

Greater Sydney, Place and Infrastructure

IRF19/6209

Gateway determination report

LGA	Liverpool
PPA	Liverpool Council
NAME	Liverpool LEP 2008 (Draft Amendment 79) – Rezoning of 4-8 Hoxton Park Road, Liverpool and part of Gillespie Street, Liverpool (90 homes)
NUMBER	PP_2019_LPOOL_005_00
LEP TO BE AMENDED	Liverpool LEP 2008
ADDRESS	Part of Gillespie Street and 4-8 Hoxton Park Road, Liverpool
DESCRIPTION	Part of Lot 1 DP 860799 and part of Gillespie Street
RECEIVED	13 September 2019 (additional information received on 27 September 2019)
FILE NO.	IRF19/6209
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal (**Attachment A2**) seeks to amend Liverpool Local Environmental Plan (LEP) 2008 to rezone the subject land, identified as Lot 1 DP 860799, 4-8 Hoxton Park Road, Liverpool, from B6 Enterprise Corridor to a B4 Mixed Use zone. The planning proposal also seeks to make changes to associated development controls applying to the site, i.e. maximum building height and FSR controls.



Figure 1: Aerial view of the site.

1.2 Site description and surrounding area

The site is located on the western edge of the Liverpool City Centre (refer to Figure 2).



Figure 2: The site and surrounds.

The site is located near the major intersection of the Hume Highway and Hoxton Park Road. Hoxton Park Road (Fifteenth Avenue) is a future rapid transit corridor, connecting Liverpool and the future Western Sydney International Airport.

The site is 1,680m² in area and has a 35.5m street frontage to Hoxton Park Road and a 47m frontage to Gillespie Street. This site contains a single storey refrigerated transport warehouse, with the remainder comprising a hardstand area. Woodward Park is located immediately to the north and is a major public open space area.

The site adjoins land zoned R4 High Density Residential along Hoxton Park Road to the west. To the east, the site adjoins 311 Hume Highway - which was rezoned in 2017 from a B6 zone to a B4 zone, with an increased FSR from 2.5:1 to 6:1 and a maximum building height of 100m. This site has an approved development application (DA-896/2015) for 307 residential units and commercial spaces with two 9 (nine) storey buildings, a 33-level residential tower, with 4 level of basement car parking. A pre-DA (PL-110/2018) has been lodged with Council for a revised proposal.

The Liverpool CBD is to the north east of the site.

1.3 Existing planning controls

The site is zoned B6 Enterprise Corridor under the Liverpool LEP 2008 (Figure 3). It is also within the Liverpool City Centre footprint identified on the Key Sites Map. The permissible height for the site is 24m and the FSR is 2.5:1.



Figure 3: Zoning of the site

Under the existing zone, the following clauses apply (**Attachment I**) which restrict development as proposed in the planning proposal:

- Clause 7.15 Minimum building street frontage in B6 zone of the LEP applies to the site. This clause requires development to have 90m street frontage to a classified road and 30m street frontage to a road other than a classified road; and
- Clause 7.22 Development in zone B6 of the LEP applies and does not allow residential development within 50m from a classified road.

1.4 Summary of recommendation

It is recommended the planning proposal proceed with conditions as:

- it is consistent with the vision and objectives of Western City District Plan as the proposal seeks to provide additional and diverse housing choice and jobs in a location within 30 minutes of strategic centres (Liverpool CBD, the future Western Sydney International Airport and Badgerys Creek Aerotropolis), with access to community facilities of regional scale and public transport services;
- it will enable the development of a more appropriate residential and commercial interface transitioning to surrounding residential areas; and
- it will contribute to Council's vision for an 18-hour vibrant city centre, that encourages greater levels of residential development, health, education, commercial and community facilities.

2. PROPOSAL

2.1 Objectives or intended outcomes

The planning proposal seeks to facilitate a 16-storey mixed use development with 790m² commercial floor space; 90 residential units and basement parking on the site with access from Gillespie Street.

The planning proposal (**Attachment A2**) and addendum (**Attachment A3**) are accompanied by a traffic report (GTA, October 2017); economic report (Macroplan Dimasi, July 2017); social impact assessment (Willana Associates, December 2017); detailed site investigation (Australian Geotechnical Pty Ltd, May 2019); urban design report (Architectural Design Studio Pty Ltd); and, advice from the Local Planning Panel. These reports are at: **Attachments E, F1, F2, H1, H2, I, J and K**.

