

<b>JRPP No</b>	<b>2010SYW094</b>
<b>DA Number</b>	<b>DA-622/2011</b>
<b>Local Government Area</b>	<b>Liverpool City Council</b>
<b>Proposed Development</b>	<b>DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF A NINE STOREY MIXED USE DEVELOPMENT COMPRISING OF GROUND FLOOR AND FIRST FLOOR COMMERCIAL TENANCIES, INCLUDING A GYM AND CAFÉ AND TWENTY ONE RESIDENTIAL UNITS ON LEVELS 2 – 9 WITH ASSOCIATED BASEMENT CAR PARKING</b>
<b>Street Address</b>	<b>54 AND 56 MACQUARIE STREET, LIVERPOOL NSW 2170</b> <b>LOT 100 DP 837549 AND LOT 101 DP 837549</b>
<b>Applicant/Owner</b>	<b>TRAN AND TRUONG COMMERCIAL PROPERTIES PTY LTD</b>
<b>Number of Submissions</b>	<b>Nil</b>
<b>Recommendation</b>	<b>Approval with Conditions</b>
<b>Report by</b>	<b>Maya Elnazer, Senior Development Planner</b>

## Assessment Report and Recommendation

### EXECUTIVE SUMMARY

Council is in receipt of a Development Application seeking consent for the construction of a nine (9) storey mixed use development comprising of ground floor and first floor commercial tenancies and twenty one residential units on Levels 2 – 9 with associated basement car parking which will service both the commercial and residential components of the development.

The proposed development is defined as a “mixed use development” under Liverpool Local Environmental Plan 2008. A “mixed use development” means a building or place comprising 2 or more different land uses. The development comprises a “residential flat building”, a “recreation facility (indoor gym)” and a “retail premises” (café), which are permissible forms of development within the B4 Mixed Use zone, as such it is considered that the proposed development satisfies the definition of a “mixed use development”.

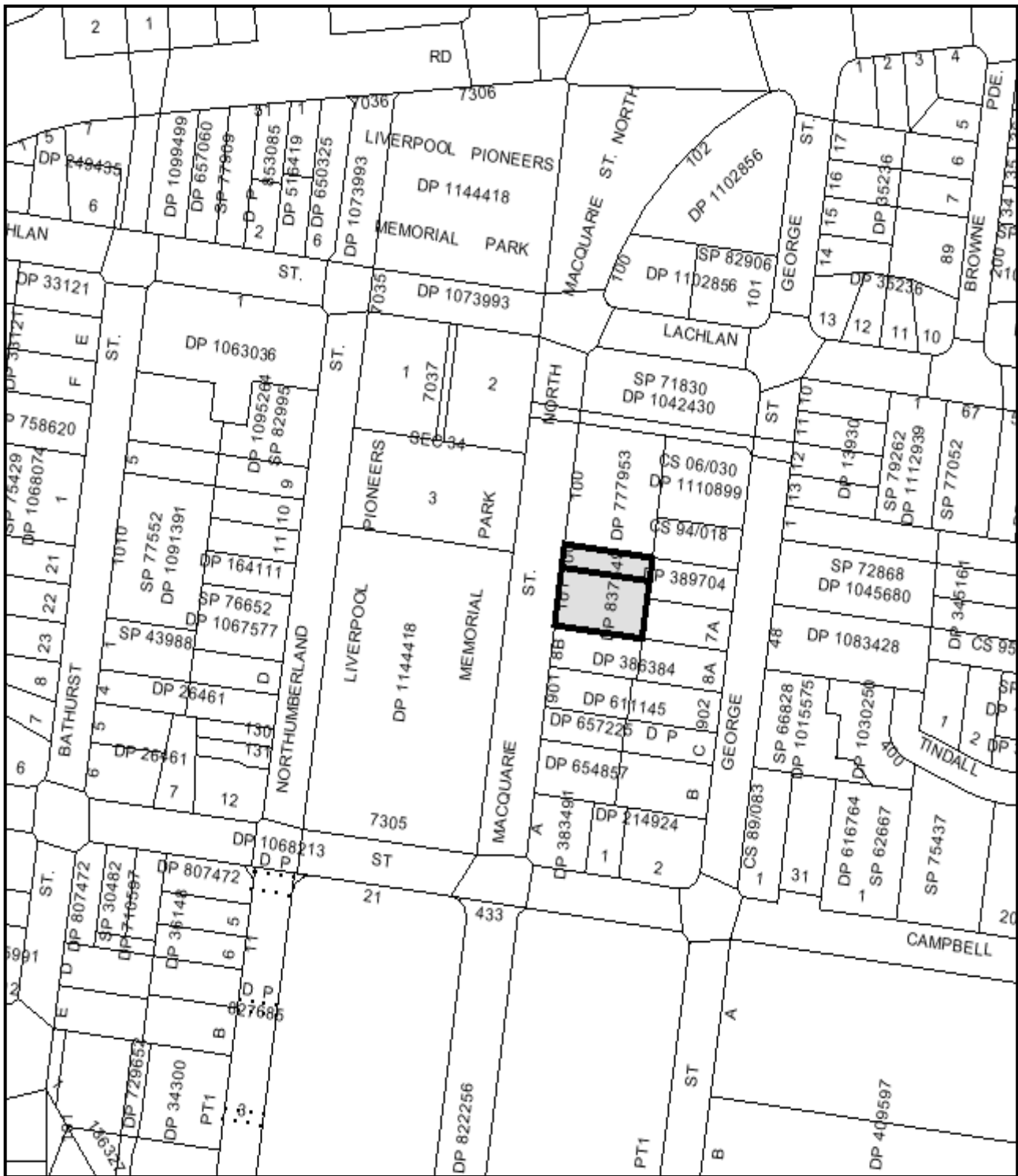
The development application was advertised for fourteen days between 12 January 2011 to 31 January 2011. No submissions were received during the exhibition period.

Assessment of the development application has revealed that minor issues raised by both Council and the Design Review Panel process were taken into consideration and have been adequately resolved. The amendments improved the presentation of the development to Macquarie Street by promoting a more openable and active street presentation. These minor amendments did not warrant the re-advertising of the development application.

