



Planning Proposal

Draft Liverpool LEP 2008 Amendment No. 56

***77-83 Moore Street, 193 Macquarie Street and
165 Macquarie Street, Liverpool***

***Rezoning of Lots 1 & 2 in DP 1189772 and Lot 1 DP
628824 from B3 – Commercial Core to B4 – Mixed Use***

June 2016

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Background and Site Identification

The Site

This planning proposal seeks to rezone land at 77-83 Moore Street, 193 Macquarie Street and 165 Macquarie Street, Liverpool, being Lots 1 & 2 in DP 1189772 and Lot 1 DP 628824. The totality of the subject site comprises 1.723 hectares of urban land within the Liverpool City Centre identified in Figure 1.



Figure 1: Aerial photograph of the subject site

Source: NearMap January 2015

The land is currently zoned B3 – Commercial Core which specifically prohibits residential uses. The site is currently occupied by the Liverpool Plaza, the former Liverpool City Council information centre and a two-storey brick building containing retail uses at ground.

Context

The subject site incorporates the “development site”, on which the proponent intends to develop a mixed-use tower on podium, and the Liverpool Plaza

site, on which the proponent intends to develop carparking and a childcare centre. It is envisaged that the carparking will be reserved for the exclusive use of retail and serviced apartments tenancies to be developed (in addition to residential units) as part of the mixed-use tower on podium.

The subject site is located at the southern end of the Macquarie Street Mall. It is situated approximately 550 metres walking distance from Liverpool train station and Liverpool bus interchange and is located within Liverpool's retail centre. Liverpool Hospital is also located approximately 850 metres away (see Figure 2 below).



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

The subject site is adjacent to the St Luke's Church Group heritage item (Item No. 84). 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:

- Plan of the Town of Liverpool (Hoddle street grid) (Item No. 89)
- The Corner Pub (Item No. 95)

The site is identified as being part of 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. It is noted, however, that the provision for an architectural design competition would be removed from LLEP 2008 by Draft LLEP 2008 (Amendment 52) – the Liverpool City Centre LEP Review.

The proposal

On 20 June 2014 Council received an application from Abacus Funds Management Ltd to rezone 77-83 Moore Street and 193 Macquarie Street. The proposal sought the following outcomes:

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 increase the FSR control on the site from 3.0:1 to 6.0:1.
3. To amend the Height of Buildings Map (Sheet HOB_011) to increase the permissible building height from 18 metres to 70 metres.

On 20 August 2014 Council sought further information regarding the proposal. On 20 August 2014 Council wrote to the proponent seeking further information on their proposal. The proponent submitted further information to Council on 24 April 2015, on 24 June 2015 and 8 July 2015.

The proposal has been modified in later submissions as follows:

- The scale of the proposed rezoning has been expanded to include the Liverpool Plaza site (165 Macquarie Street);
- The proposed height of buildings on the development site (i.e. 77-83 Moore and 193 Macquarie Streets) has been increased from 70 metres to 100 metres;
- The foreshadowed development on the site has been modified to incorporate an elliptical tower on podium, where the original proposal envisaged a square tower;
- The proponent has agreed to Council's request to incorporate more floorspace for commercial uses than the original proposal provided, as discussed below.

In response to comment from Council, the proponent has relinquished their request to increase the FSR of the site. In order to develop a 100 metre tall building on the site, the proponent will seek to benefit from Clause 4.5 of LLEP 2008 which permits unutilised floor space to be transferred to an adjacent site, as long as “significant development” occurs on both sites, as discussed below.

The amended proposal also seeks to rezone the Liverpool Plaza site (165 Macquarie Street) from B3 – Commercial Core to B4 – Mixed Use, to permit the development of carparking that would service the proposed serviced apartment uses on the development site.

Council Response to the proposal

At its Ordinary Meeting on 29 July 2015, Council resolved the following:

That Council:

1. *Endorses in principle, the proposal to rezone 77-83 Moore and 195 Macquarie Streets and 165 Macquarie 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.*

Delegation:

Council requests delegation to make the plan pursuant to s59 of the Environmental Planning and Assessment Act 1979.

Part 1- Objectives

The objective of this Planning Proposal is to rezone the subject site (identified as 77-83 Moore and 195 Macquarie Streets and 165 Macquarie Street Liverpool) from B3 – Commercial Core to B4 – Mixed Use and to increase the maximum permissible building height on the “development site” (i.e. 77-83 Moore Street and 193 Macquarie Street) to 100 metres.

Part 2- Explanation of provisions

Rezone Lots 1 & 2 in DP 1189772 and Lot 1 DP 628824. All relevant maps should provide for the following changes. Dates of maps presume that LLEP 2008 (Amendment 51) is gazetted prior to this amendment :

Liverpool Environmental Map	Local Plan 2008	From maps (current)	To maps (proposed)
Land Zoning	LZN-011 (16/01/2015)	B3 – Commercial Core	B4 – Mixed Use
Height of Buildings	HOB-011 (16/01/2015)	18 metres	100 metres

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 7.37 Minimum non-residential floor space ratio control at 77-83 Moore Street and 193 Macquarie Street, Liverpool. The clause would prohibit residential

development on the subject site unless a minimum of 37.5% of the floorspace of the proposed development is for non-residential uses.