2.2 Explanation of provisions

The planning proposal seeks to amend Liverpool LEP 2008 as follows:

- rezone the site from B6 Enterprise Corridor to B4 Mixed Use;
- amend the height of building from 24m to 50m;
- amend the FSR from 2.5:1 to 5:1;
- remove the site as a 'Key Site' on the Key Sites Map, as relevant Clause 7.22 Development in Zone B6 will no longer apply to the site; and
- identify the site on the FSR map as an intensive urban development area for Clause 6.4A Arrangements for designated State public infrastructure in intensive urban development areas of the Liverpool LEP 2008.

Clause 6.4A of the LEP (**Attachment L**) will enable Council to enter into funding agreements between the proponent and relevant agencies for funding for designated State public infrastructure for residential dwellings.

The proposal seeks to accommodate a 16-storey mixed use development with 790m² of commercial floor space and 90 residential units, comprising a mixture of studios, one, two and three-bedroom units.

On 27 February 2019, Council resolved (**Attachment G1**) to endorse the planning proposal subject to a detailed site contamination investigation being prepared and a voluntary planning agreement for public domain improvement works and other transport related works, as outlined in the proponent's urban design report

(Attachment E). The proponent has since prepared a detailed site investigation report **(Attachment H1)**.

Local Planning Panel

On 26 November 2018, the Liverpool Local Planning Panel reviewed and supported the planning proposal for the following reasons **(Attachments F1 & F2)**:

- it is consistent with state and local strategies;
- there is strategic merit to support the proposal;
- it demonstrates site specific merit; and
- the urban design and built form considerations for this proposal are consistent with the assessment that was undertaken for the adjoining 311 Hume Highway planning proposal.

However, the Panel also recommends the proposal proceed subject to the following considerations:

- a voluntary planning agreement (VPA) is entered into between the proponent, Council and the RMS for necessary road improvements to support future development under the planning proposal;
- consideration is given to whether there is any benefit to the re-opening of Gillespie Street; and
- consideration is given to the appropriate zoning of the Gillespie Street adjacent to the subject planning proposal.

Council officers advised **(Attachment G2)** that the proposed identification of the site as an intensive urban development area and application of Clause 6.4A will enable Council to require satisfactory arrangements to be made for designated State public infrastructure. As discussed, it is not intended to apply the clause to Site 2.

In addition, during a post gateway period officers will ensure the zoning of the Gillespie Street road reserve aligns with the neighbouring zones, for consistency.

Department Comment

Although the intent to rezone Gillespie Street was identified in the Council Report **(Attachment G2)** and the Local Planning Panel resolution **(Attachment F1)** it was not endorsed by Councillors **(Attachment G1)**.

The Department recommends that the planning proposal addresses the Panel's recommendation and includes rezoning part of Gillespie Street adjoining the site from a B6 zone to a B4 zone. Inclusion of this land will see the consistent application of the B4 zone to both sites. It is noted that the proposal should also amend the associated development controls for the road reserve to be consistent with the site except the application of Clause 6.4A as a VPA will not apply across the road reserve.

The adjoining land is identified as 'Site 2' on Figure 4 (next page). Site 2 is 960m² in area and is an existing local access road to the residential area to the west. It is proposed that Gillespie Street will be the main access to the future development on Site 1. The sites have a combined area of 2,640m² (location of the subject land is at **Attachment D**).

