

BRIEFING DETAILS

BRIEFING DATE / TIME	Tuesday, 14 April 2020, 10:39am and 11:00am
LOCATION	Teleconference Call

BRIEFING MATTER(S)

PPSSWC-58 – Liverpool City Council – DA-82/2020 – 167 Northumberland Street, Liverpool – Concept DA to establish building envelopes for the future development of the site for mixed use purposes, incorporating a 32-storey tower with 2 levels of basement parking, providing retail/commercial floorspace and serviced apartments.

PANEL MEMBERS

IN ATTENDANCE	Louise Camenzuli (Acting Chair), Peter Harle, Wendy Waller, Nicole Gurran and Justin Doyle
APOLOGIES	
DECLARATIONS OF INTEREST	Justin Doyle noted that he had represented a company related to the Applicant in a court hearing in 2015 as junior counsel, but had had no dealings or communications with any related company since. While noting the past dealings he considered that the relationship was not such as to generate a conflict of interest now, but, for prudence, asked to Louise Camenzuli to act as Chair in relation to further consideration of the matter

OTHER ATTENDEES

COUNCIL ASSESSMENT STAFF	Peter Nelson, Boris Santana
OTHER	

KEY ISSUES DISCUSSED

- The Application relies upon clause 7.5A of Liverpool LEP. The Panel notes Council's past acceptance that (by operation of s.4.23(2) of the EP&A Act) the obligation under clause 7.5A may be satisfied by the making and approval of a concept development application in respect of that land. The panel presumes that the concept plan will be required to satisfactorily address each of the matters set out in s.7.5A(4) with respect to the development proposed under the concept plan.
- The panel noted site isolation as an important potential issue because a property at the south end of the application site with a frontage to Northumberland Street and surrounded on two sides by Laurentus Lane could not amalgamate with any other property if the concept proposal is adopted. While there would be possible forms of development that could be constructed on the adjacent site (and the existing two storey development with large shop at ground level could continue) its future development options would be more limited. The Council's briefing report notes:

"... although the property benefits from 2 frontages, the lot size is not sufficient for the property to capitalise on the FSR provision of 10:1 available under Clause 7.5A of LLEP 2008. Accordingly,

without being amalgamated into the development site, development at 179 Northumberland Street is limited to a maximum FSR of 3:1.”

- The panel also took note of this comparison table which the Council report provided with its assessment of the comparative development results for the two properties assessed together or separately:

Site Address	Site Area	FSR/GFA	FSR/GFA pursuant to Clause 7.5A
167 Northumberland Street (subject site)	1,565m ²	3:1 = 4,704m ²	10:1 = 15,650m ²
179 Northumberland Street (neighbouring property)	486m ²	3:1 = 1,458m ²	Does not apply
167 Northumberland and 179 Northumberland (amalgamated site)	2,051sqm	3:1 = 6,153m ²	10:1 = 20,510m ²

- The panel will likely consider the site isolation planning principle identified in *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 at 17-19 in its assessment of the issue of site isolation when determining the concept plan application. It may assist in the panel being confident the owner of the adjacent property is on notice of relevant matters if the Council writes separately to that owner to alert it to the operation of s.7.5A concerning the development potential of that property.
- The extent to which SEPP 65 and the Apartment Design Guide will apply, or might be otherwise relevant to the assessment of the application was raised as an issue for consideration. In that regard, clause 4(4) of SEPP 65 provides “Unless a local environmental plan states otherwise, this Policy does not apply to a boarding house or a serviced apartment to which that plan applies.”.
- The only relevant provision of Liverpool LEP raised for the panel’s attention is clause 7.19, however that clause applies only to prevent strata subdivision of the serviced apartments that do not comply with SEPP 65. However, rather than implying that serviced apartments must comply with SEPP 65, it appears to anticipate that some serviced apartments will not comply which is why they cannot be strata subdivided so as to achieve the stated objectives of the clause of “preventing substandard residential building design occurring by way of converted serviced apartment development”.
- However, if SEPP 65 and the ADG do not apply, advice will be required as to the relevant matters to be taken into account to ensure that design quality as appropriate to the proposed form of development will be achieved. Issues of solar access, adequate efficiency of lifts, appropriate room size, and building separation will still apply, as will the impacts of the proposal on adjacent development including the apparently residential building on the opposite side of Laurentus Lane. Notably, there are controls and standards contained in Part 7 of the LEP ‘Division 1 Liverpool city centre provisions’ which would seem to apply.
- Issues of managing traffic impacts associated with the development and the appropriate design for the basement carpark where waste collections are proposed to occur were raised, and will require careful examination. The Land & Environment Court’s decision in *Courallie Avenue Pty Ltd v Strathfield* [2015] NSWLEC 1128 may be relevant on the subject of private waste collection, but the interests of designing the basement to cater for different sizes of collection vehicle reasonably anticipated to need to access the new building across its expected life ought to be considered, as are the other reasonably anticipated vehicular access needs to the development.
- The Council briefing note contains observations concerning the assessment of the 20% of the gross floor area of the proposed building which must be used for the nominated uses to qualify for the

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height and FSR bonuses under clause 7.5A, and presumably resolved advice on that subject will be included in the determination assessment report.

- The panel finally noted that an appropriate form of redevelopment of this site would be desirable noting the presently aged and dated built form of this part of Northumberland Street

TENTATIVE PANEL MEETING DATE: N/A