The proposed development is generally consistent with the standards contained within Liverpool Local Environmental Plan 2008 and Liverpool Development Control Plan 2008, as well as the intention and objectives of the design principles contained within the Residential Flat Design Code in accordance with State Environmental Planning Policy 65.

It is considered the proposed development is responsive to the nearby heritage item “Liverpool Pioneer’s Memorial Park” which is located adjacent to the site and overall presents an acceptable built form. Accordingly it is recommended that the development application be approved subject to conditions of consent.

## LOCATION MAP



## **SITE DESCRIPTION & LOCALITY**

The subject site is known as No. 54 and 56 Macquarie Street, Liverpool, being Lots 100 and 101 in DP 837549. The subject sites comprise a total area of 1680 m<sup>2</sup> and a frontage of 37m to Macquarie Street. The site is located on the eastern side of Macquarie Street with an east-west orientation and vehicular access via Macquarie Street.

The site is located within the Liverpool City Centre. Development surrounding the site consists of commercial, retail, and residential buildings. To the north of the site is an existing commercial building approximately 2 stories in height. To the south of the site is a single storey vacant shop. Abutting the site to the rear are residential flat buildings of varying height and scale. Opposite the subject site to the west is Liverpool Pioneer's Memorial Park which is listed as a Heritage Item under Schedule 5 of Liverpool Local Environmental Plan 2008.

The subject site contains a single storey vacant commercial building previously used as a car workshop. The site is in close proximity to Liverpool Westfield's which is situated approximately 150m to the south of the subject site. The subject site is also serviced by public transport facilities including bus, train, and pedestrian access.

## **DETAILS OF THE APPLICATION**

The development application seeks Council consent for the demolition of existing structures and the construction of a nine storey mixed use development comprising of ground floor and first floor commercial tenancies and twenty one residential units on Levels 2 – 9 with associated basement car parking. Specific details of the proposal are outlined below:

### Basement levels

- The development comprises three levels of basement car parking which accommodates a total of 105 car parking spaces.
- The lower basement level provides for 22 resident car parking spaces including 3 adaptable spaces. 13 commercial spaces are also provided within the lower basement. A security shutter separates the residential and commercial car parking. Secured storage for the residential units are also contained within this level.
- The middle basement level comprises a total of 37 commercial car parking spaces. 3 motorcycle spaces and 6 bicycle racks are also provided.
- The upper basement level provides for a total of 30 commercial spaces which includes 2 adaptable spaces. 3 visitor spaces for the residential component are also provided within the upper basement level. 2 motorcycle spaces and 4 bicycle racks are also provided.
- Electrical rooms, residential and commercial garbage rooms as well as an additional residential storage space for bulky items is also provided.

### Ground Floor

- The ground floor level contains a central residential lobby approximately 28m<sup>2</sup> providing lift access to the residential units on the 2<sup>nd</sup> to 9<sup>th</sup> floor.
- The ground floor contains a café with an area of 107m<sup>2</sup>. It is noted that the fit-out and use of the café will be subject to a separate development application.
- A gymnasium is also provided on the ground floor and has an area of 740m<sup>2</sup>. Offices, change rooms and amenities which service the gymnasium are also provided on the ground floor.

- A 6.7m wide driveway located along the northern boundary provides vehicular access to the basement car parking area.

### First Floor

- The first floor is predominantly open plan to accommodate the second level of the gymnasium which has a floor area of approximately 1140m<sup>2</sup>. Change rooms and amenities for gymnasium patrons are also located on this level.

### Levels 2 and 9

- Levels 2 – 9 contain the residential units.
- A mix of residential units are providing including 3 x 1 bedroom units, 16 x 2 bedroom units and 2 x 3 bedroom units.
- Three residential units are nominated as adaptable units being unit no.'s 1, 16 and 17.
- Residential units for the development range in size between 53m<sup>2</sup> to 125m<sup>2</sup>.
- Communal open space for the development is provided on level 2 and is approximately 140m<sup>2</sup>. The communal open space area includes bbq area and seating.

The built form presents as a high quality modern architectural design which will comprise of a defined podium element containing the ground floor and first floor commercial tenancies, above which are three levels of residential units with a recessed front building alignment and front facing balconies, and a recessed four storey residential tower above, with a total floor area of 4197sqm and overall building height of 29.2m. Vehicular and pedestrian access will be via separate points from Macquarie Street.

## **BACKGROUND**

A pre-Development Application meeting was held with relevant Council officers on 18 November 2009 for the proposed mixed use development. Issues raised during pre-DA discussions included:

- Street alignment and street frontage height;
- Provision of an active street frontage;
- The need for an improved design solution for the building entry; and
- Heritage issues given that the site is adjacent Liverpool Pioneer's Memorial Park.

A second pre-DA meeting was held on 8 April 2010 for the development application which included a presentation of the proposal to Liverpool City Council's Design Review Panel. The Design Review Panel was supportive of the development application providing that the following matters were satisfactorily resolved:

- Re-configure the ground floor layout to provide a more generous and legible residential entry by relocating the fire egress passageways from the main core to the driveway wall;
- Maximise definition and legibility of the two main entries;
- Maximise the length of active frontage;
- The fenestration to the front façade to the gym and café should be openable and active;
- Ensure that the residential units comply with the Residential Flat Design Code for natural cross ventilation and solar access;
- Western facing units will require effective solar screening; and
- External materials and colours to respond to the heritage context.

The applicant subsequently lodged Development Application DA622/2011 on 13 December 2010 for the proposed mixed development incorporating the recommendations of the panel.

The proposed mixed development was publicly exhibited for a period of fourteen days from 12 January 2011 to 31 January 2011 in accordance with Part 1.1 of Liverpool DCP 2008. It is noted that no submissions were received.