7.37 Minimum non-residential floor space ratio control at 77-83 Moore Street and 193 Macquarie Street

- (1) Despite Clause 4.4, development consent must not be granted for the development of residential accommodation on land known as 193 Macquarie Street, Liverpool (being Lot 1 DP 628824) or 77-83 Moore Street, Liverpool (being Lot 2 DP 1189772) unless at least 37.5% of the total GFA on the site is developed for non-residential purposes, excluding parking.
- (2) Notwithstanding subclause(1) above, the maximum floor space ratio that can be developed on the land referred to above inclusive of non-residential use, is not to exceed that specified in Clause 4.4.

Floor Space ratio

This planning proposal does not seek to increase the FSR applying to the subject site. A substantial increase in FSR for the site would provide a precedent and raise expectations of neighbouring landowners of a similar increase, which would risk undermining the recommendations of Council's City Centre LEP Review (Draft LLEP 2008 (Amendment 52)).

The proponent has indicated that, should the planning proposal be supported, a development application for the proposed site would seek to utilise the provisions of Clause 4.5(6) of LLEP 2008, which allows the residual FSR of an adjoining lot to be utilised, on condition that "significant development" is also being proposed on that adjoining lot.

The proponent has indicated that they intend to develop a childcare centre and an additional level of carparking on the adjoining lot (Liverpool Plaza) to the development site. LLEP 2008 does not provide a definition of "significant development" for the purpose of meeting the requirements of clause 4.5(6). In support of their rezoning application, the proponent has argued that the proposed development of the Liverpool Plaza site should be considered as "significant development" because:

- The sole purpose of the car parking will be to serve the retail and serviced apartments on the development site (i.e. 77-83 Moore and 193 Macquarie Streets);
- Without the proposed carparking to be developed on the Liverpool Plaza site, there would be insufficient parking provided for the proposed retail and serviced apartment uses on the development site, according to the requirements of Liverpool Development Control Plan (LDCP) 2008;
- The carparking and childcare centre will be substantial structures that will increase the existing building envelope on the Liverpool Plaza site by more than 50%;
- The carparking and childcare centre are not incidental or ancillary to the overall envisaged development, but are core uses supporting the overall concept of the envisaged development; and
- The carparking and childcare centre are physically and functionally connected to the envisaged development on the development site.

The proponent has provided a draft covenant (see Appendix 1) which would prevent "double dipping" of the floor space to be taken from the Liverpool Plaza

site. The covenant would be required to satisfy the requirements of clause 4.5(9) of LLEP 2008 for a future development application for the envisaged development.

Legal considerations

The proponent has also provided legal advice to Council (Appendix 2), which considers whether the proponent's intention to develop a childcare centre and carparking on the adjacent (Liverpool Plaza) site would be considered "significant development".

The legal advice notes that there is no definition of "significant development" provided by either LLEP 2008 or the Environmental Planning and Assessment Act 1979. While the Act defines "development", this is a very broad definition; "significant development" must imply greater nature and scale. As neither the Act nor the Court has provided a definition of the term, it must retain its everyday meaning. The advice notes in part:

5.6 "Significant" means material, noteworthy or of consequence. In this case, the development on Site C is ancillary and directly related to the retail, commercial and serviced apartment uses to be constructed on the Development Site – development it will support. Accordingly, in comparative terms it is clearly material, noteworthy and of consequence. The addition of a gymnasium or child-care centre (although having no direct relationship to the Development Site uses) adds further weight to that proposition.

As the proponent is not requesting modification to the existing FSR for the site, the issue of whether the proposed development on the Liverpool Plaza site constitutes "significant development" does not require resolution at this time. Nevertheless, it is noted that, were the proponent's definition of "significant development" to fail, a development application for the site would be unable to rely on residual FSR from the Liverpool Plaza site to provide extra floorspace on the subject site pursuant to the provisions of Clause 4.5(6) of LLEP 2008.

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 proposed rezoning will support the objectives of this program of creating greater vibrancy in the city centre and supporting the recreational functions of the Macquarie Street Mall by activating the site at all hours, increasing passive surveillance of the Mall from proposed adjacent residential use.

Council is undertaking a comprehensive review of planning controls applying to the Liverpool City Centre. Draft LLEP 2008 (Amendment 52) received a Gateway Determination from the NSW Department of Planning and Environment on 22

September 2015. The rezoning of the subject site from B3 – Commercial Core to B4 – Mixed Use is consistent with the proposed outcomes of Draft LLEP 2008 (Amendment 52).

A special case

Council considers the “development site”, situated at the entry to the Macquarie Street Mall to be a special case worthy of individual consideration. The proposed development of a mixed-use tower at the southern entry to the Mall has the potential to provide a viable catalyst for further mixed-use development in the Liverpool City Centre.

Council believes that facilitating the development of a mixed use tower at the corner of Moore and Macquarie Streets will encourage further redevelopment of the core of the city centre in line with the aims of Draft LLEP 2008 (Amendment 52). Development of such a mixed use tower in the core of Liverpool City Centre will be a significant statement of Council’s intent, and will significantly begin to activate the Mall outside business hours, which is a central aim of Amendment 52. It is believed that the site is very well placed (in the centre of the CBD with frontages to Moore Street and the Macquarie Street mall) to take advantage of passing trade. This activation will assist the viability of the proposal.

