



Liverpoolcity council
creating our future together

Planning Proposal

Draft Liverpool LEP 2008 Amendment No. 51

***133 Bigge Street, 26-28 Elizabeth Street and 148
George Street, Liverpool***

***Rezoning of Lots A, B, C & D in DP 337604, Lots 2 & 3,
DP 700219, Lot 1 DP 217460, Lot 1 DP 516633, Lot 4
DP 592346 and Lot 10 DP 621840 from B3 –
Commercial Core to B4 – Mixed Use***

September 2015

Table of Contents

Table of Contents	2
Background and Site Identification	3
Part 1 – Objectives	6
Part 2 - Explanation of provisions	6
Part 3 - Justification.....	10
A. Need for the planning proposal.....	11
B. Relationship to strategic planning framework	12
C. Environmental, social and economic impact.....	20
D. State and Commonwealth interests.....	24
Part 4 - Mapping.....	25
Part 5 – Community Consultation	30
Part 6 - Project Timeline.....	30
Appendix 1: Economic Impact Assessment provided by proponent	

Background and Site Identification

The Site

This planning proposal seeks to rezone land at 133 Bigge Street, 26-28 Elizabeth Street and 148 George Street, Liverpool, being Lots A, B, C & D in DP 337604, Lots 2 & 3, DP 700219, Lot 1 DP 217460, Lot 1 DP 516633, Lot 4 DP 592346 and Lot 10 DP 621840. The subject site comprises 1.018 hectares of urban land within the Liverpool City Centre identified in Figure 1.



Figure 1: Aerial photograph of the subject site

Source: NearMap June 2014

The land is currently zoned B3 – Commercial Core which specifically prohibits residential uses. The site is currently occupied by a fruit market, a car yard and a car hire premises comprising various small buildings and structures and surface car parking.

Context

The subject site is located at the geographic heart of Liverpool City Centre. It is situated 400 metres walking distance from Liverpool train station and Liverpool bus interchange and within 400m of Liverpool's retail centre. Liverpool Hospital is also located less than 400m away (see Figure 2 below).

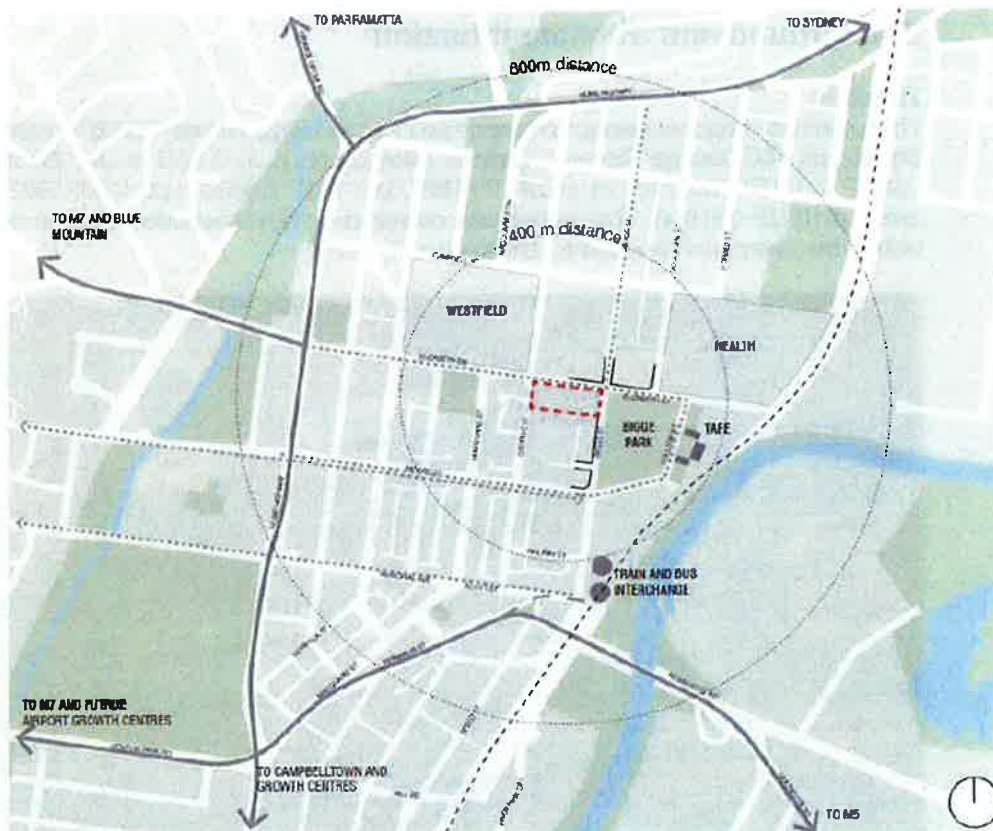


Figure 2: Context Plan of the subject site
Source: architectus

The subject site is adjacent to Bigge Park to the east and falls within the Bigge Park Conservation Area. Clause 5.10(4) of Liverpool Local Environmental Plan (LLEP) 2008 requires that:

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

The site is also located in the vicinity of the following heritage items:

- Liverpool College (former Liverpool Hospital) (Item No. 80)
- Plan of the Town of Liverpool (Hoddle street grid) (Item No. 89)
- Dr James Pirie Child Welfare Centre Building (Item No. 100)
- All Saints Roman Catholic Church (Item No. 85)
- Milestone at the corner of Elizabeth Drive and George St (Item No. 83)
- St Lukes Anglican Church Group (Item No. 84).

The site is identified as a Key Site on the LLEP 2008 Key Sites map, which triggers extra provisions of Clause 7.5 of LLEP 2008 requiring an architectural

design competition for any development having a capital value of more than \$10 million.

The proposal

On 22 August 2014 Council received an application from Mosca Pserras Architects to rezone the subject site. The proposal sought the following amendments to LLEP 2008:

1. To rezone the site from B3 – Commercial Core to B4 – Mixed Use.
2. To amend the Floor Space Ratio Map (Sheet FSR-011) to change the FSR controls to 10:1 across the whole site and add a new clause 7.35 Minimum non-residential floor space ratio control at 133 Bigge Street, 26-28 Elizabeth Street and 148 George Street to state:
 - (1) Despite clause 4.4, development consent must not be granted for development of land known as 148 George Street, Liverpool (being Lot 1, DP 516633; Lots 2 & 3, DP 700219; Lot 4 DP 592346) unless at least a floor space ratio of 2.5:1 is used for non-residential purposes.
 - (2) Despite clause 4.4, development consent must not be granted for development of land known as 133 Bigge Street, 26-28 Elizabeth Street, Liverpool (being Lot 1 DP 217460; Lot 10 DP 621840; Lots A, B, C, D DP 337604) unless at least a floor space ratio of 1.5:1 is used for non-residential purposes.
 - (3) Notwithstanding subclauses (1) and (2) above, the maximum floor space ratio that can be developed on the land referred above inclusive of non-residential use, is 10:1.
3. To amend the Height of Buildings Map (Sheet HOB_011) to remove all building height controls applying to the site.
4. To amend the Land Acquisition Reservation Map (Sheet LRA-011) to remove "Local Road (SP2)" from the site.
5. Amend the Heritage Map (Sheet HER-011) to remove the "Conservation Area – General" control from the site.

Council Response to the proposal

At its Ordinary Meeting on 16 December 2014, Council resolved the following:

That Council:

1. *Endorses in principle, the proposal to rezone 133 Bigge Street, 26-28 Elizabeth Street, and 148 George Street, Liverpool from B3 Commercial Core to B4 Mixed Use*
2. *Delegates to the CEO the authority to approve the final Planning Proposal to administer this rezoning, for submission to the Department of Planning and Environment for Gateway Review.*

Taking account of the proposal and Council's resolution, this planning proposal seeks to give effect to the proposal with the following caveat:

The removal of No. 133 Bigge Street from the Bigge Park Conservation Area (ie re-drafting of the conservation area boundaries), is not supported. The retention of the heritage values of the conservation area depends on the retention of an appropriate visual curtilage for Bigge Park and the other properties in the conservation area. The removal of No. 133 Bigge Street from the conservation

area could potentially allow the introduction of unsympathetic development in Liverpool's historic core by removing the need for consideration of heritage impacts on the conservation area. In addition, it would set a precedent for other properties to seek exclusion from the conservation area.