The proposal and its associated documentation were referred to the relevant internal and external referral bodies, including further referral to the DRP for their comments with respect of the development as submitted. Council received comments from DRP on 18 February 2011 recommending minor changes to the development including:

- The fenestration to the front façade to the gym and café should be openable and active;
- Ensure that the exposed podium side walls are designed by modulation, relief, colours, textures and patterns to provide an acceptable visual impact, especially when viewed from the public domain;
- Western facing units windows require effective solar screening; and
- External materials should be high in quality and resolution of architectural detailing and low maintenance.

The applicant submitted additional information and amended plans to Council on 2 March 2011 to address the recommendations of the DRP. The minor nature of the changes did not necessitate re-notification of the proposal in accordance with Liverpool DCP 2008.



JRPP (Sydney West Region) Business Paper – (Item 1) (28 April 2011) – (JRPP 2010SYW094)





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## PLANNING CONTROLS

The planning controls that relate to the proposed development are:

1. State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55).
2. State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65).
3. Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.
4. Liverpool Local Environmental Plan 2008 (LLEP 2008).
5. Liverpool Development Control Plan 2008, specifically:
  - Part 1.1 – General controls for all development
  - Part 1.2 – Controls for all development
  - Part 4 – Development in the Liverpool City Centre
6. Liverpool Contributions Plan 2007 (Liverpool City Centre)

An assessment of the proposed development under the applicable planning controls is provided below:

### **1. State Environmental Planning Policy No. 55 – Remediation of Land**

Clause 7 of the State Environmental Planning Policy 55 (SEPP 55) outlines that the Consent Authority, when determining any development application, is to take into consideration whether the land is contaminated.

The development application is accompanied by a Preliminary (Stage 1) Contamination Assessment which included a review of the site history and identification of possible contamination, assessed in accordance with Guidelines for Consultants Reporting on Contaminated Sites (NSW EPA 2000).

A review of the site history has identified that the site was previously occupied by several automotive businesses which included tyre fitting, auto electrical work and general vehicle servicing since at least 1958. It is expected that engine oil, degreasers, coolants, solvents and grease would have been stored on the site.

The assessment notes that the entire site is concrete sealed however the concrete is heavily cracked behind the workshop and in sections of the car park. The assessment report acknowledges that these cracks could provide opportunity for spilled contaminants to seep into the soils beneath.

A review of the site history has also revealed that prior to 1988 there was a petroleum service station in operation on the northern adjacent lot. Although this site was remediated there is a potential risk that the groundwater would be contaminated (groundwater that may be encountered in the construction of the basement car park).

The contamination assessment recommends that a Stage 2 Detailed Contamination Investigation be undertaken to identify possible soil and groundwater contamination. The aim of a Stage 2 Detailed Contamination Investigation is to provide comprehensive information on:

- Issues identified in the preliminary investigation;
- The type, extent and level of contamination i.e. to assess:
  - contaminant dispersal in the air, surface water, groundwater, soil and dust;
  - the potential effects of contaminations on public health;
  - any off-site impacts on soil, sediment and biota; and
  - the adequacy and completeness of all information available to be used in making decisions on recommendations.

Council's Environmental Health Officer's concurred with the assessments findings and recommended that a Stage 2 Contamination Assessment be undertaken for the site. Given the above and the potential for contamination it is considered appropriate that the Stage 2 Contamination Assessment be undertaken following demolition of existing structures and prior to the issue of any Construction Certificate.

The applicant has therefore satisfactorily demonstrated that the site is suitable for the proposed use, subject to the recommended conditions, and therefore, the proposal is consistent with the objectives contained within SEPP 55.

## 2. State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.

Clause 30(2) of SEPP 65 requires residential flat development to be designed in accordance with the Department of Planning's publication *Residential Flat Design Code*. The following table outlines compliance with the *Residential Flat Design Code*, where numerical requirements ("controls") are specified.

STANDARD	OBJECTIVE	PROVIDED	COMPLIANCE
<b>PART 1 – LOCAL CONTEXT</b>			
<b>BUILDING HEIGHT</b>	To ensure that the proposed development responds to the desired scale and character of the street and local area and to allow reasonable access to all development and the public domain.	<p>The height of the proposal is in keeping with the height controls contained within Clause 7.2 of LLEP 2008.</p> <p>Clause 7.2 of LLEP 2008 prescribes a maximum building height of 30m given that the site is adjacent to Liverpool Pioneers Memorial Park.</p> <p>In this regard, the proposal complies providing a maximum height of 30m.</p>	Yes
<b>BUILDING DEPTH</b>	In general, apartment depth should be between 10-18m.	<p>The building depth varies throughout the development. The building depth of the ground level and first floor is approx 32m. It is noted that these levels contain the proposed gymnasium and café.</p> <p>The upper residential levels have varying depths comprising the following:</p> <ul style="list-style-type: none"> <li>- cross over apartments have a maximum depth of</li> </ul>	Yes

		15m. - Units within the tower component have a maximum depth of 12m.	
<b>BUILDING SEPERATION</b>	As the building increases in height, differing separation distances between habitable rooms/balconies are required.	See assessment provided in relation to separation distance as required in accordance with Part 4 (Development in the Liverpool City Centre) of DCP 2008, which is outlined later in this report.	See assessment under DCP 2008 Part 4.
<b>STREET SETBACKS</b>	To establish desired spatial proportions of the street and define the street edge. To relate setbacks to the areas and street hierarchy.	The controls within Part 4 of DCP 2008 requires a 4-4.5m setback.  The proposal provides a 4.5m setback to Macquarie Street.	Yes
<b>SIDE &amp; REAR SETBACKS</b>	To minimise the impact of development on light, air, sun, privacy, views and outlook for neighbouring properties including the future buildings.	Numeric compliance with side and rear setbacks will be assessed against Part 4 of DCP 2008.	See assessment under DCP 2008 Part 4.
<b>FLOOR SPACE RATIO</b>	To ensure that the development is in keeping with the optimum capacity of the site and the local area. FSR is not specified in the code.	Clause 4.4 of Liverpool Local Environmental Plan 2008 prescribes a maximum FSR of 2.5:1 for the site. The FSR of the proposal is 4.46:1 which complies with Clause 4.4.	Yes
<b>PART 2 – SITE DESIGN</b>			
<b>DEEP SOIL ZONES</b>	A minimum of 25% of the open space area of the site should be deep soil zone, more is desirable.	Deep soil zone planting is less than 25% of the site.  However the development complies with deep soil zone planting requirements contained within DCP 2008 Part 4.	No, but complies with DCP 2008 Part 4 deep soil zone planting requirements.
<b>OPEN SPACE</b>	Communal open space may be accommodated on a podium or a roof in a mixed use building providing it has adequate amenity.	Communal open space is provided on the second floor for residents over the commercial area (gymnasium) of the development.  The communal open space has an approximate area of 139.2sqm and measures 14.5m x 9.6m.	Yes
<b>ORIENTATION</b>	To protect the amenity of existing development and to optimize solar access to residential apartments within the development	Existing development adjoining the site (northern boundary) is older commercial buildings that have a zero line setback.	Yes