It is noted that development of the subject site as intended by the proponent will not be facilitated by Amendment 52. The development site is located in the Fine Grain Precinct, and would not be able to develop to a height greater than 21 metres under the provisions of Amendment 52.

Council is convinced of the potential of the site for redevelopment, and that the proposed development would provide encouragement for similar mixed-use development elsewhere in appropriate opportunity sites in the core of the City Centre, as discussed above. For these reasons, Council has taken the decision to support this proposal as a separate amendment to the City Centre LEP Review (Amendment 52). It will excise the “development site” (77-83 Moore Street and 193 Macquarie Street) from Amendment 52, such that matters relating to the zoning and building height for the site are determined exclusively by this planning proposal.

Treating this proposal as a special case in this way also helps to address concerns raised in the Gateway Determination for Amendment 52 issued in September 2015, by increasing the commercial floorspace to be retained in the City Centre, providing a sustainable source of future employment. On account of draft clause 7.37 (see above), the site may not be developed as a mixed-use tower unless a minimum of 37.5% of the floor space is used for a non-residential purpose other than parking (i.e. commercial purposes). The requirement for such a high proportion of the floor space of the site to be used for commercial purposes gives Council certainty of achieving a considerable job yield from the site, and also provides an exemplar for genuine mixed use development elsewhere in the City Centre.

The proposed development of the Moore/Macquarie Street corner site for a mixed-use tower will require the partial redevelopment of the adjacent Liverpool Plaza site (165-191 Macquarie Street), as noted above, so that residual floorspace from that site may be used to facilitate the development of the tower pursuant to clause 4.5(6) of LLEP 2008. The Liverpool Plaza site is subject to Amendment 52 in addition to this proposal.

Council wishes to continue to include the Liverpool Plaza site in Amendment 52. The site is partially within the Fine Grain Precinct, and partially within the Mid Rise Precinct. Council would like to ensure that the landowner has access to all the available provisions of Amendment 52 for the Liverpool Plaza site, including Opportunity Site provisions. This is best achieved if the Liverpool Plaza site is retained under the auspices of Amendment 52.

Council is aware that there is a potential overlap of provisions. Both Amendment 52 and this proposal seek to rezone the Liverpool Plaza site (165-191 Macquarie Street) from B3 – Commercial Core to B4 – Mixed Use, and that one will prove redundant. Depending on the order in which each amendment is gazetted, Council will vary the amendment which is gazetted second, to remove reference to rezoning the Liverpool Plaza site to alleviate any confusion.

Proposal supports Amendment 52

A key consideration in Council supporting this proposal is that the proposed development outcome (a mixed-use tower in the core of the Liverpool City Centre) is entirely consistent and sympathetic with the intended outcomes of Amendment 52. As noted, it is believed that the proposal will provide a catalyst for similar mixed-use development within the City Centre.

In support of their application to increase the maximum height of a building on the development site to 100 metres, the proponent has argued that the development site meets the criteria for an Opportunity Site as described by Draft LLEP 2008 (Amendment 52). The criteria outlined in Draft LLEP 2008 (Amendment 52) for a site to qualify as an Opportunity Site is as follows:

- The site must have a minimum area of 1500sqm;
- The site must have multiple street or laneway/serviceway frontages;
- The site can accommodate tower footprints of up to 750 square metres gross floor area for residential uses or 1200 square metres gross floor area for commercial uses;
- The site can accommodate tall buildings without significant impact on the adjacent public domain, heritage buildings or neighbouring sites;
- The site offers the potential to deliver some additional car parking located in key locations in the CBD; and
- The site has the potential to improve the public domain, extend lanes and/or provide through-site links.

The proponent has provided evidence that the site generally meets the criteria as follows:

- The site area exceeds the minimum of 1500sqm necessary to qualify as an ‘Opportunity Site’;
- The site has multiple street/laneway frontages (the site fronts both Macquarie Street and Moore Street and is serviced by Davis Serviceway to the rear);
- The proponent states that the site is capable of mitigating impacts on the public domain, heritage buildings or neighbouring sites;
- The proponent states that the site can accommodate a tower footprint of up to 750sqm with the appropriate setbacks. It is noted, however, that the proponent has not provided plans which demonstrate this;
- The proponent has stated that there is the potential to provide additional roof-deck parking on the adjacent Liverpool Plaza site; and

- The proponent has not addressed the consideration of the site having the potential to improve the public domain or provide through-site links.

On available evidence, it may therefore be concluded that the site generally meets the criteria for an Opportunity Site as described in the Draft LLEP 2008 (Amendment 52).

The proponent has advanced further arguments in favour of the rezoning, stating that the site should be considered as a special case for the following reasons:

- The site is at the centre of Liverpool City Centre, at the junction of Moore and Macquarie streets, on the southern end of the Macquarie Street Mall;
- The site is one of only two “Fine Grain” sites that have the potential for tower development (the other being the Liverpool RSL Club site directly opposite the development site);
- Other sites around the Macquarie/Moore streets corner do not have potential, on account of heritage restrictions or fragmented ownership;
- The opportunity to consolidate “Opportunity Sites” to the south of the development site is limited by fragmented ownership and rear lanes which limit lot size. Similar impediments exist on much of the east of the Macquarie Street mall; and
- Being situated at the southern end of the Mall, the site can accommodate a tower development without overshadowing the Mall.