Retaining the conservation area would mean that any new building proposed for the site would be required to respond appropriately to the heritage significance and physical character of the conservation area.

Proposed amendment subsequent to public authority consultation

By removing Height of Building controls from the subject site, this Planning Proposal proposes to permit the development of buildings that would encroach the Obstacle Limitation Surfaces (OLS) surrounding Bankstown Airport. The Federal Department of Infrastructure and Regional Development (DIRD) was consulted for its permission to proceed to community consultation, pursuant to the requirements of Section 117 Direction 3.5 (see Table 5 below), and requested that Liverpool City Council amend this planning proposal to include an amendment to Clause 7.17 of LLEP 2008, as explained in Part 2 below in detail.

The amendment to this planning proposal is made pursuant to Section 58 of the Environmental Planning and Assessment (EP&A) Act 1979.

Delegation:

Council has not been issued delegation to make the plan pursuant to s59 of the EP&A Act 1979.

Part 1- Objectives

The objective of this Planning Proposal is to rezone the subject site (identified as 133 Bigge Street, 26-28 Elizabeth Street and 148 George Street, Liverpool) from B3 – Commercial Core to B4 – Mixed Use; increase the floor space ratio across the site to 10:1 while restricting permissible development with the inclusion of a minimum non-residential FSR clause pertaining to the site into LLEP 2008; to remove height of building controls from the site and to remove Land Requisition Acquisition controls from the site.

This Planning Proposal also seeks to amend Clause 7.17 of LLEP 2008 relating to controlled activities in protected airspace, to bring the requirements of LLEP 2008n into line with Commonwealth legislative requirements.

Part 2- Explanation of provisions

Rezone Lots A, B, C & D in DP 337604, Lots 2 & 3, DP 700219, Lot 1 DP 217460, Lot 1 DP 516633, Lot 4 DP 592346 and Lot 10 DP 621840. All relevant maps should provide for the following changes:

Liverpool Environmental Plan 2008 Map		Local Plan 2008	From maps (current)	To maps (proposed)
Land Zoning	LZN-011 (05/12/2011)		B3 – Commercial Core	B4 – Mixed Use
Floor Space Ratio	FSR-011 (20/04/2012)		2.5:1 (133 Bigge Street) 5:1 (148 George Street and 26-28)	10:1

		Elizabeth Street)	
Height of Buildings	HOB-011 (05/12/2011)	45m (133 Bigge Street) 100m (148 George Street and 26-28 Elizabeth Street)	Remove the height of building controls from the site
Land Reservation Acquisition	LRA-011 (19/04/2013)	Part of Lots A, B, C and D DP 337604 marked yellow and labelled "Local Road (SP2)"	Removal of yellow and "Local Road (SP2)" label

Table 1: LLEP 2008 maps to be amended to give effect to the proposed rezoning of the subject site.

This planning proposal also seeks to amend the text of LLEP 2008 by adding a new clause 7.35 Minimum non-residential floor space ratio control at 133 Bigge Street, 26-28 Elizabeth Street and 148 George Street, as noted above. The clause would prohibit development of the subject site unless a development proposal incorporated a minimum non-residential floor space component.

Subsequent to public authority consultation with DIRD this amended Planning Proposal also seeks to replace the existing clause 7.17 of LLEP 2008 *Development in flight paths* with a new clause 7.17 *Airspace operations*, as explained in point 6 below.

Explanation of provisions in detail

1. *Rezoning of the subject site from B3 – Commercial Core to B4 – Mixed Use*

The proposed rezoning of the site from B3 – Commercial Core to B4 – Mixed Use would expand the permissible uses of the site, specifically by making residential uses permissible.

The rezoning would enable the development of apartment style dwellings on a site that has excellent access to transport, health and recreation facilities and Liverpool's retail centre. The addition of residential would also support Council's aim of activating the city centre on a 24/7 basis, and would encourage the development of a more sustainable night-time economy for the Liverpool City Centre.

The site enjoys high amenity, and is adjacent to Bigge Park, Liverpool City Centre's premier open space. The site, situated on the fringe of Liverpool's commercial core, is ideally situated for mixed use development. The rezoning of the site would not undermine the job-generating capacity of the city centre as a whole. The inclusion of mandatory minimum non-residential floor space requirements (see below) would also ensure that the site makes an appropriate contribution to commercial/residential development in the city centre also.

2. *Increase in the Floor Space Ratio across the site to 10:1 .*

This planning proposal seeks to increase the Floor Space Ratio of the site to 10:1. Existing controls restrict the floor space ratio of 148 George Street and 26-28 Elizabeth Street to 5:1 and 133 Bigge Street to 2.5:1.

It is noted, however, that Clause 4.4(2C) of LLEP 2008 provides FSR bonuses for land consolidation in Liverpool City Centre. Each of the three addresses that makes up the subject site are more than 2500sqm in land

area, and would therefore receive the maximum bonus applicable. Were the lots to be developed as B3 – Commercial Core, the available FSR of the lots would increase as follows:

148 George Street and 26-28 Elizabeth Street	8:1
133 Bigge Street	6:1

However, on the basis of the lots being rezoned to B4, the FSR bonus applicable falls considerably. The maximum available FSR of the lots pursuant to Clause 4.4(2C) of LLEP 2008 would be as follows:

148 George Street and 26-28 Elizabeth Street	6:1
133 Bigge Street	4:1

It is further noted that any building developed within the Liverpool City Centre may be awarded a 10% FSR bonus with the concurrence of the Secretary of the Department of Planning and Environment on the basis that the building demonstrates design excellence and is the result of an architectural design competition. Even assuming that all buildings on site received the 10% bonus, this would still restrict available FSR to 6.6:1 and 4.4:1 on the site.

The proponent has demonstrated to Council's satisfaction, that the current restriction on available FSR under the provisions of LLEP 2008 is too restrictive and would not permit the development of the subject site to its full potential. This planning proposal therefore seeks to maximise the potential of this important key site in the centre of Liverpool by increasing the available FSR across the site to 10:1.

It is to be noted that no further FSR bonuses as delineated in Clause 4.4(2C) would apply to the site. However, buildings proposed for the site may be granted an additional 10% FSR bonus pursuant to provisions of Clause 7.5(6) of LLEP 2008, but only if they are the result of an architectural design competition and the decision receives the concurrence of the Secretary of the Department. It is Council's position that the maximum FSR applying to the site should be 10:1, notwithstanding design excellence provisions of LLEP 2008.

The potential environmental impacts of increasing the FSR across the site to 10:1, along with measures to ameliorate/mitigate any adverse impacts, will be discussed in Section C of this planning proposal below.

3. *Minimum non-residential floor space ratio*

The intended outcome of applying a minimum non-residential floor space requirement to the site, is to ensure that a minimum amount of employment floor space is developed on the subject site. Applying a minimum non-residential floor space control to the subject site will ensure that a minimum of 14,460sqm of non-residential (i.e. retail and commercial) floor space is developed on the site. The proponent has indicated that this would equate to 964 jobs, based on 1 job per 15qm of commercial floor space.

It is noted that Clause 7.16(4) of LLEP 2008 which promotes active uses at the ground floor of mixed-use buildings, will also apply to the subject site (presuming that it is rezoned to B4 – Mixed Use), which requires:

Development consent must not be granted for development for the purposes of a building on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building:

- (a) will not be used for the purposes of residential accommodation, and*
- (b) will have at least one entrance and at least one other door or window on the front of the building facing a street other than a service lane.*

4. Remove the height of building controls from the site

This planning proposal seeks to remove height of building controls from the site. The final height of any buildings proposed for the site under a subsequent development application would be assessed on their merit.