	and adjacent to the development.		
<b>PLANTING ON STRUCTURES</b>	To contribute to the quality and amenity communal open space on rooftops, podiums etc.	Landscaping is provided within the communal open space area located on the level 2 rear rooftop section.	Yes
<b>VISUAL PRIVACY</b>	To provide visual privacy externally and internally, during the day and at night. Relates to separation distances.	<p>It is noted that the proposal does not comply with the building separation controls contained within the Code.</p> <p>However it is noted that the development is constrained due to the existing reduced setbacks adopted in the adjoining commercial developments.</p> <p>The design has responded to this constraint by locating and orientating balconies to Macquarie Street and to the rear setback.</p>	<b>NO, refer to comments below.</b>
<b>PEDESTRIAN ACCESS</b>	Identify access requirements from the street and parking areas to the residential apartments and ensure access is accessible.	Acceptable access is provided from the street and parking areas.	Yes
<b>VEHICLE ACCESS</b>	Limit width of driveways to 6 metres and locate vehicle entries on the secondary frontage.	Driveway is 6m in width.	Yes
<b>PART 3 – BUILDING DESIGN</b>			
<b>APARTMENT LAYOUT</b>	<p>Single aspect apartments should be limited to a depth to 8m from a window.</p> <p>The back of a kitchen should be no more than 8 metres from a window.</p>	All units comply.	Yes
<b>APARTMENT MIX</b>	To provide a diversity of apartment types which cater for different household requirements now and in the future.	<p>A total of 21 residential units are provided. A mix of apartment types are provided as follows:</p> <ul style="list-style-type: none"> <li>- 3 x 1 bedroom</li> <li>- 16 x 2 bedroom</li> <li>- 2 x 3 bedroom</li> </ul> <p>3 units (being units No. 1, 16 and 17) are nominated as adaptable units.</p>	Yes
<b>BALCONIES</b>	Primary balconies to be a minimum of 2m in depth.	Primary boundaries are all an average of 2m in depth.	Yes
<b>CEILING HEIGHTS</b>	3.3m ceiling for ground floor and 2.7m for	2.7m is provided for all residential levels. A 3.9m	Yes



	residential levels.	ceiling height is provided for the ground floor tenancy.	
<b>STORAGE</b>	To provide adequate storage for every day household items within easy access of the apartment and to provide storage for sporting, leisure, fitness and hobby equipment. At least 50% of the required storage should be within each apartment.	Adequate storage within each unit is provided.	Yes
<b>DAYLIGHT ACCESS</b>	Limit the number of singly aspect apartments with a southerly aspect to a maximum of 10 percent the total units proposed.	Units have an east-west orientation.	Yes
<b>NATURAL VENTILATION</b>	60% of residential units should be naturally cross ventilated.	100% of the units are naturally cross ventilated.	Yes
<b>WASTE MANAGEMENT</b>	Supply waste management plan in conjunction with the DA.	A waste management plan accompanies the development application.	Yes

### ***Non-compliances***

The Residential Flat Code outlines recommended outcomes for development in relation to visual privacy. The code identifies that appropriate separation distances between neighbouring developments are required to provide visual privacy externally and internally, during the day and at night.

It is noted that the proposal adopts a zero line setback from the side boundary which directly adjoins Lot 100 in DP 777953, No. 50 Macquarie Street. An existing 2 storey commercial building which adopts a zero building line setback is located on the site.

This zero line setback is maintained from the ground floor to fourth floor. Residential units located on the third and fourth floor are orientated to Macquarie Street and the rear boundary. Balconies are appropriately positioned to overlook the Macquarie Street frontage.

The habitable rooms located on floor levels 5 to 8 are located 9m from this side boundary. Balconies are provided within the setback, providing a distance from the side boundary of 5.5m, which is considered acceptable.

It should be noted that Liverpool DCP 2008, Part 4 requires that a zero lot line setback in mixed use zones up to the permissible street frontage height. The required street frontage height for this development is 15-25m.

Given that the development has taken into consideration visual privacy concerns by orientating living areas and balconies for the development to overlook either Macquarie Street or the rear boundary, the proposed setbacks are considered acceptable. The upper levels of the development (being levels 5 to 8) maintain a setback of 9m, which ensures that possible redevelopment of No. 50 Macquarie Street is not prejudiced in the future.

Given all of the above, it is considered that the proposal is generally consistent with the objectives and controls contained within the Residential Flat Design Code.

### 3. Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.

The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.

When a consent authority determines a development application planning principles are to be applied (Clause 7(2)). Accordingly, a table summarising the matters for consideration in determining a development application (Clause 8 and Clause 9) is provided below:

Clause 8 General Principles	Comment
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
(a) the aims, objectives and planning principles of this plan.	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas.	An Erosion and Sediment Control Plan has been submitted as part of the proposal.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries.	A Stormwater Management Layout Plan has been submitted as part of the proposal.
(d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments).	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004. The development is considered to have minimal impact with implementation of Erosion Control and Stormwater management systems.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning).	<i>Shaping the Georges River Catchment</i> (1999) superseded by the <i>Southern Sydney Catchment Blueprint</i> in 2002 superseded by <i>Sydney Metropolitan Catchment Action Plan (CAP)</i> .  Aims to focus investment on sustainable management of the natural resources that underpin the landscape of the Sydney Metropolitan Catchment (SMC) region. The CAP sets priorities and connects the natural resource management (NRM) actions of stakeholders.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice.	Noted.
(g) whether there are any feasible alternatives to the development or other proposal concerned.	Within an area already highly developed and deemed suitable for mixed use development.