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

Draft LLEP 2008 (Amendment 52) proposes to rezone the site from B3 – Commercial Core to B4 – Mixed Use, which, if adopted may make the proposal to rezone the subject site from B3 – Commercial Core to B4 – Mixed Use redundant.

Nevertheless, a further planning proposal is required to increase the height of building sought for the site. It is appropriate that this proposal be considered at the same time as Draft LLEP 2008 (Amendment 52) – the City Centre LEP Review is considered.

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

Although the planning proposal calls for the rezoning of the site from B3 – Commercial Core to B4 – Mixed Use,

A Plan for Growing Sydney Strategic Directions and Policy Settings		Consistency / Response
<ul style="list-style-type: none"> strategic centres New jobs close to centres; access to knowledge jobs in centres 		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		
<ul style="list-style-type: none"> 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 	Yes	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		
<ul style="list-style-type: none"> An additional 664,000 dwellings required across Sydney over the next 20 years Action 2.1.1 Accelerate housing supply in and around strategic centres 	Yes	The rezoning proposes to facilitate the development of up to 134 apartment style dwellings within the strategic centre of Liverpool.
Direction 2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs		
<ul style="list-style-type: none"> 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 proposes to facilitate the development of up to 134 apartment style dwellings within the strategic centre of Liverpool.
Direction 2.3: Improve housing choice to suit different needs and lifestyles		
<ul style="list-style-type: none"> Research indicates a shortage of apartments in outer Sydney 	Yes	The rezoning proposes to facilitate the development of up to 134 apartment style dwellings within the strategic centre of Liverpool.
South West Subregion		
<ul style="list-style-type: none"> 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 	Yes	<p>The rezoning proposes to facilitate the development of up to 134 apartment style dwellings within the strategic centre of Liverpool.</p> <p>The subject site is not located in the health/education precinct adjacent Bigge Park.</p>

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 the former draft sub-regional plans for Sydney subregions and specific targets for the south west subregion 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 proposal ensures the provision of commercial floorspace that will create jobs by mandating that 37.5% of floorspace developed at the site be used for non-residential purposes. The rezoning also proposes to facilitate the development of up to 134 apartment style dwellings within the strategic centre of Liverpool.
	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 centre 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 proponent envisages that future development will incorporate a three-storey commercial podium which will provide for retail uses at ground floor, activating the street edge.
	Yes
Protecting and conserving historic elements	The proposed development is in the vicinity of a number of significant heritage items in Liverpool City Centre including St Luke's Church and The Corner Pub. As is developed further in Section C below, it is recommended that the proponent be required to submit an appropriate Statement of Heritage Impact prior to the proposal proceeding to exhibition.
Reinforce the importance of the Macquarie Street Mall	Yes

Revitalising Liverpool City Centre Plan 2006	Consistency / Response
	This proposal will facilitate a major development at the gateway site of the Macquarie Street Mall at its junction with Moore Street.
Improving the quality of the public domain	Yes Developer contributions paid by the applicant on a development pursued pursuant to this proposal would enable further improvements to the public domain.
Consolidation of the city centre	Yes 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 The proposal will facilitate the development of a significant destination at the southern end of the Macquarie Street Mall which will help activate the Mall and encourage greater pedestrian activity.
Section 9: City Centre Character	
Opportunities for mixed-use developments in the city centre	Yes This planning proposal will facilitate mixed-use development in the centre 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 Draft LLEP 2008 (Amendment 52) seeks to rezone much of the existing commercial core of Liverpool City Centre from B3 – Commercial Core to B4 – Mixed Use while retaining a smaller but significant commercial core. This proposal seeks to facilitate mixed use development on a site that would not be part of the commercial core to be retained.

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: <ul style="list-style-type: none"> • 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

**State
Environmental
Planning Policy**

Consistency / Response

	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 for many years for urban purposes.
	A search of Council's records revealed no declaration of significantly contaminated land on the site.
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 Apartment Design Guide.
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	
1.1	<p>Business and Industrial Zones</p> <p>(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</p> <p>(5) (b) permits that a planning proposal may be inconsistent with this direction where justified by a study (prepared in support of the planning proposal) which gives consideration to the objectives of this direction.</p>	<p>Yes</p> <p>This planning proposal seeks to rezone the subject site from B3 – Commercial Core to B4 – Mixed use. Nevertheless, the development controls of the site currently permit the development of approximately 6000sqm of commercial floorspace on the site.</p> <p>Development feasibility options provided by the proponent indicate that were the site to be developed to its full potential as described in the attached addendum to the Highest and Best Use assessment (Appendix 3) pursuant to this proposal, over</p>

Section 117 directions

Number	Direction/Objectives	Consistency / Response
		6000sqm of commercial floorspace would be developed. The rezoning therefore preserves the employment potential of the site.
2	Environment and Heritage	
2.3	<p>Heritage Conservation</p> <p>A Planning Proposal must contain provisions that facilitate the conservation of:</p> <p>(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.</p>	<p>Yes</p> <p>Any future development on the site pursuant to this proposal must comply with the requirements of Clause 5.10 Heritage Conservation, of LLEP 2008.</p> <p>In addition, as discussed in Section C below it is recommended that the Gateway Determination make it a condition that a Statement of Heritage Impact prepared by an appropriately qualified and experienced consultant be provided to Council's satisfaction prior to public exhibition.</p>
3	Housing, Infrastructure and Urban Development	
3.1	<p>Residential Zones</p> <p>(4) A planning proposal must include provisions that encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and</p> <p>(b) make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p> <p>(5) A planning proposal must, in relation to land to which this direction applies:</p> <p>(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</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>	<p>Yes</p> <p>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.</p> <p>This planning proposal does not propose to reduce the permissible residential density of the land.</p>
3.4	<p>Integrating Land Use and Transport</p> <p>The objectives of this direction are:</p> <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p>	<p>Yes</p> <p>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.</p>
3.5	Development Near Licensed Aerodromes	Yes

