

Liverpool Local Environmental Plan 2008 (Amendment No 56) – Proposal to rezone 77-83 Moore Street, 193 Macquarie Street and 165 Macquarie Street, Liverpool.

Proposal Title : Liverpool Local Environmental Plan 2008 (Amendment No 56) – Proposal to rezone 77-83 Moore Street, 193 Macquarie Street and 165 Macquarie Street, Liverpool.

Proposal Summary : The planning proposal seeks to:

- To rezone the site (77-83 Moore Street – Lot 1 DP 628824, 193 Macquarie Streets – Lot 2 DP 1189772 and 165 Macquarie Street – Lot 1 DP 1189772, Liverpool) from B3 Commercial Core to B4 Mixed Use; and
- To amend the Height of Buildings Map to increase the permissible building height from 18 metres to 100 metres at 77-83 Moore Street and 193 Macquarie Street, Liverpool.

NOTE: It is noted that Liverpool Plaza site (165 Macquarie Street – Lot 1 DP 1189772) of this planning proposal has already been included in Liverpool LEP 2008 (Amendment No 52). The site, under both the planning proposals is proposed to be rezoned from B3 Commercial Core to B4 Mixed Use. Council has advised that the reason to include this site in Liverpool LEP 2008 (Amendment No 52) as well, is that the site is partially within the Fine Grain Precinct and partly within the Mid Rise Precinct (one of the provisions of the Liverpool Amendment No 52). Council wants to ensure that the landowner has access to all the available provisions of Amendment No 52 for the Liverpool Plaza site, including Opportunity Site provisions.

Council has advised that depending upon on the order in which each amendment is notified, Council will vary the amendment which is gazetted second, to remove reference to rezoning the Liverpool Plaza site to alleviate any confusion.

PP Number : PP_2016_LPOOL_001_00 **Dop File No :** 16/01410

Proposal Details

Date Planning Proposal Received :	01-Jul-2016	LGA covered :	Liverpool
Region :	Metro(Parra)	RPA :	Liverpool City Council
State Electorate :	LIVERPOOL	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	77-83 Moore Street, 193 Macquarie Street, and 165 Macquarie Street		
Suburb :	Liverpool	City :	Liverpool
		Postcode :	2170
Land Parcel :	77-83 Moore Street – Lot 1 DP 628824, 193 Macquarie Streets – Lot 2 DP 1189772 and 165 Macquarie Street – Lot 1 DP 1189772, Liverpool		

DoP Planning Officer Contact Details

Contact Name : **Amar Saini**
 Contact Number : **0298601531**
 Contact Email : **amar.saini@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Toni Averay**
 Contact Number : **0298219396**
 Contact Email : **t.averay@liverpool.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Adrian Hohenzollern**
 Contact Number : **0298601505**
 Contact Email : **adrian.hohenzollern@planning.nsw.gov.au**

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Metro South West subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	134
Gross Floor Area :	0	No of Jobs Created :	380

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**
 If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **The Department's Lobbyist Contact Register has been checked on 18 July 2016, and there are no records on the Department's Lobbyist Contact Register regarding this matter.**

Supporting notes

Internal Supporting Notes : **POLITICAL DONATIONS DISCLOSURE STATEMENT**

Political donations disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the Planning system.

"The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term relevant planning application means:

- A formal request to the Minister, a council or the Secretary to initiate the making of an environmental planning instrument..."

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Secretary is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this Planning Proposal.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : The objective of this planning proposal is to rezone the site 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.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : Council has provided the following explanation for the proposed amendment:

1. Amend Land Zoning Map (LZN-011) pertaining to Lots 1 and 2 DP 1189771 and Lot 1 DP 628824 to rezone from B3 Commercial Core to B4 Mixed Use;

2. Amend Height of Buildings Map (HOB-011) pertaining to Lot 1 DP 628824 and Lot 2 DP 1189772 to increase permissible building height from 18 metres to 100 metres; and

3. Add a new clause 7.37 Minimum non-residential floor space ratio control at 77-83 Moore Street and 193 Macquarie Street, Liverpool to Liverpool LEP 2008. This 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.

Clause 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.