<b>Clause 9 Specific Principles</b>	<b>Comment</b>
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
(1) Acid sulfate soils	Not identified on the LEP maps as containing acid sulphate soils.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	Not Flood liable land.
(4) Industrial discharges	Not applicable.
(5) Land degradation	Land degradation processes have been avoided where possible, and minimised through management plans where avoidance is not possible.
(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	An Erosion and Sediment Control Plan and Stormwater Management Layout Plan have been provided to minimise any potential impacts of stormwater runoff on streams within the Catchment.
(10) Urban development areas	Not within an Urban Release Area.
(11) Vegetated buffer areas	No buffer area required.
(12) Water quality and river flows	An Erosion and Sediment Control Plan has been provided to minimise any potential impacts of stormwater runoff on streams within the Catchment.
(13) Wetlands	Not applicable.

It is considered that the proposal satisfies the provisions of the GMREP No. 2. Subject to appropriate sedimentation and erosion controls during construction, the development will have minimal impact on the Georges River Catchment.

#### **4. Liverpool Local Environmental Plan 2008**

##### **4.1 Permissibility**

The subject site is zoned B4 – Mixed Use pursuant to Liverpool Local Environmental Plan 2008.

The proposed development is defined as a “mixed use development” under the LLEP 2008, being development for a residential flat building, café (retail premises), and recreation facility (indoor gym).

The LLEP 2008 defines “mixed use development” as a building or place comprising 2 or more different land uses. In accordance with LLEP 2008, a “residential flat building”, “retail premises”, and a “recreation facility (indoor)” are all permissible forms of development in the B4 mixed use zone. It is therefore considered that the proposal complies with the definition of a mixed use development.

##### **4.2 Zone objectives**

The objectives of the B4 – Mixed Use zone are identified as follows:

- *“To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To allow for residential and other accommodation in the Liverpool city centre, while maintaining active retail, business or other non-residential uses at street level.*
- *To facilitate a high standard of urban design, convenient urban living and exceptional public amenity“.*

It is considered that the proposal is consistent with the objectives of the B4 zone in that the development provides for a mix of compatible uses, comprising residential, recreational, and retail, within an appropriate and accessible location being the Liverpool City Centre. The proposed commercial use at street level seeks to provide an active street frontage to Macquarie Street, and the high quality architectural built form coupled with the provision of appropriate landscaping and adequate setbacks enables a high standard of urban design, convenient urban living, and exceptional public amenity. It is noted that the proposed café has been specifically located opposite the pedestrian entry to Liverpool Pioneers Memorial Park which is proposed to be upgraded as part of the works to the park. Overall, the proposed development is highly suitable given the location and context within the B4 zone.

#### **4.3 Clause 4.4 – Floor Space Ratio**

This clause restricts the maximum floor space ratio (FSR) for buildings on the site to 2.5:1. The proposal satisfies the requirements of this clause having an FSR of approximately 2.49:1, which complies with the maximum permitted FSR.

#### **4.4 Clause 5.10 – Heritage Conservation**

The proposal requires consideration under Clause 5.10 of Liverpool LEP 2008 given the subject site is located opposite the Heritage Item identified as ‘Liverpool Memorial Pioneers Park’.

A Heritage Impact Statement prepared by Stedinger Heritage & Archaeology has been submitted with the proposal which assesses the impact of the proposal on the heritage significance of the nearby heritage item. The report provides the following assessment with respect of Heritage Significance:

*“The proposed development site at 54-56 Macquarie Street is considered to be of no heritage significance. Though, it is noted that the site occurs within the Liverpool Town Centre Archaeological Precinct (DB1970552). This suggests archaeological potential may exist at this site which lies within the historic town boundaries (defined in Chapter 3). However, the site is not known by the authors to have historical or social associations with prominent individuals, or events. It does not contain unique or rare architectural forms. The development site is occupied by a utilitarian c.1970s workshop surrounded by vacant land. In its present form, the site makes no contribution to the Liverpool Town Centre.*

*Adjacent to the proposed development site, however, Liverpool Pioneers’ Memorial Park is considered to have historical, aesthetic, social and scientific significance at State and local levels. This park is an important as a part of the nineteenth century planning, development and social history of Liverpool. In particular, Liverpool Pioneer Memorial Park, is a physical record of the early pioneers and their lives in the Liverpool area. Indeed, it has been a major burial ground for the district for 137 years (1821-1958). The park includes intact grave furniture and monuments from a range of eras set within an aesthetically pleasing landscape - a landscape which itself contains exotic and native plantings from a range of periods. Surviving monuments within this site are varied, creative, with quality designs and excellent craftsmanship. Further architectural, archaeological and documentary research is likely to contribute significant information on the site and Liverpool’s past.”*

The report acknowledges the significance of the nearby Heritage Item in the context of the Liverpool area and identifies the elements which contribute to the level of heritage significance, in particular a landscaped setting and monuments of which have been maintained intact for a considerable period of time. It can be extrapolated from this assessment that the landscape setting and overall aesthetic appeal is of high relevance to the heritage significance of the Liverpool Pioneers Memorial Park.

The proposed development seeks to respond to these elements through the use of horizontal and vertical components to emulate the surviving monuments within the Liverpool Pioneers Memorial Park, and the use of varying native landscape plantings will provide a natural connection between the site and its surrounds and to further soften the height of the façade.