Section 117 directions

Number	Direction/Objectives	Consistency / Response
	<p>(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:</p> <p>(a) consult with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome,</p> <p>(b) take into consideration the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth,</p> <p>(c) for land affected by the OLS:</p> <p>(i) prepare appropriate development standards, such as height, and</p> <p>(ii) allow as permissible with consent development types that are compatible with the operation of an aerodrome</p> <p>(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.</p>	<p>The proposal seeks to increase the Height of Buildings development standard at the subject site to 100m. Council's GIS data indicate that the highest point of natural ground at the site is approximately 17.5m. The total height that a building would be permitted to reach would be 117.5 metres AHD.</p> <p>The height of the OLS applying to the site is between 120-130m AHD. The proposal does not permit development with consent that would encroach Bankstown Airport OLS and so the permission of the Commonwealth Department of Infrastructure and Regional Development is not required pursuant to condition (4)(d).</p> <p>As the proposal sets controls for land in the vicinity of Bankstown Airport, it is envisaged that consultation with DIRD will be required along with other public authorities pursuant to (4)(a).</p>
6	Local Plan Making	
6.3	<p>Site Specific Provisions</p> <p>The direction requires that:</p> <p>(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:</p> <p>(a) allow that land use to be carried out in the zone the land is situated on, or</p> <p>(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</p> <p>(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.</p> <p>However:</p> <p>(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.</p>	<p>No, Minor inconsistency</p> <p>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.</p> <p>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.</p>
7	Metropolitan Planning	
7.1	<p>Implementation of A Plan for Growing Sydney</p> <p>Planning Proposals shall be consistent with A Plan for Growing Sydney</p>	<p>Yes</p> <p>Consistency with A Plan for Growing</p>

Section 117 directions

Number	Direction/Objectives	Consistency / Response
		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?

Solar access to Macquarie Street Mall

One intended outcome of this planning proposal is a qualitative increase in the permissible height applying to 77-83 Moore Street and 193 Macquarie Street. This planning proposal seeks to increase the permissible Height of Buildings on the site to 100 metres, from the existing 18 metre height limit.

The proponent has acknowledged that overshadowing would be a likely impact of development envisaged by the planning proposal (see Figures 6-8 below) and has submitted diagrams showing the extent of overshadowing to properties the south of the subject site during the winter solstice. It is noted that the southern end of the Macquarie Street Mall in addition to the Corner Pub heritage item are likely to be overshadowed at 3pm on 21 June.

It is noted that any development proposal for the site pursuant to this proposal must comply with Clause 7.2 of LLEP 2008 Sun access in Liverpool City centre, which limits the street height of buildings facing Macquarie Street. It is also recommended that the impacts of overshadowing of heritage items be considered as part of the SoHI recommended below.