4. Floor Space Ratio

The planning proposal does not seek to increase FSR applying to the subject land as the substantial increase in FSR for the site would provide a precedent and raise expectations of neighbouring landowners of a similar increase. The proponent has indicated that should the planning proposal proceeds a development application for the proposed site would seek to utilise the provisions of Clause 4.5(6) of Liverpool LEP 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 provided an example of draft covenant (copy in Documents) 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 Liverpool LEP 2008 (copy in Documents) for a future development application for the envisaged development.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

2.3 Heritage Conservation

* May need the Director General's agreement

3.1 Residential Zones

3.4 Integrating Land Use and Transport

3.5 Development Near Licensed Aerodromes

6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

SECTION 117 DIRECTIONS

Consistency with relevant s117 Directions:

1.1 BUSINESS AND INDUSTRIAL ZONES

The 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 6000 square metres of commercial floorspace on the site.

Development feasibility options provided by the proponent indicate that were the site to be developed to its full potential as described in the Best Use assessment pursuant to this proposal, over 6000 square metres of commercial floorspace would be developed. The rezoning therefore preserve the employment potential of the site.

Comments

The proposal is considered to be consistent with the direction.

2.3 HERITAGE CONSERVATION

The direction requires the planning proposal to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

As the site is adjacent to a State significant and two local significant heritage items listed under Schedule 5 of Liverpool Local Environmental Plan 2008, this direction applies in this instance.

Comments

The planning proposal contains no additional provisions in relation to the heritage conservation and the fact that the Liverpool LEP 2008 contains standard heritage provisions, it is considered these heritage items will be adequately protected under these provisions. Further, Council recommends that the Gateway determination make it

a condition that a Statement of Heritage Impact be prepared by a suitably qualified and experienced heritage consultant to Council's satisfaction prior to public exhibition of the planning proposal. The planning proposal is therefore considered to be not inconsistent with the direction. However, it is recommended that Council prepare a Heritage Impact Statement to the satisfaction of the Heritage Office and amend the planning proposal if required.

3.1 RESIDENTIAL ZONES

This direction applies when a planning proposal affects an existing or proposed residential use or any other zone in which significant residential development is permitted or proposed to be permitted and approval of the Secretary of the Department of Planning and Environment is required if the reduction in density is involved.

The planning proposal proposes to facilitate provision of apartment style dwellings, which will broaden housing choice, make more efficient use of existing infrastructure and services, reduce consumption of land for housing and be of good design.

Comments

As the planning proposal does not propose to reduce the permissible residential density of the land the proposal is considered to be consistent with the direction.

3.4 INTEGRATED LAND USE AND TRANSPORT

The direction applies to the planning proposal.

Under this direction, a planning proposal must include provisions that give effect to and are consistent with the aims, objectives and principle of:

- (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001) and
- (b) The right Place for Business and Services – Planning Policy (DUAP 2001).

Central to these two documents is the objective of improving access to housing, jobs and services by walking, cycling and public transport, and the reducing travel demand including the number of trips generated by development and the distance travelled, especially by car.

Comments

The planning proposal is considered to be 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 (i.e. Liverpool Railway Station and Bus Interchange).

3.5 DEVELOPMENT NEAR LICENSED AERODROMES

The site is within the flight path of Bankstown Airport. This direction applies as the planning proposal is to build a 100 metres building on the site which has the potential to encroach Obstacle Limitation Surface (OLS) of Bankstown Airport.

Condition 4 of the direction requires:

(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.

Comments

Council has previously consulted the Department of Infrastructure and Regional Development as part of draft Amendment No 51 - 133 Bigge Street, Liverpool in the city centre to assess the impact of the development on the operations of Bankstown Airport.

It should be noted that the Commonwealth Department of Infrastructure and Regional Developments' response to Council was that the Department cannot grant such permission pursuant to its governing Act and regulations (letter attached at documents). The letter also notes, "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."

Whilst this is the case, the 117 Direction remain and Council is required to consult with the Commonwealth Department of Infrastructure and Regional Development on the planning proposal prior to undertaking community consultation in satisfaction of section 57 of the Act.

6.3 SITE SPECIFIC PROVISIONS

The objective of this direction is to discourage unnecessary restrictive site specific planning controls.

The planning proposal is inconsistent with this direction as it proposes to amend the Liverpool LEP 2008 by adding a new site specific clause i.e. 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.

Council has advised that the proposed minimum non-residential FSR controls that would apply to the site will ensure the provision of a minimum amount of employment floor space and therefore jobs are provided by the development of the site.

Further, 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 areas all similarly zoned.

Comments

As the proposal would create more jobs and the proposed control is not applicable to B4 Mixed Use zoned land throughout Liverpool the inconsistency is considered to be minor

and justified in this instance.