The report provides the following conclusion with respect of the proposed development:

*“Although not a heritage site of area itself, the proposed mixed commercial and residential development at Nos. 54 and 56 Macquarie Street Liverpool is located adjacent to the Liverpool Pioneers’ Memorial Park. The Memorial Park is listed as an item of environmental heritage in the Liverpool Local Environmental Plan (LEP) 2008 (Schedule 5). Following discussions and an on-site meeting with the client and architect, design measures were discussed so that potential negative impacts on the heritage park could be avoided. Particularly important are the setbacks at the ground, fifth and eighth floor levels which serve to break up the scale of the building when viewed from the Memorial Park. These setbacks also reduce the potential overshadowing of the tall building over the park.*

*Also important is the moderate sharing of elements of fabric, colours and plantings between the new building and the memorial park, providing physical and visual connection and continuity. It is stressed here that the intention of this modern infill development is not to replicate dominant designs present in the Pioneers’ Memorial Park or indeed styles from nineteenth century architecture. It is to presents a modern form in keeping with the development of Liverpool town centre and Macquarie Street in the twenty-first century while sympathetically considering adjacent heritage.*

*Another positive outcome of the proposed development is the public and residential use of the proposed building. This will provide a permanent presence overlooking the memorial park, enhancing existing security measures for this historic area. Public use of the building will also contribute to Macquarie Street’s use as an active main thoroughfare. The proposed development project should not be rejected on the grounds of negative impacts to heritage in the vicinity provided the recommendations listed in Section 6.2 of this report are adopted or have been considered by Council.”*

The development application has been referred to Councils Heritage Officer and no objections were raised to the proposed development subject to recommendations and conditions to be imposed on any consent issued.

On this basis, it is considered that the proposal will not adversely impact the heritage significance of the nearby heritage items, namely the Liverpool Pioneers Memorial Park. The proposal is therefore satisfactory with respect of Clause 5.10 of Liverpool LEP 2008.

#### **4.5 Clause 7.1 – Objectives for development in Liverpool city centre**

Clause 7.1 of LLEP 2008 specified objectives that must be considered before granting consent to development in the Liverpool City Centre, as are relevant to that development. These are identified as follows:

- a) *“to preserve the existing street layout and reinforce the street character through consistent building alignments,*
- b) *to allow sunlight to reach buildings and areas of high pedestrian activity,*

- c) *to reduce the potential for pedestrian and traffic conflicts on the Hume Highway,*
- d) *to improve the quality of public spaces in the city centre,*
- e) *to reinforce Liverpool railway station and interchange as a major passenger transport facility, including by the visual enhancement of the surrounding environment and the development of a public plaza at the station entry,*
- f) *to enhance the natural river foreshore and places of heritage significance,*
- g) *to provide direct, convenient and safe pedestrian links between the city centre (west of the rail line) and the Georges River foreshore”.*

It is considered that the proposal is consistent with the above objectives in that the development seeks to positively address the streetscape; ensures sufficient setbacks and a sense of openness for sunlight access and visual corridors; provides appropriate vehicular and pedestrian access; seeks to complement surrounding public spaces and will contribute to the landscape scenery; maintains accessibility to and from railway and bus services; and has been designed sympathetic to nearby places of heritage significance. Furthermore, the development is suitably located within the city centre and allows for convenient and safe pedestrian links within the city centre. Overall, the proposed development is considered to satisfy the objectives for development within the Liverpool city centre.

#### **4.6 Clause 7.2 – Sun access in Liverpool city centre**

The main objective of this clause is to protect specified public open space from excessive overshadowing. The public open space in this instance is Liverpool Pioneers Memorial Park.

This specific clause prescribes a maximum building height of 30m despite any other prescribed height. The proposed development complies with the prescribed height of 30m and is therefore consistent with Clause 7.2 of the LLEP 2008.

#### **4.7 Clause 7.3 Car parking in Liverpool city centre**

In accordance with Clause 7.3 Part (2), Development consent must not be granted to development on land in the Liverpool city centre that is in Zone B3 Commercial Core or B4 Mixed Use that involves the erection of a new building or an alteration to an existing building that increases the gross floor area of the building unless:

- a) at least one car parking space is provided for every 200 square metres of any new gross floor area that is on the ground floor level of the building, and
- b) in respect of any other part of the building:
  - i. at least one car parking space is provided for every 100 square metres of any new gross floor area that is to be used for the purposes of retail premises, and
  - ii. at least one car parking space is provided for every 150 square metres of any new gross floor area that is to be used for any other purpose.

The development proposes the following car parking provision:

<b>Use</b>	<b>Required</b>	<b>Proposed</b>
Commercial (ground floor and first floor)	4.375 spaces - ground floor 11.4 spaces - first floor	80 car parking spaces
Residential (levels 2 to 9)	14.73 spaces	22 car parking spaces 5 motorcycle spaces 3 visitor spaces
Total	30.5 spaces required	105 car parking spaces and 5 motorcycle spaces

The development thus exceeds the minimum requirements for car parking and satisfies Clause 7.3 of the LLEP 2008.

#### **4.8 Clause 7.4 Building separation in Liverpool city centre**

The objective of this clause is to ensure minimum sufficient separation of buildings for reasons of visual appearance, privacy and solar access.

This clause prescribes that development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least:

- 12 metres for parts of buildings between 25 metres and 45 metres above ground level (finished) on land in Zone B3 Commercial Core or B4 Mixed Use.

The proposed development provides for a side setback of 9m for floor levels 7 and 8 to the northern side boundary. While the existing development at No. 50 Macquarie Street is only 2 stories, the proposed side setback of 9m will ensure that an overall building separation of 12m can be achieved in the future if this site was to be redeveloped. It is considered that the proposed side setback to the northern boundary will not prejudice future redevelopment at No. 50 Macquarie Street.

The proposed development provides a side setback of 9m for floor levels 7 and 8 to the southern side boundary. It is noted that the adjoining site at No 58 Macquarie Street is currently vacant, however the proposed setbacks would ensure that an overall building separation distance of 12m can be achieved in the future, should No. 58 Macquarie Street be developed.

#### **4.9 Clause 7.16 Ground floor development in Zones B1, B2 and B4**

The objective of this clause is to ensure active uses are provided at the street level to encourage the presence and movement of people.

Clause 7.16 prescribes that for land zoned B4, *Development consent must not be granted for development for the purposes of a building on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building:*

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

The proposed development provides for active uses at street level in the form of a gymnasium and café at ground level which will ensure that this portion of Macquarie Street is active.