The intended outcome of the removal of the height of building controls from the subject site would be to make floor space ratio the primary delimiter of the size of buildings permitted to be developed on the site. Practically, floor plates of a certain size are required by both the commercial and residential market to make development feasible, limiting potential height.

The removal of height controls may also provide that available floor space is not exhausted, and would encourage the development of more slender buildings, rather than massing to take maximum advantage of the available floor space. Council believes that taller, more slender buildings will have less environmental impact.

It is noted that the subject site is within the flight path of Bankstown Airport and that development exceeding 100-110 metres in height on the site would require referral to the relevant Commonwealth body, pursuant to the requirements of Clause 7.17 of LLEP 2008. It is further noted that the Urban Design Study submitted by the proponent with their rezoning application, indicates that the site may be developed to include buildings of up to 129 metres in height on the site, based on a FSR of 10:1.

It is to be noted that this planning proposal is not to consider any particular options for the development of the site that may become permissible subsequent to rezoning. The lodgement of a development application would be required.

5. Removal of the Land Reservation Acquisition from the site for Local Road (SP2)

The Land Reservation Acquisition Map for LLEP 2008 reserves land on the corner of Elizabeth and Bigge Streets, over 131 Bigge Street (Lots A, B, C and D in DP 337604) for the purpose of a Local Road (SP2) (see Figure 3 below). Council is the acquisition authority. The reservation is intended to permit the acquisition of land to develop a left-turning lane on the corner of Bigge Street and Elizabeth Street as traffic pressures increase.



Figure 3: Land reserved for acquisition by Council (marked in yellow) for the purpose of road construction on the corner of Bigge Street and Elizabeth Street, Liverpool.

Source: Council GIS

Council is in the process of developing an alternative traffic pattern for Liverpool City Centre as part of an LEP review process. This aims to ameliorate future pressure on the Bigge Street/Elizabeth Street intersection, notwithstanding the increased traffic pressure that would be introduced were the subject site developed to its full potential pending the rezoning of the site proposed by this planning proposal.

As a result, Council wishes to relinquish its interest in purchasing the land and seeks to have the reservation of the land depicted in Figure 3 removed from the site.

6. *Revision of clause 7.17 of LLEP 2008*

As noted above, DIRD requested that Council replace clause 7.17 of LLEP 2008 *Development in flight paths* with the following clause 7.17 *Airspace operations*. As a result, Council submits this amended Planning Proposal pursuant to Section 58 of the EP&A Act 1979. The new draft clause reads as follows:

7.17 Airspace operations

- (1) *The objectives of this clause are to:*
 - (a) *Provide for the effective and ongoing operation of the Bankstown Airport by ensuring that such operation is not compromised by proposed development that penetrates the Obstacle Limitation Surface or the Procedures for Air Navigation Systems Operation Surface for that airport;*
 - (b) *Protect the community from undue risk from that airport operation.*
- (2) *Development consent must not be granted to undertake a controlled activity on land located under the prescribed airspace of Bankstown airport unless the airport has been consulted and the relevant Commonwealth body has granted approval under relevant*

Commonwealth legislation.

- (3) *The consent authority may grant development consent for the intrusion into prescribed airspace if the relevant Commonwealth body has issued an approval under relevant Commonwealth legislation. The consent authority must not grant consent to a controlled activity if an approval is not granted by the relevant Commonwealth body.*

- (4) *In this clause:*

prescribed airspace of an airport means the Obstacle Limitation Surface (OLS) and the Procedures for Air Navigation Services Aircraft Operations Surfaces (PANS/OPS) or any airspace declared by the relevant Commonwealth body under relevant Commonwealth legislation

relevant Commonwealth body means any body of the Commonwealth having responsibility for airports under Commonwealth legislation.

controlled activity means

- *Construction of permanent structures, such as but not limited to, buildings, vents, aerals, poles that intrude into prescribed airspace;*
- *Construction of temporary structures, such as cranes, that intrude into prescribed airspace; and*
- *Any activities causing intrusions into the prescribed airspace through glare from artificial light or reflected sunlight, air turbulence from stacks or vents, smoke, dust, steam or other gases or particulate*

Part 3- Justification

A. Need for the planning proposal

Is the planning proposal a result of any strategic study or report?

This planning proposal is not the result of any strategic study or report commissioned by Council or any other government entity. It is based on a rezoning application lodged by the proponent to rezone the site.

It is to be noted however, that Liverpool City Council has begun the "Building Our New City" program which aims to revitalise the city centre. The proponent has argued that the proposed rezoning will support the objectives of this program of creating greater vibrancy in the city centre and supporting the recreational functions of Bigge Park by activating the site at all hours, potentially increasing the surveillance of the park from proposed adjacent residential use.

Council is also undertaking a comprehensive review of planning controls applying to the Liverpool City Centre. This planning proposal is generally consistent with that strategic study which is currently in draft form.

The rationale for this planning proposal is addressed in the next section.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is no other way to facilitate mixed use development of the site other than through a planning proposal. Residential uses are prohibited on land zoned B3 – Commercial Core.

Council is also supportive of the proponent's request to increase the floor space ratio of the site to 10:1 and to remove height of building controls and the land reservation acquisition from the site. All modifications proposed would require the lodging of a planning proposal.

B. Relationship to strategic planning framework.

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Regional Strategy

A Plan for Growing Sydney is the name of the NSW Government's Sydney Metropolitan Strategy published in December 2014. This document is the applicable regional strategy. Relevant directions from *A Plan for Growing Sydney* are noted at Table 2 below.

A Plan for Growing Sydney Strategic Directions and Policy Settings	Consistency / Response
Goal 1: A competitive economy with world-class services and transport	
Direction 1.4 Transform the productivity of Western Sydney through growth and investment	Yes
- Growth targeted towards strategic centres - New jobs close to centres; access to knowledge jobs in centres	Although the planning proposal calls for the rezoning of the site from B3 – Commercial Core to B4 – Mixed Use, the requirement for the development of a minimum non-residential component for the site protects employment and would make a substantial contribution to jobs in Liverpool City Centre.
Direction 1.7 Grow strategic centres – providing more jobs closer to home	Yes
- Focus growth in strategic centres and transport corridors - Invest in strategic centres across Sydney to grow jobs and housing and create vibrant hubs of activity - Continue to Grow Liverpool ... as regional city centres supporting their local communities	The rezoning of the subject site will provide an avenue for greater investment in housing and jobs in Liverpool City Centre, strengthening its role as a regional city for south-west Sydney and facilitating the creation of a vibrant hub of activity.
Goal 2: A city of housing choice, with homes that meet our needs and lifestyles	
Direction 2.1: Accelerate housing supply across Sydney	Yes
An additional 664,000 dwellings required across Sydney over the	The rezoning would release approximately 9000sqm for mixed use residential development which will permit the

A Plan for Growing Sydney Strategic Directions and Policy Settings		Consistency / Response
next 20 years		development of apartment style dwellings within the strategic centre of Liverpool.
Action 2.1.1 Accelerate housing supply in and around strategic centres		
Direction 2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs		
- The government will support Council-led urban infill and local efforts to lift housing production around centres - New housing for centres that have public transport able to carry large numbers - New housing in strategic centres	Yes	The rezoning would release approximately 9000sqm for mixed use residential development which will permit the development of apartment style dwellings within the strategic centre of Liverpool.
Direction 2.3: Improve housing choice to suit different needs and lifestyles		
Research indicates a shortage of apartments in outer Sydney	Yes	The rezoning would release approximately 9000sqm for mixed use residential development which will permit the development of apartment style dwellings within the strategic centre of Liverpool.
South West Subregion		
	Yes	
- Accelerate housing supply, choice and affordability around centres - Retain a commercial core for long-term employment growth - Provide capacity for additional mixed-use development in Liverpool - Support health-related land uses around Bigge Park		The rezoning would release approximately 9000sqm for mixed use residential development which will permit the development of apartment style dwellings within the strategic centre of Liverpool. The subject site is not located in the health/education precinct adjacent Bigge Park. However, the proposed rezoning, which will permit the development of the subject site for residential purposes, will support development in the adjacent health and education precinct.