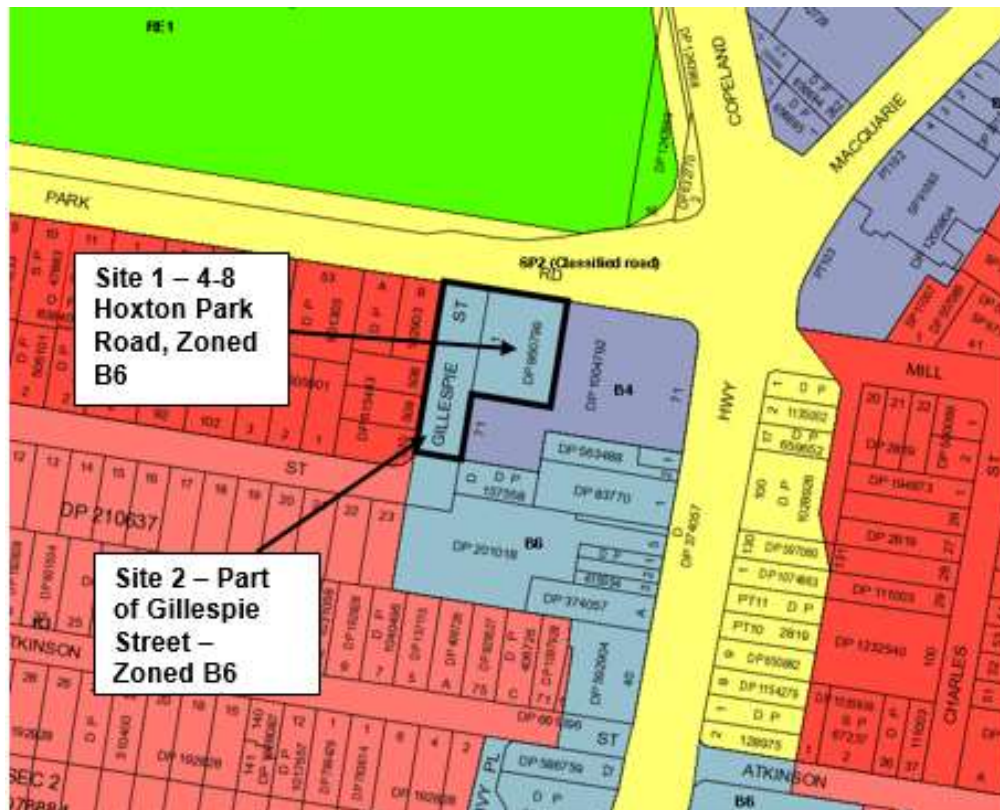


Figure 4: Location of Site 2.

2.3 Mapping

Map amendments will be required to land zoning (LZN 010), height of building (HOB 010), FSR (FSR 010) and Key sites (KYS 010) maps. **Attachment D** shows the sites and existing zoning of the sites.

Department Comment

It is noted that the proposed maps within the planning proposal will need to be updated to include the recommended rezoning of part of Gillespie Street.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is not a result of an endorsed local strategic planning statement, strategic study or report. The proposal is to facilitate a 16-storey mixed use development to accommodate 790m² of commercial floor space and 90 residential units on Site 1 at 4-8 Hoxton Park, Liverpool. The existing zone and the provisions (i.e. Clauses 7.15 and 7.22) (**Attachment L**) applying to the sites under Liverpool LEP 2008 do not allow the proposed mixed use development on the site.

The sites have been separated from the existing B6 zone along the Hume Highway by the B4 zoning on 311 Hoxton Park Road. The proposal to develop a multi-storey shop top housing is consistent with the proposed zone objectives of the B4 zone. It will provide a more appropriate transition between the mixed use City Centre and the high density residential to the west of the site.

It is agreed that the planning proposal is the best means for achieving the intended outcomes.

4. STRATEGIC ASSESSMENT

4.1 District

Western City District Plan

The Western City District Plan contains planning priorities and actions to guide the growth of the Western City District while improving the district's social, economic and environmental assets.

The sites are serviced by public transport and will have access to regional scale open space (Woodward Park), community facilities and services and is strategically located at the edge of Liverpool CBD.

The planning proposal will:

- provide housing supply and choice, increase housing affordability and jobs within 30 minutes to strategic centres (Metropolitan Cluster and in future, Western Sydney International Airport and Badgerys Creek Aerotropolis), with access to community facilities of regional scale and public transport services;
- facilitate a mixed use development with 790m² commercial floor space and 90 residential units - comprising of a mixture of studios, one, two and three-bedroom units, at the western edge of Liverpool CBD;
- contribute to the supply of jobs and housing choice within the vicinity of Liverpool CBD, as well as, Council's vision for an 18-hour CBD; and
- contribute to growing and strengthening the Liverpool CBD, a Metropolitan Cluster in the Western City District Plan.

Council advises that the proposal will facilitate development which will contribute to public benefit through public domain improvements including: widened footpaths, bike or shared path, street trees, public seating areas, through-site links and public spaces. Some of these are to be jointly delivered with the proposed development on 311 Hoxton Park Road, such as through-site links and landscaping.

Council further states that it would consider opportunities for a monetary contribution from the proponent to part fund works to improve pedestrian crossing points on the Hume Highway to improve connectivity with the Liverpool City Centre. Further, the application of Clause 6.4A (**Attachment L**) of the LEP will allow Council to collect contributions towards designated State public infrastructure.

The Urban Design Report (**Attachment E**) states that the proposed building envelope will provide appropriate setbacks to allow visual privacy and solar access to the surrounding residential areas.