Comments provided from the Design Review Panel had requested that the fenestration to the front façade of the gym and cafe should be openable and active. These comments have been incorporated into the amended plans submitted by the applicant on 2 March 2011.

The amended plans illustrate that openable glazing has been provided to the café and have also been provided to the gym lounge area which is located at the front of the gym at ground level.

No residential uses apart from the residential lobby is located on the ground floor. It is therefore considered that the proposed development satisfies both the objective and development standard prescribed by Clause 7.16 of LLEP 2008.

## 5. Liverpool Development Control Plan 2008

Liverpool Development Control Plan Parts 1.1, 1.2 and 4 apply to the development. Parts 1.1 and 1.2 prescribe general controls for all development (other than dwelling houses). Part 4 prescribes standards and criteria that are to be adhered to for all new development within the Liverpool City Centre. The main requirements are summarised in the following table:

Standard	Requirement	Proposed	Complies
<b>Part 1.1 – General Controls for all Development</b>			
Clause 3 Landscaping and incorporation of existing trees	Landscaping planting shall be principally comprised of native species. Provide an integrated streetscape appearance with an appropriate mix of canopy trees, shrubs and ground cover in appropriate locations having regard to safe ingress and egress of pedestrians and vehicles.	<p>The proposed development is accompanied by a landscape plan which illustrates that landscaping is provided within the front setback to Macquarie Street.</p> <p>The front landscaped area includes a variety of planting including shrubs – lemon scented myrtle which has a maturity height of 0.6m and gardenias which has a maturity height of 1m as well as trees – Blueberry Ash which has a maturity height of 5m.</p> <p>The rear setback area again includes a mix of groundcovers, shrubs and trees.</p> <p>The landscape plan also details proposed landscaping on the second floor within the communal open space area. Landscaping includes a mix of shrubs as well as furniture such as a bbq, tables and bench seating.</p> <p>The proposed development retains an existing eucalyptus tree which is located on the adjoining rear boundary.</p> <p>The development application is accompanied by an arborist report which demonstrates that the proposed development including basement excavation and construction with appropriate conditions will not impact on the health and significance of the tree.</p>	Yes
Clause 4 Bushland and	Applies generally to specific zones.	Not applicable	N/A



Fauna Habitat Preservation			
Clause 5 Bush Fire Risk	Applies generally to bushfire prone land and land that requires bushfire hazard reduction.	The subject site is not identified as being bushfire prone land.	N/A
Clause 6 Water Cycle Management	Stormwater drainage concept plan required to be submitted.	A stormwater concept plan has been submitted and is considered to be satisfactory by Council's Land Development Engineer.	Yes
Clause 7 Development near Creeks and Rivers	Applies to land that may impact upon a watercourse or the removal of riparian vegetation.	The subject site is not located in proximity to any watercourse.	Yes
Clause 8 Erosion and Sediment Control	Soil and water management plan or erosion and sediment control plan required to be submitted.	An erosion and sediment plan provided. Appropriate conditions have been imposed regarding the implementation of erosion and sediment control during construction works.	Yes
Clause 9 Flooding Risk	Applies to flood prone land.	The subject site is not identified as flood prone land.	N/A
Clause 10 Contamination Land Risk	Applies to potential or actual contamination land or has past or current specific land uses.	The development application is accompanied by a Stage 1 Contamination Assessment.  The contamination assessment recommended upon removal of all concrete slabs and demolition of the existing building that a Stage 2 Contamination Assessment be conducted. Appropriate conditions of consent are provided in this regard.	Yes
Clause 11 Salinity Risk	Salinity management plan required for high risk activities in salinity affected areas.	The development is accompanied by a salinity management plan. Appropriate salinity management conditions have been incorporated into draft conditions of consent.	Yes
Clause 12 Acid Sulphate Soils	Applies to land with potential acid sulphate soils.	Site is not identified as having acid sulphate soil potential.	N/A
Clause 13 Weeds	Weed management strategy required to be submitted if site contains native weeds.	Site does not contain native weeds.	N/A
Clause 14 Demolition of Existing Developments	Demolition to comply with AS2601-1991.	The proposal involves the demolition of the existing dwelling and outbuildings as part of the proposal. Conditions have been imposed accordingly.	Yes

Clause 15 On-site sewerage disposal	Applies to land with no access to reticulated sewer system.	The subject site has access to sewer.	N/A
Clause 16 and 17 Heritage	Applies to heritage items of land in the vicinity of a heritage site, conservation area or archaeological site.	<p>The site is adjacent to Liverpool Pioneers Memorial Park which is identified as a heritage item.</p> <p>The development application is accompanied by a Statement of Heritage Impact (SoHI) which illustrates that the proposal will not adversely impact on the heritage significance of the Liverpool Pioneers Memorial Park.</p> <p>Council's Heritage Advisor has also reviewed the development application and concurs with the comments contained within the SoHI.</p>	Yes
Clause 18 Advertising	Development to be advertised.	<p>The development application was advertised in accordance with Clause 18.</p> <p>No submissions were received during the exhibition period.</p>	Yes
<b>Part 1.2 – Additional Controls for Development</b>			
Clause 2 Car Parking and Access	<p>Car parking to be provided in accordance with the following; and also to comply with Australian Standards for design and access.</p> <p>Commercial component: - 1 space per 100sqm of floor area - Sufficient service and delivery vehicle parking</p> <p>Residential component: - 1 space per two studio apartments - 1 space per one or two bedroom units. - 1.5 spaces per 3 or more bedroom units. - 1 space per 10 units for visitor spaces.</p>	<p>Total commercial space including gym and café: 1987sqm. Loading/unloading facilities included in proposal.</p> <p>Therefore, total commercial spaces required: 19.87</p> <p>N/A as no studio apartments proposed. 3 x 1 bedroom and 16 x 2 bedroom = 19 spaces 2 x 3 bedroom = 3 spaces</p> <p>2.1 visitor spaces required.</p> <p>Therefore, total residential spaces required: 25.1</p>	Yes