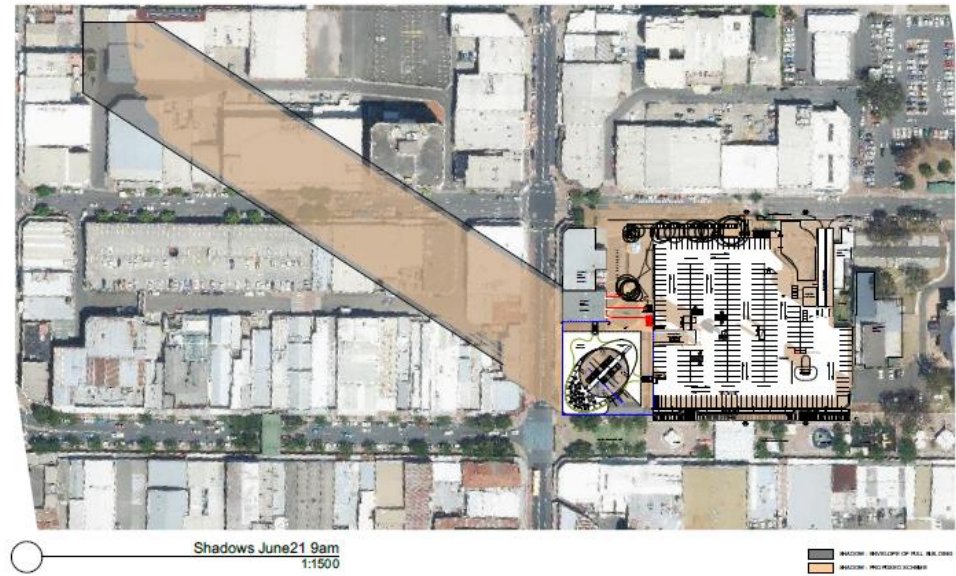


Figure 3: Overshadowing at 9am on 21 June
Source: Urbis

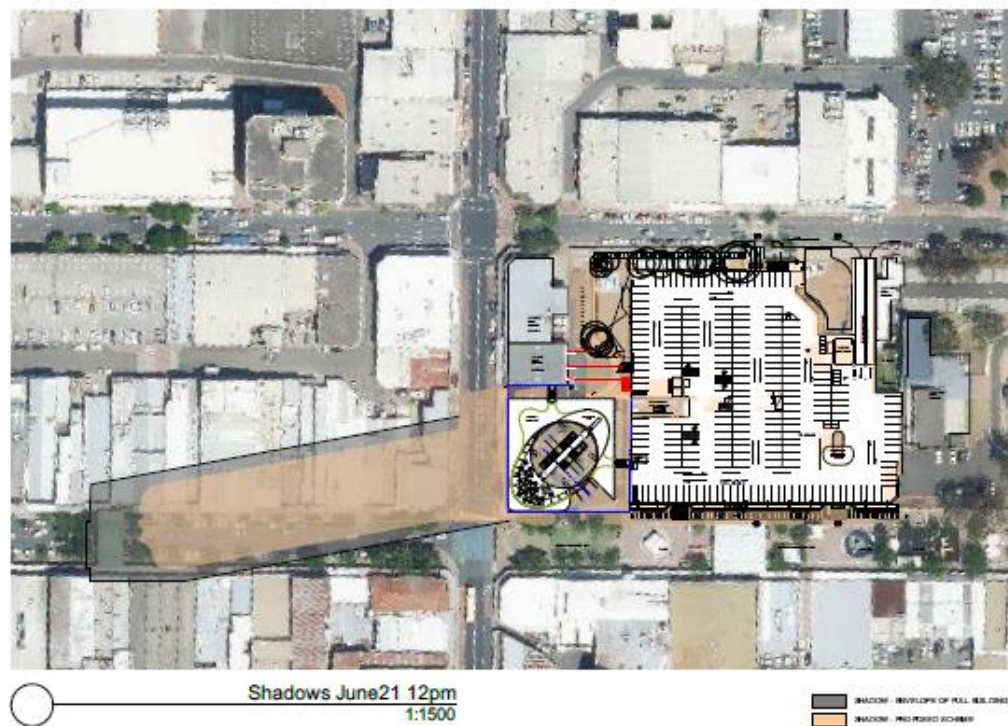


Figure 4: Overshadowing at 12pm on 21 June
Source: Urbis



Figure 5: Overshadowing at 3pm on 21 June

Source: Urbis

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

Economic impacts

The proponent submitted a *Highest and Best Use Options* document prepared by Urbis in support of the proposed rezoning (see Appendix 3). The document tests the feasibility of a range of options for the development of the site, based on zoning and development standards provided by this proposal. It also provides an estimation of the economic impact of the proposal.

The proponent's *Highest and Best Use Options* document argues the following:

- Evidence supports the development of modest office accommodation for local business in Liverpool. The majority of larger, high-quality office space in Liverpool is taken up by government tenants;
- 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;
- There is market demand to support the absorption of an additional 134 residential units;

- The proposal will contribute to the development of Liverpool City Centre as a mixed-use centre;
- The inclusion of serviced apartments in Liverpool City Centre will promote local tourism and improve access to Liverpool by visitors; and
- 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.

As a result of their analysis, the proponent has based their preferred development option on a mixed use development with limited commercial office floorspace (approximately 2000sqm). However, the overall contribution to employment floorspace would be increased by the inclusion of 72 serviced apartments, which would provide employment as well as much needed accommodation in the centre of the city. It is to be noted that serviced apartments are not a permissible use on land zoned B3 – Commercial Core pursuant to LLEP 2008.

In response to concerns that the market may not support such a volume of serviced apartment floorspace, the proponent has provided an addendum which explores variations including the replacement of the serviced apartments with extra commercial floorspace (Appendix 4). The results of testing for these alternatives notes that serviced apartments (as opposed to office space) remains the most feasible form for provision of non-residential floor space on the proposed site.

Nevertheless, in order to give Council and the proponent certainty of outcome, and despite the conclusion reached in the Addendum, the proponent has agreed to retain the wording of the non-residential floorspace clause as written above, which requires that 37.5% of any floorspace developed on the site must be for non-residential uses (excluding car parking).

European Heritage

As noted above, the subject site is in the vicinity of a number of European heritage items identified by LLEP 2008, specifically:

- Item 84: the St Luke's Anglican Church Group;
- Item 89: Plan of Town of Liverpool; and
- Item 95: The Corner Pub.

Considering the location of the site and the potential for overshadowing of The Corner Pub there is a requirement for any development on the site to address potential impacts on nearby heritage items pursuant to clause 5.10(5) of LLEP 2008. 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.

Impact on the development potential of the adjacent site

At Council's request, the proponent has provided information regarding the potential impact of the proposal on the development potential of the adjacent site (85-95 Moore Street). This site along with the development site comprise a Key Site identified by LLEP 2008. The sites are depicted in Figure 7 below.