Table 2: Response to A Plan for Growing Sydney 2014

Subregional Strategy

Please note that *A Plan for Growing Sydney* states that:

Subregional plans will build on the actions set out in A Plan for Growing Sydney. Councils, the community, the Greater Sydney Commission and the NSW Government will work together to finalise and implement these plans.

A Plan for Growing Sydney has displaced draft sub-regional strategic and specific targets remain under consideration. This planning proposal has therefore not been assessed for consistency against any subregional plan.

Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The *Revitalising Liverpool City Centre Plan 2006* is Council's key policy governing the development of Liverpool City Centre. The document describes a vision for the city centre and provides information on the history and development context. The document is made up of 11 sections. The most relevant parts for the purpose of this planning proposal are section 2 (The Vision for the Liverpool City

Centre) and Section 9 (City Centre Character). The relevant directions are responded to in Table 3 below.

Revitalising Liverpool City Centre Plan 2006	Consistency / Response
Section 2: The vision for the Liverpool City Centre	
	Yes
Targeting 15,000 new jobs and 5000 new dwellings for the city centre by 2031	The proponent has provided evidence that the development of the subject site facilitated by this planning proposal would yield a minimum of 964 jobs and approximately 600 dwellings.
	Yes
Creating a living, mixed-use city	This planning proposal would facilitate mixed-use development including city-style apartments. The subject site's location at the fringe of the commercial core will help deliver a vibrant centre day and night.
	Yes
Ensuring Human Scale Active Street Edges	Clause 7.16(4) of LLEP 2008 requires that mixed use developments incorporate active street uses at the ground floor. In addition, the Streetscape Context Study submitted by the proponent proposes a four-storey street wall along Elizabeth Street and a six-storey street wall along Bigge Street, however this may be modified by the outcomes of the comprehensive Liverpool City Centre LEP review process.
	Yes
Protecting and conserving historic elements	This planning proposal seeks to retain coverage of 133 Bigge Street by the Bigge Park Conservation Area, requiring that the potential impact of any proposed development on the Bigge Park Conservation Area be considered by the consent authority as part of the assessment of any proposal.
	Yes
Strengthening the connection between the city and the health and education precinct	The proponent has committed to providing a 6.5 metre building setback from Elizabeth Street fronting the subject site. This will provide greater space for pedestrian circulation between the health and education precinct and the city centre. This planning proposal will facilitate an active street frontage and the proponent has committed to street tree planting to create a boulevard effect.
	Yes
Reinforce the importance of the Macquarie Street Mall	This planning proposal will facilitate better pedestrian links between the Macquarie Street Mall and the health and education precinct.
	Yes
Improving the quality of the public domain	The proponent has stated that development facilitated by this planning proposal on the site will incorporate a significant street setback to Elizabeth Street, which will allow for street plantings and improved pedestrian circulation.
	Yes
Consolidation of the city centre	This planning proposal will facilitate the further consolidation of the subject site by facilitating apartment style residential development in a mixed-use environment.
Enhancing pedestrian networks	Yes
	As noted above the proponent has committed to an

Revitalising Liverpool City Centre Plan 2006

Consistency / Response

increased building setback along Elizabeth Street in particular, which will facilitate improved pedestrian links between the health and education precinct and the city centre.

Section 9: City Centre Character

Opportunities for mixed-use developments in the city centre

Yes

This planning proposal will facilitate the development of mixed-use development on the fringe of the city's commercial core in a location of high amenity with excellent access to facilities and public transport.

Consolidation of a retail and commercial core excluding residential

Yes

This planning proposal would facilitate the rezoning of the subject site, which is located on the northern fringe of the existing B3 – Commercial Core zoned land in Liverpool City Centre to B4 – Mixed Use. It is to be noted, however, that Council is undertaking a review of planning controls in the Liverpool City Centre that may seek to reduce the commercial core further. That study is in draft form.

Table 3: Response to Revitalising the Liverpool City Centre Plan 2006

Is the planning proposal consistent with the applicable state environmental planning policies?

The planning proposal's consistency with applicable SEPPs is discussed in Table 4 below.

State Environmental Planning Policy

Consistency / Response

SEPP 32 – Urban Consolidation (Redevelopment of Land)

Yes

This planning proposal will promote the orderly and economic development of the land by enabling urban land that is no longer required for the purpose for which it is zoned to be redeveloped for multi-unit housing.

SEPP 55 – Remediation of Land

Yes

Clause 6 of SEPP 55 requires that in preparing an environmental planning instrument, a planning authority is not to include in a zone any land in that zone that would permit a change of use of land to land that is:

- In an investigation area; or
- Land in which a contaminating activity as identified in the contaminated land planning guidelines; or
- The proposed use includes residential use – unless there is no knowledge of prior contaminating use on the land, and on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

While the land is proposed for residential use, and the zone currently prohibits residential use, there is no knowledge of prior contaminating uses on the land, and the land has been used in the past for residential uses. This is evidenced by the aerial photograph from 1943 (see Figure 4 below).

A search of Council's records revealed no declaration of significantly contaminated land on the site.



Figure 4: Aerial photograph of the site from 1943

Source: Land and Property Management Authority

SEPP 64 – Advertising and Signage	Yes
	This planning proposal will not contradict or hinder the application of this SEPP.
SEPP 65 – Design Quality of Residential Flat Development	Yes
	The proponent has stated that the buildings they intend to develop on the subject site pursuant to this planning proposal would generally comply with the requirements of SEPP 65 and the Residential Flat Building Design Code.
SEPP (Building Sustainability Index: BASIX) 2004	Yes
	This planning proposal will not contradict or hinder the application of this SEPP.
SEPP (Exempt and Complying Development Codes) 2008	Yes
	This planning proposal will not contradict or hinder the application of this SEPP.
SEPP (Infrastructure) 2007	Yes
	This planning proposal will not contradict or hinder the application of this SEPP.

Table 4: Response to State Environmental Planning Policies

Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

A review of the consistency of this planning proposal with relevant Ministerial Directions for LEPs under Section 117 of the EP&A Act 1979 is discussed in Table 5 below.

Section 117 directions

Number	Direction/Objectives	Consistency / Response
1	Employment and Resources	
	Business and Industrial Zones	No but justified
1.1	(4)(c) requires that a planning proposal that will affect land within an existing business zone must not reduce the total potential floor space area for employment uses and related services in business zones	This planning proposal seeks to amend LLEP 2008 to reduce the potential business floor space on the subject site from approximately 44,000sqm to a minimum of 18,700sqm (provided by the minimum non-residential FSR clause).
	(5) (b) permits that a planning proposal may be inconsistent with this direction where justified by a study (prepared in support of the planning	The reduction in business floor space is

Section 117 directions

Number	Direction/Objectives	Consistency / Response
	proposal) which gives consideration to the objectives of this direction.	justified by the Economic Impact Assessment submitted by the proponent, which demonstrates that: i. Liverpool has an excess of land zoned B3 – Commercial Core to meet future expected demand for commercial floor space. ii. That there is considerable and growing unmet demand for residential apartments which this planning proposal will contribute to meeting. The key findings of the EIA are detailed at Section C below. The EIA is attached as an appendix to this planning proposal under a separate cover.
2	Environment and Heritage	
	Heritage Conservation	
2.3	A Planning Proposal must contain provisions that facilitate the conservation of: (4)(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area.	Yes This planning proposal retains the Bigge Park Conservation Area as it pertains to 131 Bigge Street, Liverpool.
3	Housing, Infrastructure and Urban Development	
3.1	Residential Zones	
	(4) A planning proposal must include provisions that encourage the provision of housing that will: (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. (5) A planning proposal must, in relation to land to which this direction applies: (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land.	Yes This planning proposal seeks to make the development of apartment style dwellings permissible on the subject site in a way that will broaden housing choice, make more efficient use of existing infrastructure and services, reduce consumption of land for housing and be of good design. As discussed in Section C a thorough assessment of infrastructure requirements of the site will be undertaken following the issuing of a gateway determination. This planning proposal does not propose to reduce the permissible residential density of the land.
3.4	Integrating Land Use and Transport	
	The objectives of this direction are: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number	Yes This planning proposal is consistent with the objectives of this direction in that it will permit mixed use development in the Liverpool City Centre in a highly central and well serviced location close to amenities and public transport.