The planning proposal is consistent with the following priorities of the District Plan:

- Planning Priority W1 Planning for a city supported by infrastructure;
- Planning Priority W3 Providing services and social infrastructure to meet people's changing needs;
- Planning Priority W4 Fostering healthy, creative, culturally rich and socially connected communities;
- Planning Priority W5 Providing housing supply, choice and affordability with access to jobs, services and public transport;

- Planning Priority W7 Establishing the land use and transport structure to deliver a liveable, productive and sustainable Western Parkland City; and
- Planning Priority W9 Growing and strengthening the metropolitan cluster.

The Urban Design Report (**Attachment E**) states that the proposed development aims to connect with the adjoining site (311 Hoxton Park Road) and deliver joint pedestrian oriented public domain; improve accessibility; through-site links; street trees and landscaped open space areas.

The report further states that the proposed building is to be designed to deliver maximum solar access on the site and to retain a significant amount of solar access to the surrounding residential areas.

The proposal will also give Council, through the DA process the opportunity to require urban design features and development controls that will reduce carbon emissions, manage energy, water usage and waste efficiently and contribute to mitigate urban heat island effect in the CBD consistent with Planning Priority W19 Reducing carbon emissions and managing energy, water and waste efficiently.

As such, the Department is satisfied that the planning proposal gives effect to the District Plan in accordance with Section 3.8 of the *Environmental Planning and Assessment Act 1979*.

4.2 Local

Liverpool Community Strategic Plan – Our Home, Liverpool 2027

This local strategy has been prepared by Council through extensive community consultation to give strategic planning directions to Council and stakeholders. Council advises the four key directions are: creating connection; strengthening and protecting our environment; generating opportunity and leading through collaboration.

The planning proposal is consistent with the second and third directions and will:

- ultimately deliver additional supply of residential apartment dwellings in an area that has access to the adjacent parklands and community facilities; and
- provide a more appropriate transition between the high density, mixed use City Centre zoning and the R4 (High Density Residential) zoning to the west of the site.

4.3 Section 9.1 Ministerial Directions

The following 9.1 Ministerial Directions are applicable to the site:

Direction 1.1 Business and Industrial Zones

The objectives of this direction are to encourage employment growth in suitable locations, and support the viability of identified centres. The proposal is technically inconsistent with this direction as it may represent a decrease in employment opportunities.

The planning proposal will, however:

- not significantly reduce land for employment use;
- allow 790m² commercial floor space;

- provide housing supply and choice, increase housing affordability, jobs and investment within 30 minutes of the Liverpool Metropolitan Cluster (as well as the future Western Sydney International Airport and Badgerys Creek Aerotropolis) with community facilities and public transport services; and
- be a positive contribution to businesses by providing more residents who would live, work and support businesses, and the viability of Liverpool as a Metropolitan Cluster.

Consequently, the inconsistency of the proposal with the Direction is of minor significance and is recommended accordingly.

Direction 3.1 Residential Zones

This Direction seeks to encourage a variety and choice of housing types to provide for existing and future housing needs. It also seeks to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure. The Direction ensures that the impacts of residential development on the environment and resource lands are minimised.

The proposal will encourage housing supply and choice, increase housing affordability and jobs within 30 minutes to existing and future strategic centres with community facilities and public transport services.

It is considered the planning proposal is consistent with the Direction.

Direction 3.4 Integrating Land Use and Transport

The objective of this Direction is to reduce travel demand by car through improving access to housing, jobs and services by walking, cycling and public transport.

The planning proposal will increase housing choice, supply and jobs within 30 minutes to existing and future strategic centres and public transport services, and will reduce car use.

Council has also advised that the proposal will facilitate development which will contribute to public domain improvements including widened footpaths, bike or shared path, street trees, public seating areas and through site links which will encourage and improve pedestrian access and reduce travel demand by car. Any potential for funding towards works to improve pedestrian crossing points on the Hume Highway will further improve connectivity with the Liverpool City Centre.

It is considered the planning proposal is consistent with the Direction.

4.4 State environmental planning policies (SEPPs)

The Department notes that the planning proposal demonstrates consistency with the following SEPP:

SEPP No 55 – Remediation of Land

The proponent has prepared and submitted a detailed site contamination investigation (Geotechnical, May 2019) (**Attachment H2**) as required by Council.

The investigation concluded that the site does not present a risk to human health and the environment. The investigation further recommended that any potential contaminants can be appropriately managed and the site made suitable for future residential and commercial use subject to further investigation and assessments.

Council has advised that the potential for further site contamination arising from existing site uses can be addressed at DA stage. It is considered the proposal has satisfactorily addressed Clause 6 of the SEPP.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal has the potential to facilitate development which will contribute to public benefit through:

- public domain improvements, including widened footpaths, bike or shared path, street trees, public seating areas, through site links and landscaped public spaces; and
- increase housing supply and choice, housing affordability and jobs within 30 minutes to existing and future strategic centres with access to regional level services and public transport.