Figure 6: Depiction of the development site and adjacent site

Source: Urbis

According to Part 4 of LDCP 2008, this Key Site, constituted by both sites, has the following development potential:

This site is in a prominent location fronting directly onto the south western corner of the Macquarie Street Mall. The present treatment of this important corner and “arrival” point to the Mall is relatively poor and requires improvement through a quality architectural and urban design response to this site. (Part 4 LDCP 2008 p73)

Draft LLEP 2008 (Amendment 52) seeks to remove reference to the Key Sites in the city centre, to allow for greater flexibility for individual lots to develop as Opportunity Sites. The proponent has also provided the following information regarding the impact of the proposal on the site as follows:

- The site (of itself) is smaller than 1500sqm and is therefore unable to support a tower development as an “Opportunity Site” as described by Draft LLEP 2008 (Amendment 52);
- The site cannot be amalgamated with any other site; and
- The site has the potential to be developed according to the recommendations of the Draft LLEP 2008 (Amendment 52), which would permit a 6 storey street edge and 4 storey lane edge form.

D. State and Commonwealth interests.

Is there adequate public infrastructure for the planning proposal?

The site is approximately 550 metres walking distance from Liverpool train station and bus interchange. Frequent bus services pass Moore Street to a wide range of nearby suburbs and localities. The site is highly advantaged in regard to public transport.

The site is currently serviced by all utilities. The proponent has indicated that further investigation would be undertaken prior to the lodgement of a

development application to determine the existing capacity of these services and whether any amplification or upgrades would be required.

The site is adjacent to the Macquarie Street mall, providing open space to future residents. In addition, the site is located less than 400 metres from Bigge Park, the largest park in Liverpool City Centre. The site is within 850 metres walking distance of Liverpool Hospital and allied health services associated with the hospital. In addition, Council's traffic and transport department have confirmed that the existing road system is expected to be able to absorb the extra traffic likely to be generated on the site.

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?

Any Gateway Determination issued by the Department of Planning and Environment would direct Council on which public authorities to consult.

Part 4- Mapping

Two LLEP 2008 maps would require amendment in association with the rezoning for the subject site. Details of the amendments to the maps necessary to give effect to the proposed rezoning (LZN-011 and HOB-011) are noted in Table 1 above. The changes to be made for each map are illustrated in Figures 7-8 below:

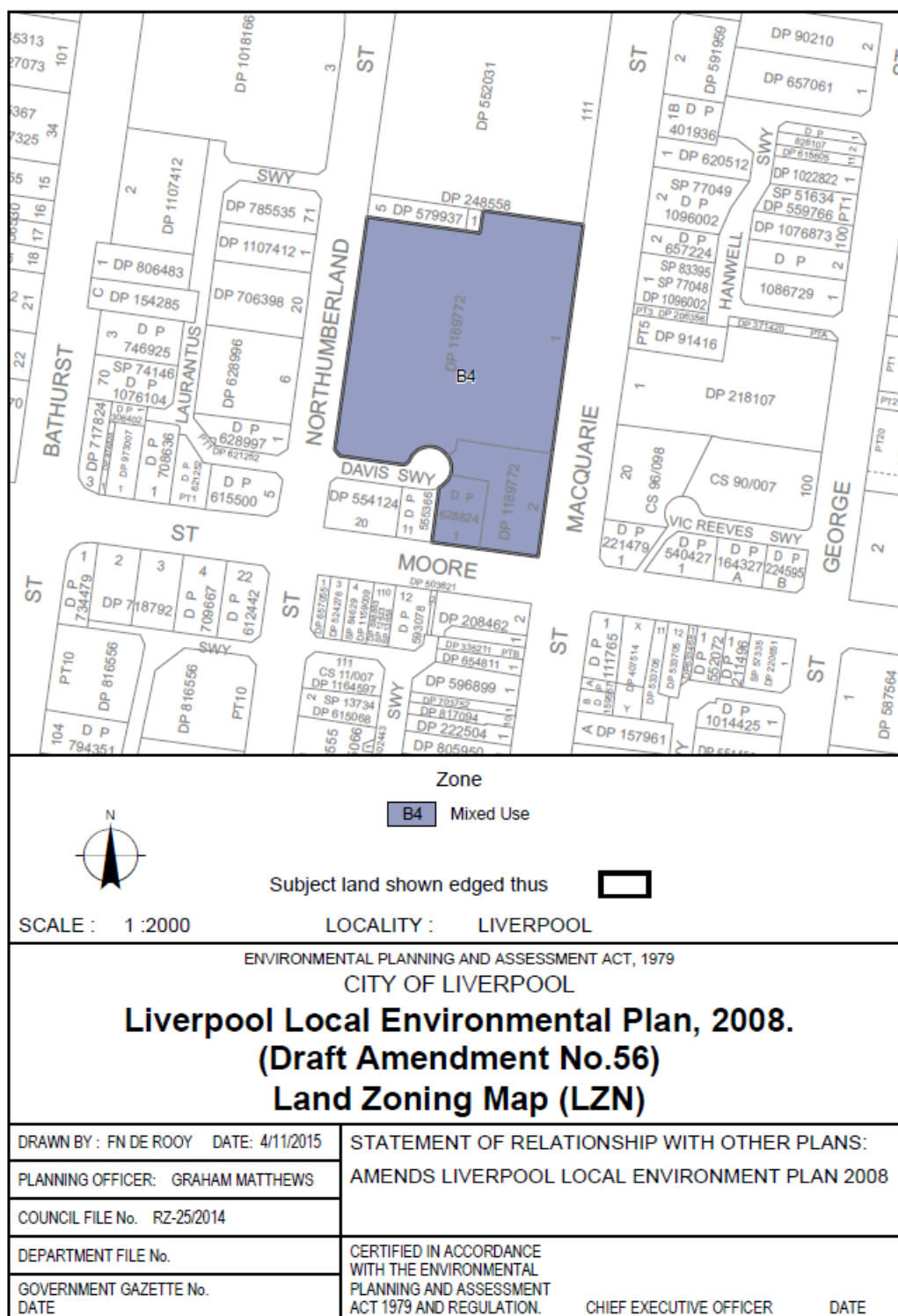


Figure 7: Proposed amendment to LZN-011

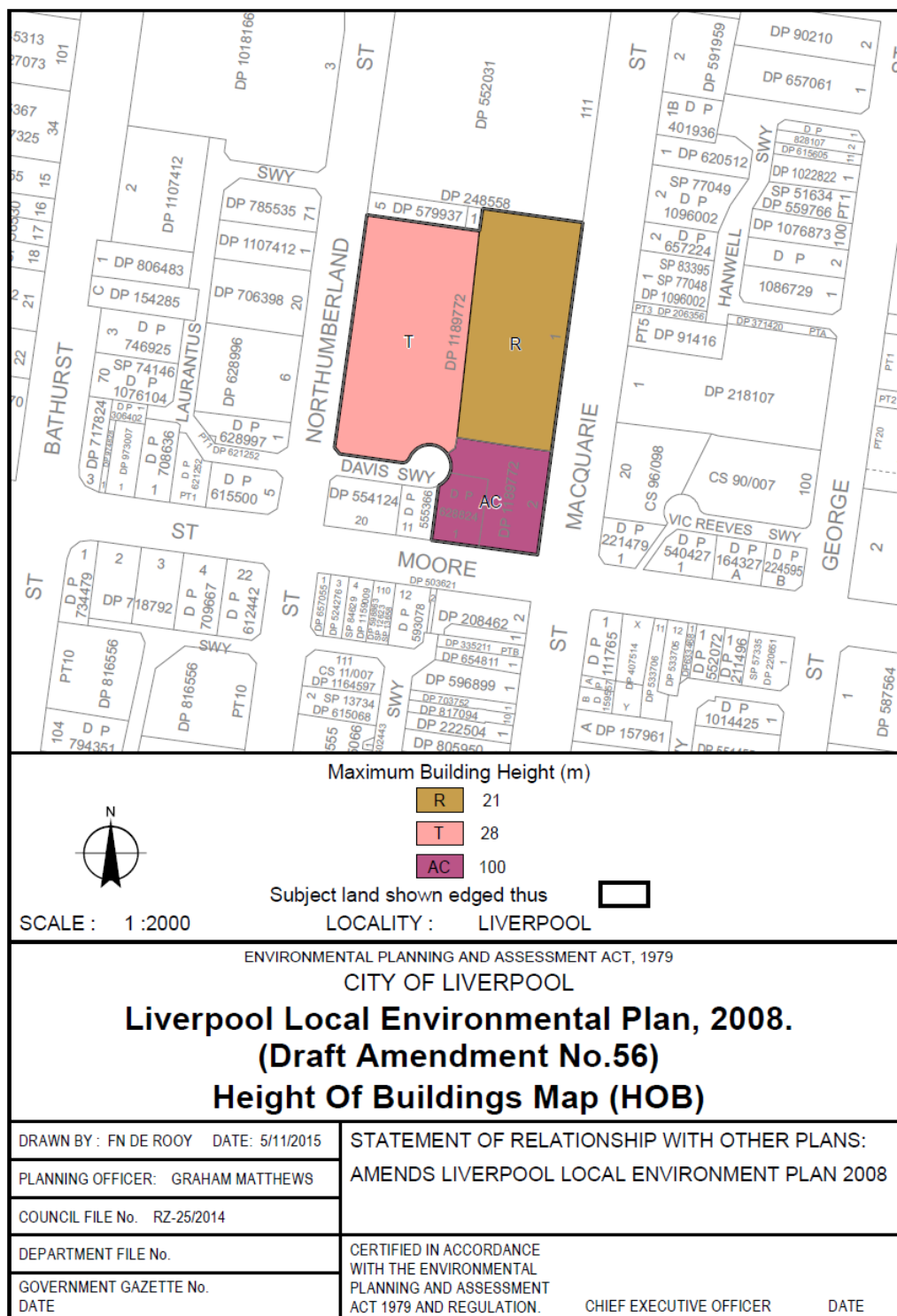


Figure 8: Proposed amendment to HOB-011

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:

29 July 2015	First Report to Council
20 November 2015	Planning Proposal sent to NSW P&I requesting Gateway Determination
6 July 2016	Agency Consultation to commence*
27 July 2016	Agency Consultation to conclude*
10 August 2016	Community Consultation to commence*
7 September 2016	Community Consultation to conclude*
26 October 2016	Second Council Report*

*Pending the issuing of a Gateway determination

Appendix 1: Draft Covenant

Under separate cover

Appendix 2: Proponent's legal advice

Under separate cover

Appendix 3: Liverpool Plaza – Highest and Best Use

Under separate cover

Appendix 4: Liverpool Plaza Feasibility Addendum

Under separate cover