwater management, and concept landscape design for a development with the use and form proposed.

The Council assessment report advises the Panel that the development described in the DA will conform to that concept plan approval. The Panel accepts that advice.

Consistent with that concept plan approval, the DA proposes a height of 104.99 metres on land for which the maximum building height identified in the height of buildings map applying under clause 4.3 of the LEP is 28 metres. Similarly, the proposed FSR is 9.95:1 in an area mapped with a maximum FSR under clause 4.4 of the LEP for 3:1.

However, in recognition of the strategic location of the precinct as the gateway to Liverpool city centre, clause 7.5A allows for substantial increases in height and FSR for well-located larger consolidated sites with more than one frontage. While a site specific DCP is required to be approved for the site before an approval can be lawfully granted, that requirement may be satisfied through the approval of a concept plan (see s 4.23 of the EP&A Act). The Panel is satisfied that in that way clause 7.5A (and subclauses (3) and (4), in particular), are satisfied. The Panel is specifically satisfied that the requirement that Clause 7.5(3)(f)(i)–(viii) and (x) that are invoked by clause 7.5A concerning design excellence have been satisfied by the positive review of the present DA by Council’s Design Excellence Panel.

CLAUSE 4.6 REQUEST

The proposal does not comply with clause 7.4 of the Liverpool LEP which sets a development standard of 12m for parts of buildings 25-45m above finished ground level in the Mixed Use MU1 Zone and 28m for parts of buildings more than 45m above finished ground level in that zone. The Council report includes tables setting out the dimensions achieved in that regard by the proposal and the extent of the non-compliances for different parts of the proposal to the rear and side boundaries.

The final form of the DA is accompanied by written requests to vary that standard.

The Panel is satisfied that the request addresses the requirements of clause 4.6 and that strict application of the standard would be unreasonable, both because the DA proposal complies with the concept approval in that regard, and because the objectives concerning visual appearance, privacy and solar access raised by clause 7.4 have been found to be sufficiently addressed by the proposal.

Particular matters taken into account are that:

- a) There are no openings in the non-compliant walls to the eastern setback.
- b) The non-compliances are not expected to contribute to visual or privacy impacts, or overshadowing, of the adjoining properties beyond what would exist with a compliant built form.
- c) The site is irregularly shaped, and the architect’s modulation of the building to achieve a desirable built form and appropriate floor plate is suitable.
- d) When the revitalisation of this highly urbanised part of Liverpool is complete, the proposal ought to be compatible with the surrounding development without unacceptable impacts.

REASONS FOR THE DECISION

The Panel accepts that with amendments made during the DA process, which incorporated recommendations of the Council's design review panel, the DA warrants approval for the reasons set out in the Council assessment report.

Relevant provisions of the applicable planning instruments have been satisfied including the requirements in relation to investigation and remediation of contamination for the purposes of State Environmental Planning Policy (Resilience & Hazards).

The proposal on a site within easy walking distance of the Liverpool Town Centre and a major transport hub includes a proposed hotel, restaurant, bar and gym. Those facilities are expected to provide significant employment opportunities for Liverpool residents and are consistent with the Council's policies towards encouraging economic investment and tourism in Liverpool. The new mixed use development ought to also provide additional accommodation options and social facilities.

For those reasons together with the positive attributes of the proposal described in the Council assessment report, the Panel sees the proposal as being in the public interest.

CONDITIONS

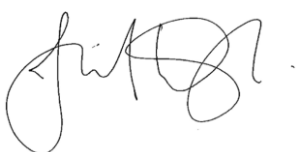



The development application is approved subject to the conditions in the Council assessment report, which the Panel is informed have been agreed with the Applicant.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The panel notes that issues of concern included:

- Overshadowing
- Privacy Impacts
- Traffic and Parking
- Suitability
- Pollution
- Lack of necessary infrastructure

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Louise Camenzuli
 David Kitto	 Anthony Krilich

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-444 - Liverpool - DA-364/2024
2	PROPOSED DEVELOPMENT	The construction of a 31-storey mixed-use development comprising hotel or motel accommodation (198 Rooms), recreational facility (indoor), 168 residential apartments, and associated site works.
3	STREET ADDRESS	402 Macquarie Street, Liverpool
4	APPLICANT/OWNER	Applicant: Kuzi Jaravani - The Planning Hub Owner: The Grand Liverpool P/L
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 Liverpool Local Environmental Plan 2008 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Liverpool Development Control Plan 2008 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil 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: 13 December 2024 Clause 4.6 variation: Building Separation Written submissions during public exhibition: 2 Total number of unique submissions received by way of objection: 2
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Final briefing to discuss council's recommendation: 16 December 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Ned Mannoun, Anthony Krilich <u>Council assessment staff</u>: Nabil Alaeddine <u>Applicant representatives</u>: Kuzi Jaravani
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report