Section 117 directions

Number	Direction/Objectives	Consistency / Response
	of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	
3.5	Development Near Licensed Aerodromes (4) In the preparation of a planning proposal that sets controls for the development of land in the vicinity of a licensed aerodrome, the relevant planning authority must: (a) consult with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome, (b) take into consideration the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth, (c) for land affected by the OLS: (i) prepare appropriate development standards, such as height, and (ii) allow as permissible with consent development types that are compatible with the operation of an aerodrome (d) obtain permission from that Department of the Commonwealth, or their delegate, where a planning proposal proposes to allow, as permissible with consent, development that encroaches above the OLS. This permission must be obtained prior to undertaking community consultation in satisfaction of section 57 of the Act.	Yes Pursuant to (4)(a) - (d), Council is preparing to meet with the Department of Infrastructure and Regional Development to discuss Council's plans for the Liverpool City Centre, including its intention to permit development with consent that encroaches above the Bankstown OLS. Council will seek the formal permission of the Department of Infrastructure and Regional Development for the planning proposal's intention to permit development with consent that encroaches above the Bankstown OLS, after the issue of a Gateway Determination and prior to commencing community consultation.
4	Hazard and Risk	
4.1	Acid Sulfate Soils The direction requires that: (6) A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulphate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act.	Yes The subject site is mapped as having Class 5 Acid Sulfate Soils and is located within 500 metres of land mapped as Class 1. As noted in Section C below, it is recommended that the Gateway determination require that the planning proposal not be placed on public exhibition until such time as the proponent has submitted an acid sulphate soils study that assessing the appropriateness of the change of land use given the presence of acid sulfate soils to the satisfaction of Council and be submitted to the Secretary of the Department of Planning and Environment prior to the public exhibition of the planning proposal.
6	Local Plan Making	
6.2	Reserving Land for Public Purposes This direction is intended to facilitate the removal of land reserved for a public purpose where the land is no longer required for acquisition.	Yes This planning proposal seeks to remove the land reserved for acquisition on 131 Bigge Street as illustrated in Figure 3 above. Council is in the process of developing an alternative traffic pattern for Liverpool City Centre as part of an LEP review process, which will ameliorate

Section 117 directions

Number	Direction/Objectives	Consistency / Response
		future pressure on the Bigge Street/Elizabeth Street intersection, notwithstanding the increased traffic pressure that would be introduced were the subject site developed to its full potential pending the rezoning of the site proposed by this planning proposal. As a result, Council wishes to relinquish its interest in purchasing the land and seeks to have the reservation of the land depicted in Figure 3 removed from the site.
6.3	Site Specific Provisions The direction requires that: (4) A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. However: (6) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are of minor significance.	No, Minor inconsistency The proposed minimum non-residential FSR control to apply to the site is intended to ensure the provision of a minimum amount of employment floor space, and therefore jobs are provided by the development of the site. The proposed control is not applicable to B4 – Mixed Use zoned land throughout Liverpool, and it would not therefore be appropriate to generalise the control across all similarly zoned land.
7	Metropolitan Planning	
7.1	Implementation of A Plan for Growing Sydney Planning Proposals shall be consistent with A Plan for Growing Sydney	Yes Consistency with A Plan for Growing Sydney is demonstrated in Table 2 above.

Table 5: Consistency with Section 117 Ministerial Directions

C. Environmental, social and economic impact.

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or other habitats, will be adversely affected as a result of the proposal?

No impacts envisaged. The subject site is located in a built-up area in Liverpool City Centre.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Acid Sulfate Soils

The subject site is mapped as having the potential for Class 5 Acid Sulfate Soils as indicated in Figure 5 below. This planning proposal seeks to increase the intensity of use of the site by increasing the FSR of the site to 10:1 and removing the height of building controls pertaining to the site.

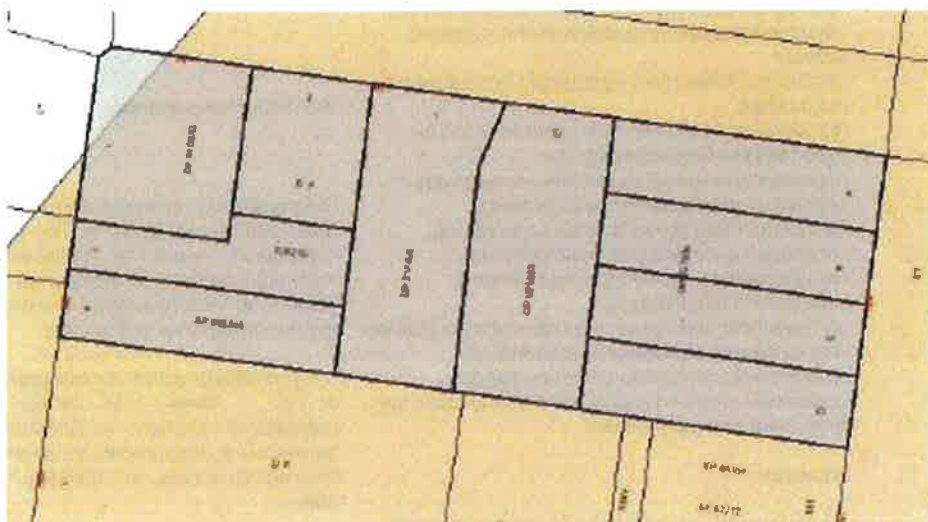


Figure 5: The subject site is largely impacted by Class 5 Acid Sulfate Soils
Source: Council's GIS system

Point (6) of Section 117 Direction 4.1 Acid Sulfate Soils requires that:

A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act.

It is recommended that that the Gateway determination require that an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils be prepared by a suitably qualified and experienced consultant to Council's satisfaction and submitted to the Secretary of the Department of Planning and Environment prior to the public exhibition of the planning proposal.

Solar access to Bigge Park

One intended outcome of this planning proposal is a qualitative increase in the permissible height and floor space applying to 133 Bigge Street. This planning proposal seeks to increase the FSR of the site from an existing maximum of 6:1 (were the site to remain zoned B3 – Commercial Core) to 10:1 and to remove height controls, permitting the development of a tower (the proponent has indicated that a likely height may be 129 metres although it is intended that no height limit apply to the site), a qualitative increase in height from the existing 45 metre height limit.

The proponent has acknowledged that some overshadowing of Bigge Park would be a likely impact of development envisaged by the planning proposal (see Figure 6 below) and has submitted diagrams showing that the park would not be overshadowed at 12pm on 21 June, but that 35% of the park would be overshadowed at 2pm on 21 June.

As noted above, the proponent has argued that the removal of a height limit from the site will encourage the development of taller, slimmer buildings on the site.