5.2 Environmental

The Urban Design Report (**Attachment E**) states that the proposed built form will ensure:

- a new building is well spaced and offset to equitably distribute access to outlook and sunlight between towers and minimise direct overlooking between habitable room windows;
- building height, mass and orientation maximises solar access to the existing surrounding residences, the future residences, the public domain and open spaces; and
- minimal visual impact of development and ensure sufficient solar access and privacy for neighbouring properties.

The planning proposal will:

- reduce car travel demand and reduce carbon emissions because it will:
 - increase housing supply and jobs within 30 minutes to existing and future strategic centres and public transport services; and
 - facilitate improvements to public domain and pedestrian access;
- deliver more public open space, landscaped areas and tree canopy that will assist in mitigating the urban heat island effect; and
- provide an opportunity for Council to require urban design features and development controls that will reduce carbon emissions, manage: energy, water usage and waste efficiently, and contribute to mitigating the urban heat island effect.

The shadow analysis in the urban design report requires to be amended to clearly indicate:

- solar access and overshadowing impacts on the surrounding area; and
- appropriate labels on the overshadowing diagrams clearly indicating orientation, height of buildings, nominated date and times, and zoning of the surrounding areas.

5.3 Economic

The planning proposal will facilitate economic growth within the existing and future strategic centres for the following reasons:

- provision of commercial employment and investment in a strategic centre;
- increased housing supply and jobs within 30 minutes of a strategic centre; and
- assist in supporting and sustaining the economic function of the Liverpool CBD and Council's vision for an additional 20,000 jobs by 2036 and an 18-hour CBD.

5.4 Infrastructure

Given the location of the sites, within 30 minutes of existing and future strategic centres, the proposal will take advantage of existing and future infrastructure and services of regional scale.

The Department also notes that the proposal would act as a catalyst for Council to collect additional funding for local and designated State public infrastructure improvements in the CBD.

6. CONSULTATION

6.1 Community

No time duration for community consultation is proposed by Council. The planning proposal is low impact and a 28-day community consultation is recommended.

6.2 Agencies

Consultation is required with the following government agencies:

- Relevant infrastructure delivery agencies; and
- Roads and Maritime Services.

7. TIME FRAME

Council has not identified a timeframe to finalise this planning proposal. It is considered that 12 months would be appropriate, allowing sufficient time for Council to undertake community consultation, consultation with agencies and finalise the plan.

8. LOCAL PLAN-MAKING AUTHORITY

Council has not requested to be the local plan-making authority, however, given the local nature of the proposal, authorisation is recommended to be given to Council to finalise the proposal.

9. CONCLUSION

The planning proposal is supported to proceed to Gateway subject to conditions. The proposal is of a local nature and will:

- facilitate provision of public infrastructure and support the functions of Liverpool CBD; and
- create housing and jobs within 30 minutes of a metropolitan cluster, near public transport services - with access to existing and future infrastructure and services.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Direction 1.1 Business and Industrial Zones is of minor significance.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation Council is to revise the planning proposal by:
 - a) including part of Gillespie Street, and associated changes except the application of Clause 6.4A, indicating the land is proposed to be zoned B4 Mixed Use;
 - b) including mapping illustrating existing and proposed provisions for all the proposed amendments;
 - c) including a Part 6 – project timeline;
 - d) amending the cover page to replace the existing information that appears on that page and add Council's name and logo, etc. as Council has adopted the proposal;
 - e) amending the proposal document to better follow the structure outlined in the Department's 'Planning Proposals – A guide to preparing planning proposals', including consideration being given to the placement and/or amendment of the executive summary and introduction;
 - f) consolidate, and where appropriate, update the proposal by addressing current section 9.1 directions and the proposal's consistency with the Western City District Plan and Greater Sydney Region Plan, ensuring current sections of the Act are referenced within the proposal;
 - g) update the Urban Design Report to clearly indicate:
 - i) solar access and overshadowing impacts on the surrounding area during winter solstice on 22 June; and
 - ii) ensure overshadowing diagrams are clearly labelled, showing orientation, nominated date and times, and zoning of the surrounding area;
 - h) the revised planning proposal is to be forwarded to the Department for review and approval prior to public exhibition.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
 - a) relevant infrastructure servicing authorities; and
 - b) Roads and Maritime Services.
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.

5. Given the nature of the planning proposal, Council should be the local plan-making authority subject to the following:
- a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - c) there are no outstanding written objections from public authorities.



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