The approval of the Secretary is recommended.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment :

Council has provided the following maps:

1. Location plan
2. Aerial photograph
3. Overshadowing diagrams
4. Map showing development site
5. Existing Land Zoning Map
6. Draft Land Zoning Map
7. Draft Height of Building Map

It is considered that the maps are adequate for consultation purposes.

Community consultation - s55(2)(e)

Has community consultation been proposed? No

Comment :

Council has advised that the Gateway determination will specify the community consultation period. Given the nature of the planning proposal, it is recommended that it should be placed on public exhibition for a minimum of 28 days.

Additional Director General's requirements

Are there any additional Director General's requirements? No

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

The Liverpool principal plan was made in 2008. This planning proposal seeks to amend the Liverpool Local Environmental Plan 2008.

Assessment Criteria

Need for planning proposal :

The 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.

SITE

The planning proposal's site comprises of 77-83 Moore Street (Lot 1 DP 628824), 193 Macquarie Streets (Lot 2 DP 1189772) and 165 Macquarie Street (Lot 1 DP 1189772) Liverpool. The site is located within the Liverpool City Centre (location map in Documents)

The site is situated approximately 550 metres walking distance from Liverpool train station and Liverpool bus interchange. Liverpool Hospital is also located approximately 850

metres from the site.

The site is adjacent to St Luke's Church Group heritage item of State significance (Item No. 84). The site is also located in the vicinity of the following two local significance 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 Liverpool LEP 2008 Key Sites map, which triggers extra provisions of Clause 7.5 of Liverpool LEP 2008 requiring an architectural design competition for any development having a capital value of more than \$10 million. It may be noted that the provision for an architectural design competition would be removed from Liverpool LEP 2008 by draft Liverpool 2008 (Amendment No 52) – Liverpool City Centre LEP Review.

The site is currently zoned B3 Commercial Core under the Liverpool LEP 2008, which 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 level.

Proposal

The proponent intends to develop a 28 Storey tower on podium building on the site with uses including retail, office, serviced apartments and residential flats.

The planning proposal proposes to increase the maximum permissible building height on the "development site" (i.e. 77-83 Moore Street and 193 Macquarie Street) from 18 metres to 100 metres. In order to develop a 100 metres tall building on the site, the proponent has sought the benefit from Clause 4.5 of Liverpool LEP 2008 (copy in Documents), which permits unutilised floor space to be transferred to an adjacent site, as long as "significant development" occurs on both sites. In light of this, the Liverpool Plaza site (165 Macquarie Street) has been included in the planning proposal. It is proposed to develop a childcare and an additional level of carparking on the Liverpool Plaza site. The Liverpool LEP 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 site" because of the following:

- The sole purpose of the carparking will be to serve the retail and serviced apartments on the development site i.e. 77-83 Moore Street and 193 Macquarie Street;
- Without the proposed carparking 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 DCP 2008;
- The carparking and childcare centre will be substantial structure 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.

A draft covenant has been provided with the planning proposal 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 Liverpool LEP 2008 for a future development application for the envisaged development.

Consistency with strategic planning framework :

The proponent has provided a Legal advice in support of its argument that the proposed development of a child care centre and carparking is a significant development.

It is noted that Liverpool City Council has begun the "Building Our New City" program which aims to revitalise the city centre. The planning proposal is consistent with the objectives of this program of creating greater vibrancy in the city centre.

CONSISTENCY WITH STRATEGIC PLANNING FRAMEWORK

METROPOLITAN STRATEGY

A PLAN FOR GROWING SYDNEY (the Plan)

The proposal is considered to be consistent with the goals and actions of the Plan as explained below:

- Direction 1.4: Transform the productivity of Western Sydney through growth and investment. The proposal by providing additional employment and dwellings will contribute towards increasing the productivity of Western Sydney.
- Direction 1.7 Growth strategic centres – providing more jobs closer to home. 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 facilitate the creation of a vibrant hub of activity.
- Direction 2.1: Accelerate housing supply across Sydney. The planning proposal will facilitate 134 apartments in Liverpool City Centre.
- Direction 2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs. The proposed development by providing additional 134 apartments would accelerate additional housing and would provide jobs closer to homes.
- Direction 2.3: Improve housing choice to suit different needs and lifestyles. The proposal will increase housing choice by providing additional apartments in the area.