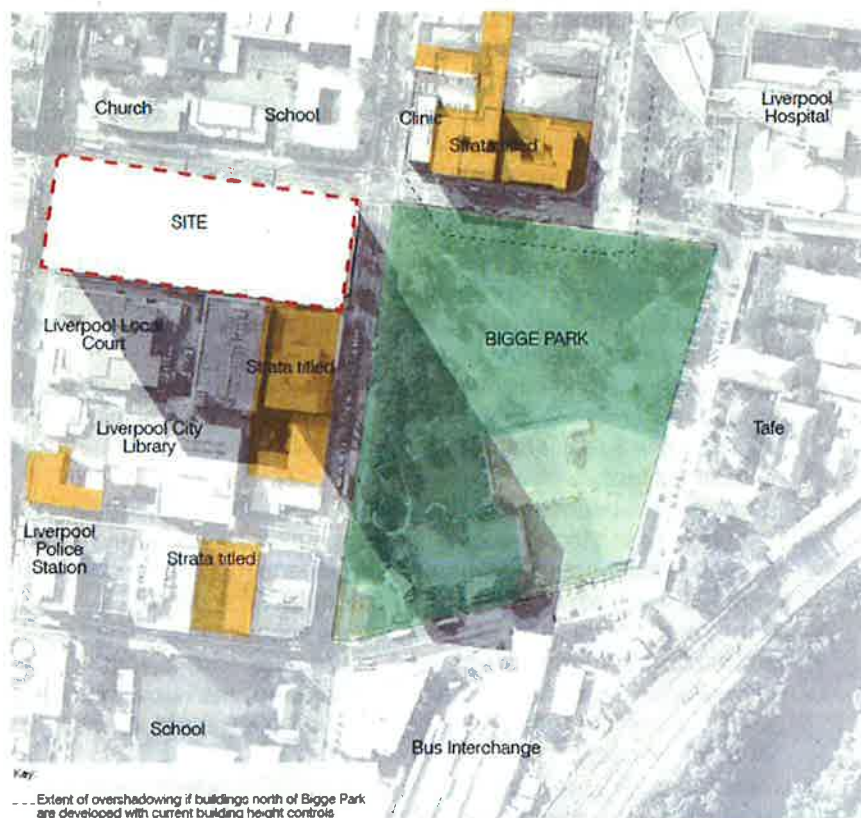


Figure 6: Maximum extent of overshadowing of Bigge Park

Source: architectus

Council acknowledges that the development of the subject site to its full potential as described in this planning proposal will lead to some overshadowing of Bigge Park. However, it is further noted that this potential environmental impact must be further investigated and it is suggested that this would form part of the recommended heritage impact study described below.

Has the planning proposal adequately addressed any social and economic effects?

Economic impacts

The proponent submitted an Economic Impact Assessment for the proposal prepared by Urbis (see Appendix). The EIA was based on the development of the site to provide 605 residential units, 38,800sqm of commercial floor space and 2700sqm of retail floor space. While Council acknowledges that this would be permissible following changes made to LLEP 2008 by this planning proposal, this represents one potential option only. Further, Council's support for the planning proposal does not constitute support for any particular development option. Any specific development proposal for the site would be determined following the lodgement of a development application.

Based on the potential development of the site discussed above, the proponent's EIA demonstrates the following:

- Floor space demand analysis and existing zoning and FSR for the site, if fully developed for commercial uses would be unlikely to be a viable development option, as the demand for commercial space in Liverpool is substantially less than that which would be achievable on the site.
- The minimum non-residential FSR requirement incorporated into this planning proposal will enable an employment yield of 958 jobs (as discussed above) from the site, which is more than 10% of the (superseded) draft Metropolitan Strategy's jobs target for Liverpool City Centre.
- The relatively low rents for office floor space in Liverpool would make the development of the subject site primarily for the purpose of 'A Grade' office space (were the site to remain zoned B3 – Commercial Core) highly infeasible.
- Given overall market conditions, the viability of developing new office space as a standalone prospect is limited. A mixed-use option, incorporating residential and commercial development is considered more feasible.
- Liverpool is becoming an increasingly attractive residential location, particularly for those seeking apartments, creating a strong demand for infill residential development as evidenced by strong capital and rental growth, strong sales rates and population growth.
- Apartment prices in Liverpool are already at the thresholds of affordability for 'first home buyer' households.
- Increasing demand is likely to increase the housing deficit for Liverpool, estimated at 293 dwellings by 2016 and increasing to over 1000 dwellings by 2021.
- This planning proposal will facilitate the development of new residential apartments that will assist in meeting the increased demand for housing in Liverpool City Centre.

Council believes that the economic evidence presented in support of the planning proposal is compelling and supports the conclusions summarised above.

European Heritage

As noted in the introduction to this planning proposal, 133 Bigge Street (Lots A, B, C & D in DP 337604) is located within the Bigge Park Conservation Area. The proponent recommended that the site be removed from the Conservation Area and did not submit a heritage impact study with rezoning application.

Council does not support the removal of 133 Bigge Street from the Bigge Park conservation area. Council further notes that the subject site has been identified as a potential archaeological site in *Liverpool Archaeological Zoning and Management Plan*, November 1996, by Casey and Lowe. The pre-1836 main Liverpool town drain crosses the site, and the archaeological remains of the c.1920s Hope Inn are potentially located at No. 133 Bigge Street.

In addition, the site contains an early weatherboard house. It is recommended that the heritage significance of this building should be addressed, possibly by an archival recording prior to demolition.

Considering the location of the site within the Bigge Park Conservation Area, the potential for overshadowing of Bigge Park and the potential archaeology at 133 Bigge Street, it is recommended that the Gateway determination require that a heritage study be prepared by a suitably qualified and experienced heritage consultant to Council's satisfaction prior to the public exhibition of the planning proposal.

Traffic and transport

The proponent submitted a traffic and transport study prepared by Colston Budd Hunt and Kafes Pty Ltd which assessed that the planning proposal would facilitate the development of 41,500sqm of commercial floor space and approximately 600 dwellings on the site.

The transport study identifies the inclusion of a right of way at the southern boundary of the site between George Street and Bigge Street, providing access to the development. A subsequent "Streetscape Context Study" submitted by the proponent has identified the right of way as a new laneway and has indicated the inclusion of pedestrian through site links from the laneway to Elizabeth Street (as illustrated in Figure 7 below).

This planning proposal supports the dedication of a public laneway at the southern boundary of the site as the only viable option for providing access to and through the site. In addition, the laneway is to be designed to provide adequate pedestrian access.



Figure 7: Proposed laneway at rear of site marked in yellow; pedestrian links marked in dotted yellow

Source: Architectus

D. State and Commonwealth interests.

Is there adequate public infrastructure for the planning proposal?

The proponent has indicated that a full services and infrastructure report would be undertaken to determine the requirements for servicing infrastructure and necessary upgrades, following the issuing of a Gateway determination.

Council is currently undertaking a comprehensive review of planning controls applying to the Liverpool City Centre, which incorporates the development of an alternative traffic pattern and road layout for Liverpool City Centre. This is intended to ameliorate future pressure on the Bigge Street/Elizabeth Street intersection, notwithstanding the increased traffic pressure that would be introduced were the subject site developed to its full potential as would be facilitated by this planning proposal.

What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

The Gateway Determination issued by the Department of Planning and Environment on 22 May 2015 instructed Council to consult with specified public authorities. It is also to be noted that Section 117 Direction 3.5 Development Near Licensed Aerodromes requires that Council:

(d) obtain permission from that Department of the Commonwealth, or their delegate, where a planning proposal proposes to allow, as permissible with consent, development that encroaches above the OLS. This permission must be obtained prior to undertaking community consultation in satisfaction of section 57 of the Act.

As noted above, DIRD requested that Council amend clause 7.17 of LLEP 2008 to bring development controls pertaining to prescribed airspace into line with the requirements of Commonwealth legislation. Pursuant to that recommendation, Council has proposed to amend clause 7.17 of LLEP 2008 as explained above. Council submits this revised Planning Proposal pursuant to the requirements of Section 58 of the EP&A Act 1979.

