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Australian Government

Department of Infrastructure and Regional Development

File Reference: 142256

Mr Bruce Macnee
Manager Strategic Planning
Liverpool City Council
Locked Bag 7064 BC
LIVERPOOL NSW 1871

Dear Mr Macnee

**Draft Liverpool Local Environmental Plan 2008 (Amendment No 51)
133 Bigge Street, 26-28 Elizabeth Street and 148 George Street, Liverpool (File
No. RZ-26/2014)**

Thank you for your letter of 25 June 2015 about Liverpool City Council's Planning Proposal for a draft amendment to the Liverpool Local Environmental Plan 2008 (LLEP 2008) for land at 133 Bigge Street, 26-28 Elizabeth Street and 148 George Street, Liverpool.

I have reviewed the Planning Proposal and associated documents and note that one of the five proposed amendments to LLEP 2008 is to remove all building height controls applying to the site. While the Planning Proposal does not specifically consider consistency with Direction 3.5 *Development Near Licensed Aerodromes* of the Section 117 Directions issued by the NSW Minister for Planning, I note that it does acknowledge the requirements of Clause 7.17 of the LLEP 2008 *Development in flight paths* in relation to buildings whose proposed height could create an obstacle in relation to Bankstown Airport.

I further note that consultation with this Department (as the Commonwealth Department responsible for aerodromes) in relation to Direction 3.5 is one of the conditions in the NSW Planning and Environment's Gateway Determination for this proposal. In acknowledgement of this, your letter requests that the Department grant permission for the planning proposal to proceed.

This Department administers the *Airports Act 1996* (Act) and Airports (Protection of Airspace) Regulations 1996 (Regulations) which establish a framework for the protection of airspace at and around leased federal airports such as Bankstown. An activity resulting in an intrusion into an airport's protected airspace is a controlled activity under the Act and requires approval under the Regulations.

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The Department considers each controlled activity application individually, taking into account advice from a range of stakeholders including the Civil Aviation Safety Authority, Airservices Australia, the airport operator and the building authority concerned.

The Act and Regulations do not, however, require or enable the Department to approve planning decisions such as removal of building height limits. It is instead necessary for the building authority, under paragraph 8 of the Regulations, to refer a building which would constitute a controlled activity to the relevant airport operator so that it can seek the relevant advice from aviation agencies and forward the application to the Department for a decision.

Given this, Council may wish to consider adjusting Clause 7.17 of the LLEP 2008 so that it more clearly reflects the requirements of the Regulations. The Department is happy to assist Council in making these adjustments. I note that we will be meeting to discuss this issue in early August and am happy to provide further explanation and advice then. Should you wish to discuss this matter before then please contact Sue Strickland on 02 6274 6751 or at sue.strickland@infrastructure.gov.au.

Thank you for the opportunity to comment.

Yours sincerely



Shona Rosengren
Acting General Manager
Aviation Environment Branch
Aviation and Airports

17 July 2015

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