REVITALISING LIVERPOOL CITY CENTRE PLAN 2006

The planning proposal is considered to be consistent with this document as it will provide:

- Increased numbers of dwellings within Liverpool City Centre
- A vibrant 18 hour a day city
- A mixed use areas in Liverpool City Centre that will strengthen the connection between the city and the health and education precincts.
- Consolidation of the city centre by facilitating apartment style residential development in a mixed-use environment.

VOLUNTARY PLANNING AGREEMENT (VPA)

Council has advised that the site is liable to a developer contribution equivalent to 3% of the cost carrying out development according to the Liverpool City Centre Contribution Plan 2007. Council intends to negotiate a VPA with the developer, which could include required road works and public domain improvements in both the Macquarie Street Mall and Moore Street.

Environmental social economic impacts :

ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACTS

Social Impacts

There is no likelihood of any adverse social impacts.

Economic impacts

Council has submitted Highest and Best Use Options document which provide the underlying rationale for the planning proposal (copy in Documents).

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The planning proposal is likely to accelerate housing supply and create jobs within the established centre and along a public transport route within the centre where there has been very little uptake since 2008. The planning proposal is expected to create 134 dwellings and 324 construction and 381 operational jobs.

Heritage Issues

Heritage issues have already been discussed under s117 Direction 2.3 Heritage Conservation of this report, where it is concluded that heritage items will be adequately protected.

Solar access

The proponent has acknowledged that overshadowing would be likely impact of the development and has provided shadow diagrams (copy of overshadowing diagrams are on page 17 and 18 of the planning proposal). The proponent has agreed to include impact of the overshadowing be considered as part of the Heritage Impact Assessment.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **Nil**

Public Authority Consultation - s56(2)(d) : **Office of Environment and Heritage
Energy Australia
Transport for NSW - Roads and Maritime Services
Sydney Water
Telstra**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council Report.pdf	Study	Yes
Legal Advice.pdf	Study	Yes

Liverpool Local Environmental Plan 2008 (Amendment No 56) – Proposal to rezone 77-83 Moore Street, 193 Macquarie Street and 165 Macquarie Street, Liverpool.

Location Map.pdf	Map	Yes
Heritage Map.pdf	Map	Yes
Highest and Best Use Option - A Study.pdf	Study	Yes
Draft Covenant.pdf	Study	Yes
Clause 4.5 of Liverpool LEP 2008.pdf	Study	Yes
Addendum to Highest and Best Use Option - A Study.pdf	Study	Yes
Council Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Letter from Feds - airport noise.pdf	Study	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 6.3 Site Specific Provisions

Additional Information : It is recommended that the planning proposal proceed subject to the following conditions:

1. Community consultation is required under Section 56(2)(c) and 57 of the EP&A Act as follows:
 - (a) the planning proposal must be publicly exhibited for 28 days, and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with the planning proposal as identified in section 5.5.2 of A Guide to preparing local environmental plans (Department of Planning and Environment 2013).
2. Prior to public exhibition, Council is to undertake heritage impact study as proposed in the planning proposal and amend the planning proposal in respect of section 117 Directions 2.3 Heritage Conservation, if required.
3. The Secretary's delegate pursuant to the item (4) of the Section 117(2) Direction 6.3 Site Specific Provisions, endorses inclusion of clause 7.37 (Minimum non-residential floor space ratio control at 77-83 Moore Street and 193 Macquarie Street, Liverpool) in Liverpool LEP 2008.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

Office of Environment and Heritage
 Road and Maritime Services
 Sydney Water
 Energy Australia
 Telstra
 Sydney Metro Airports (Bankstown Airport)
 Commonwealth Department of Infrastructure and Regional Development

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

5. A public hearing is not required to be held in relation to this matter by any person or body under section 52(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to

a submission or if reclassifying land).

6. The timeframe for completing the local environmental plan is to be 12 months from the week following the date of the Gateway determination.

DELEGATION OF GATEWAY DETERMINATION

The proposal is considered to be consistent with State Strategy and of a local nature therefore it is recommended that the determination function of the Gateway be exercised under delegation by the Director, Sydney Region West.

DELEGATION TO COUNCIL

Liverpool City Council has not requested plan making functions be delegated to Council in this instance. Given the nature of the planning proposal, it is recommended that delegations of the Plan Making functions be given to Council in this instance.

Supporting Reasons :

The planning proposal is supported, as it will create jobs and accelerate housing supply within the established centre and along a public transport route.

Signature:



Printed Name:

ADRIAN HOHENZACCERN

Date:

28 / JUL / 2016