Part 4- Mapping

Four LLEP 2008 maps would require amendment in association with the rezoning for the subject site. Details of the amendments to the four LLEP 2008 maps necessary to give effect to the proposed rezoning (LZN-011, FSR-011, HOB-011 and LRA-011) are noted in Table 1 above. The changes to be made for each map are illustrated in Figures 6-9 below:

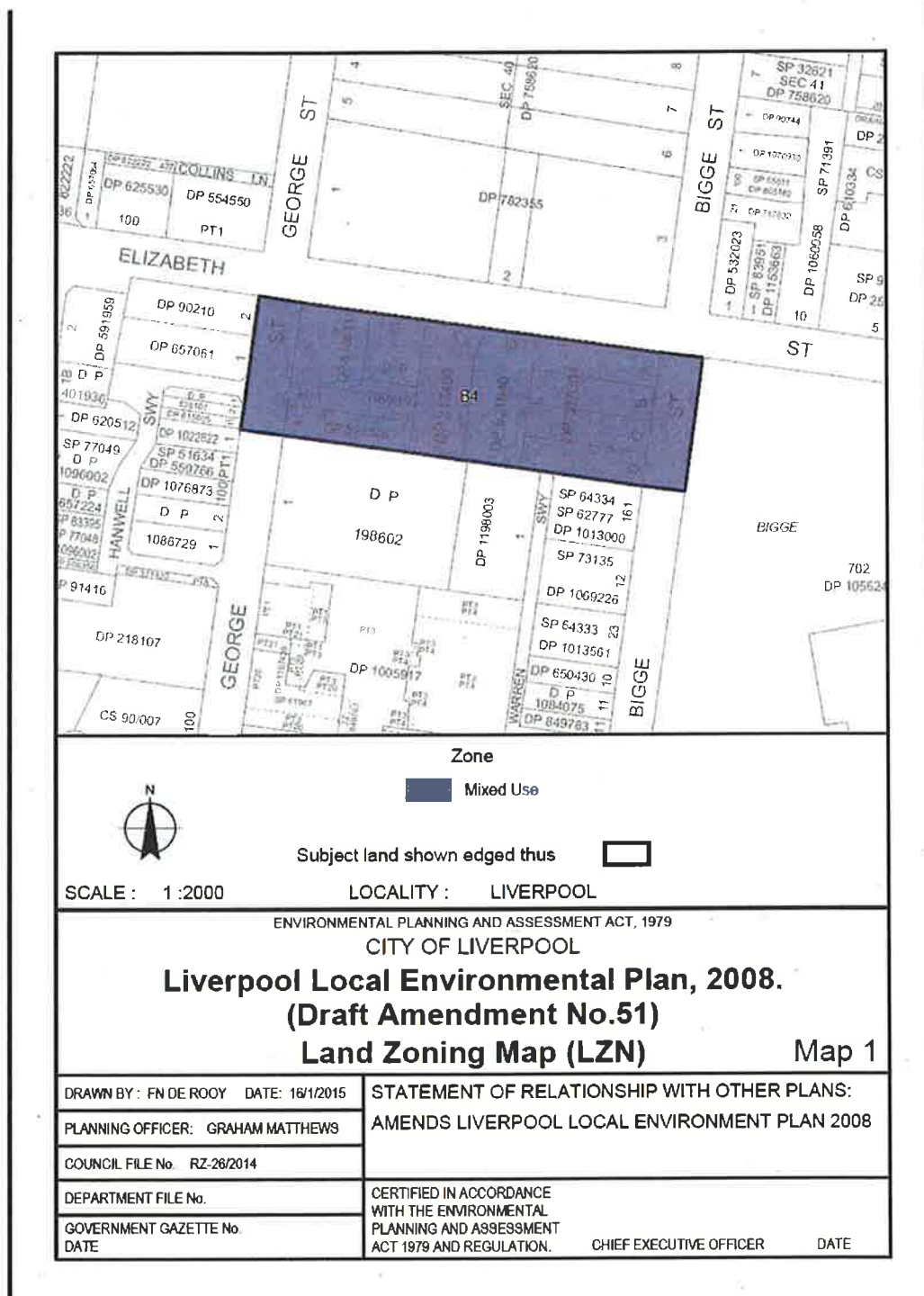


Figure 8: Proposed amendment to LZN-011

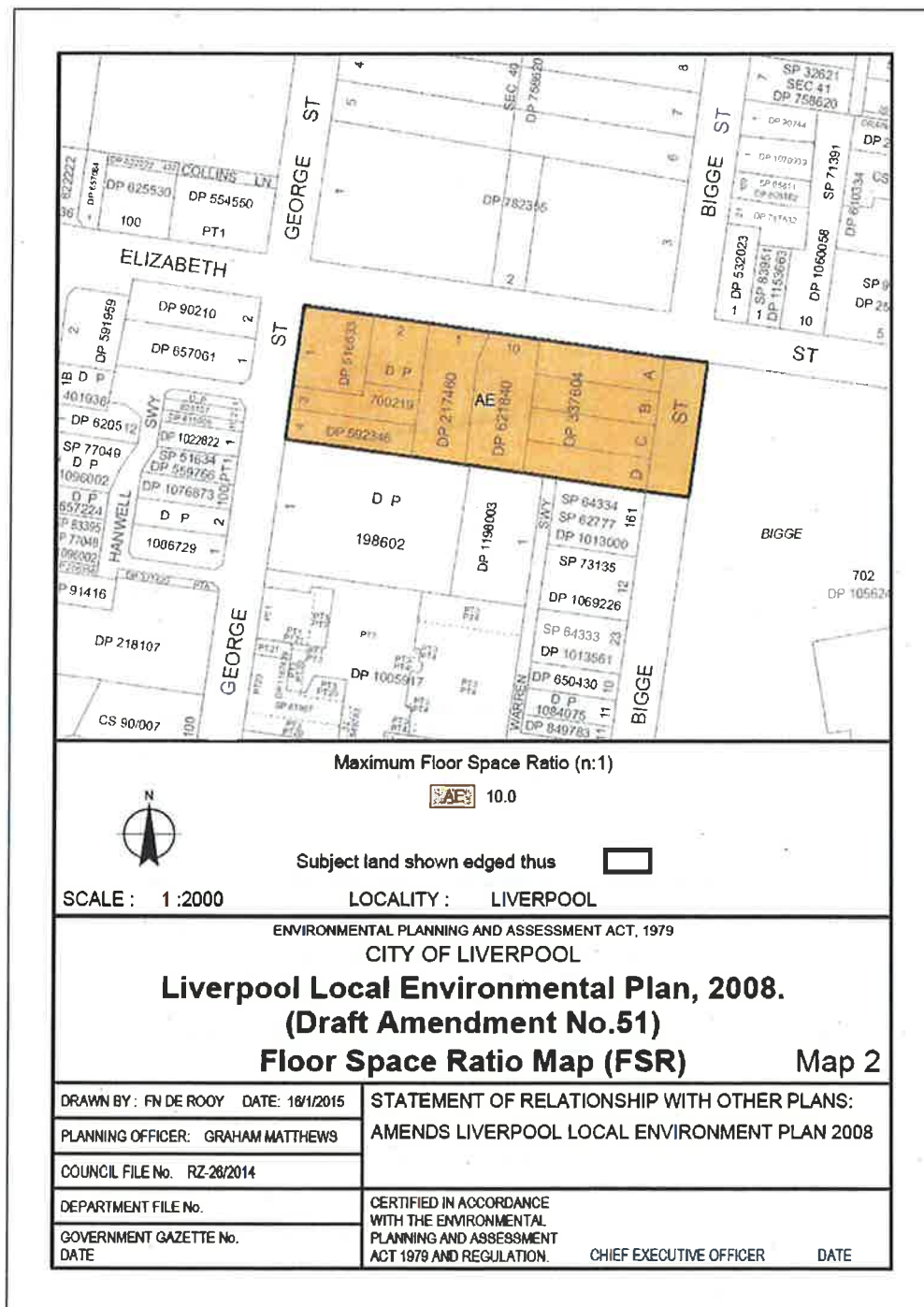


Figure 9: Proposed amendment to FSR-011

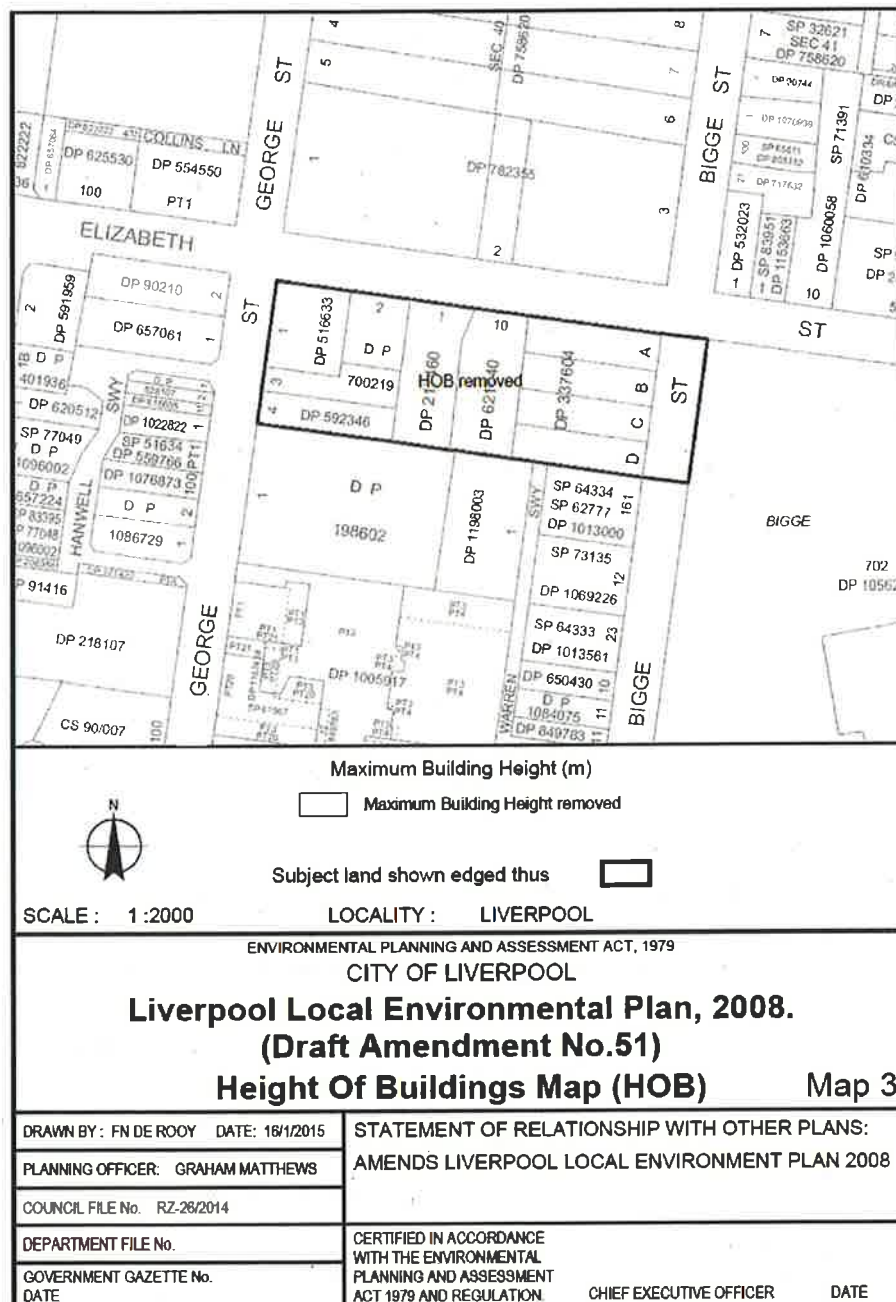


Figure 10: Proposed amendment to HOB-011

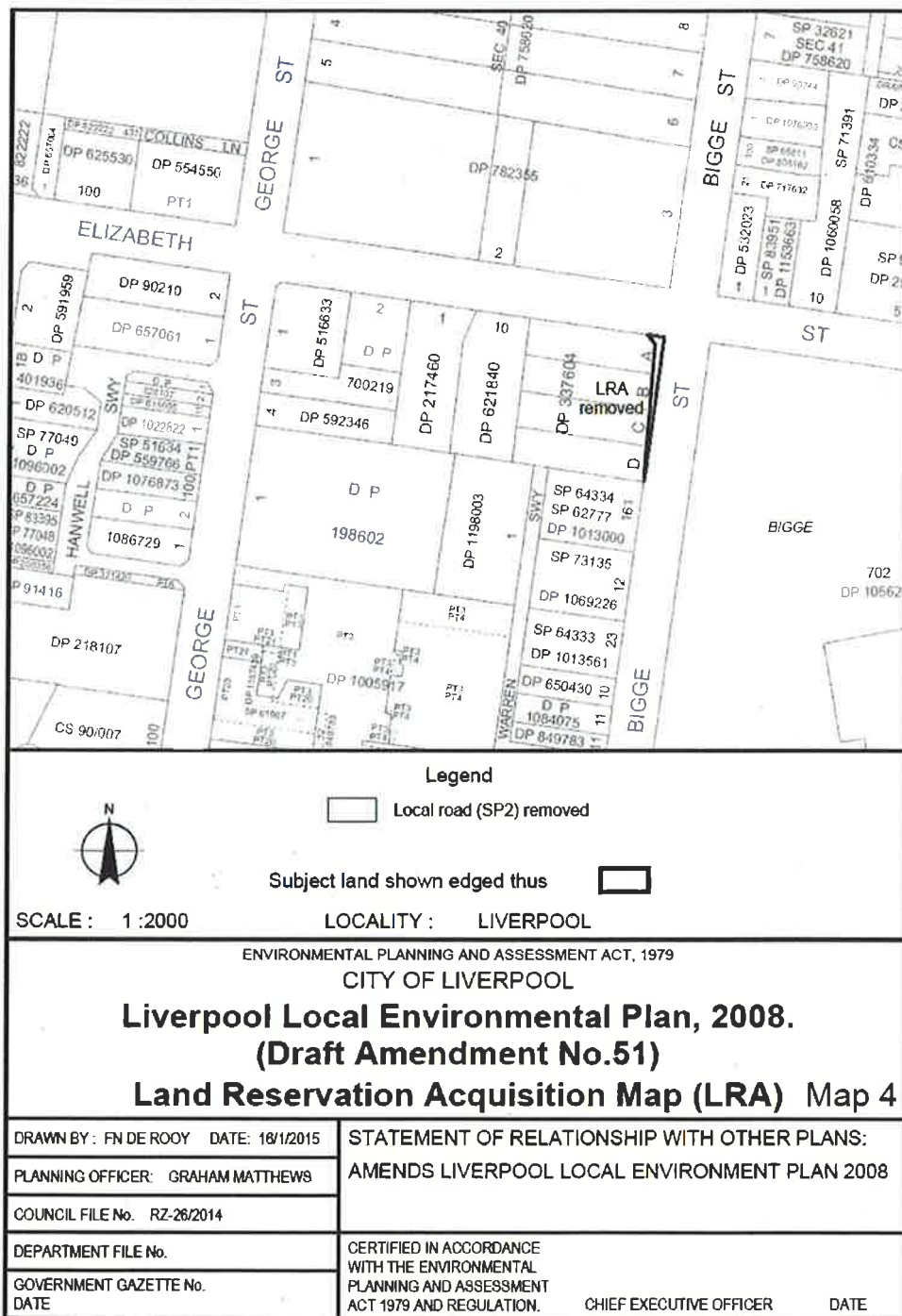


Figure 11: Proposed amendment to LRA-011

Part 5- Public Consultation

Public consultation is to be consistent with Clause 57 of the Environmental Planning and Assessment Act 1979. The scope of public consultation required would be detailed in the in the Gateway determination.

Part 6-Project Timeline

Section 2.6 of *NSW – A Guide to preparing planning proposals (2012)* requires that all Planning Proposals include a proposed timeframe for delivery of the Planning Proposal. Pending any time limit that would be provided by the Gateway Determination, the draft project timetable is presented below:

16 December 2014	First Report to Council
3 February 2015	Planning Proposal sent to DP&E requesting Gateway Determination
1 June 2015	Agency Consultation commenced
14 September 2015	Amended Planning Proposal submitted to DP&E
23 September 2015	Community Consultation to commence
23 October 2015	Community Consultation to conclude
February 2016	Second Council Report

Appendix 1: Economic Impact Assessment

Under separate cover