	<p>1 Motorcycle space required per 20 car spaces.</p> <p>1 Bicycle space per 200sqm of leasable floor area</p> <p>Disabled parking: 1 per 100 spaces for commercial component (café) and 2 per 100 spaces for commercial component (gym).</p>	<p>5 motorcycle spaces provided</p> <p>31 Bicycle storage spaces provided</p> <p>3 disabled car spaces provided</p> <p>A total of 105 car parking spaces are provided.</p>	
Clause 4 Water Conservation	All fixtures and appliances to be 3 stars under the WELS system or better rated.	This matter can be a condition in any consent issued in respect of the proposal.	Yes
Clause 5 Energy Conservation	Comply with the Energy Efficiency provisions within the BCA. Maximise natural light in buildings.	The proposal will comply with the BCA and achieves natural light to the majority of the buildings.	Yes
Clause 6 Landfill	Requirements for any cutting or filling of land.	<p>Minimal filling and cutting of land will be required.</p> <p>Appropriate conditions of consent will be imposed to ensure any cut or fill of land is carried out in accordance with Council requirements.</p>	Yes
Clause 7 Waste Disposal and re-use facilities	Waste Management Plan required for all developments.	<p>Waste Management Plan provided.</p> <p>Appropriate conditions of consent will be imposed to ensure compliance with the Waste Management Plan.</p>	Yes
Clause 8 Outdoor Advertising and Signage	Controls for any signage for all development.	No signage has been proposed as part of the development application.	N/A
<b>Part 4 – Development in the Liverpool City Centre</b>			
<b>Building Form</b>			
Building to street alignment and setbacks	Street building alignment and street setbacks are to comply with Figure 3 which requires a 4-4.5m setback.	The ground floor setback to Macquarie Street is 4.5m.	
Street frontage height	The street frontage height of buildings must comply with the minimum and maximum heights above ground level as shown in Figure 5. Figure 5 requires a street frontage setback between 15-25m or 5-7 storeys.	The proposal is for a nine storey mixed use development with an overall height of 29.2 metres. The proposal provides for a street frontage height of 16m is provided (5 stories).	
Building depth	The maximum floor plate	The maximum floor plate on levels 5 to 9 is 205sqm. The	

and bulk	<p>sizes and depth of buildings are to comply with figure 6 – maximum GFA per floor is 500sqm and maximum building depth is 18m. (Floor plate sizes and depths apply above street frontage height).</p> <p>The component of the building above the street frontage height is not to have a building length in excess of 45m.</p>	<p>depth of the floor plates do not exceed 18m.</p> <p>The length above street frontage height is 19.8m.</p>	
Boundary setbacks and building depth and bulk	<p>The minimum building setbacks are to comply with the following:</p> <p>All uses up to 12m in height:</p> <ul style="list-style-type: none"> <li>- 0m side setback for full street frontage height</li> <li>- 6m rear setback</li> </ul> <p>Residential uses between 12-25m in height:</p> <ul style="list-style-type: none"> <li>- 0m side setback for full frontage height.</li> <li>- 6m side setback for non-habitable and habitable rooms.</li> <li>- 6m rear setback for non-habitable rooms.</li> <li>- 9m rear setback for habitable rooms.</li> </ul> <p>Residential uses between 25-45m height:</p> <ul style="list-style-type: none"> <li>- 6m side setback for non-habitable rooms.</li> <li>- 12m side setbacks for habitable rooms.</li> <li>- 12m rear setback for habitable rooms.</li> </ul>	<ul style="list-style-type: none"> <li>- 0m side setback adopted.</li> <li>- 6.7m rear setback.</li> <li>- 0m side setback up to street frontage height.</li> <li>- 9m side setbacks to habitable rooms (5.5m to external wall of balconies).</li> <li>- 22m rear setback to non-habitable rooms.</li> <li>- 22m rear setback to habitable rooms.</li> <li>- 9m side setbacks to non-habitable rooms.</li> <li>- 9m side setbacks to habitable rooms (5.5m to external walls of balconies).</li> <li>- 22m rear setback to both non-habitable and habitable rooms.</li> </ul>	<b>NO (refer to detailed assessment below)</b>
<b>2.3 Site cover and deep soil zones</b>			
Site coverage	The maximum site coverage for mixed use development in B4 zones is 75%.	Site coverage for the development is 73.2%.	Yes
Deep soil zones	Deep soil zone planting is 15%.	Deep soil zone planting provided is 15%.	Yes
<b>3.1 Amenity</b>			
Front Fences	Front fences to be designed to not present as a solid edge to the public domain.	No front fence is proposed as part of this development application.	Yes

Safety and security	<p>Ensure building design allows for passive surveillance.</p> <p>Maximise the number of residential front door entries at ground level.</p> <p>Provide entrances which are visually prominent positions.</p> <p>Weather protected entrances are required.</p>	<p>Building design allows for passive surveillance with balconies and living areas orientated towards Macquarie Street.</p> <p>There are no residential ground floor units.</p> <p>Entrances to both the commercial and residential components are clearly defined and separated.</p> <p>Weather protected entrances are provided.</p>	
<b>4.3 On-site car parking spaces</b>			
Car Parking rates required.	Car parking for development in Mixed Use zones in the Liverpool City Centre is prescribed by clause 7.3 of LLEP 2008.	Refer to assessment under Clause 7.3 of LLEP 2008 canvassed earlier in his report. The proposal complies with the car parking requirement.	Yes

### ***Non compliances with Part 4 of Liverpool Development Control Plan 2008***

As identified above, the proposed development does not comply with the following components of Part 4 of the DCP 2008:

- The proposed development provides for a 9m side setback to the side boundaries for habitable rooms as opposed to the 12m side setback that is required by the DCP for residential units located on the sixth and seventh floor.

The habitable rooms located on floor levels 5 to 8 are located 9m from the respective north and south side boundaries, with balconies provided to the north and south side elevations pertaining to levels 5 and 8 only, setback 5.5m to the respective side boundaries.

Given that the development has taken into consideration visual privacy concerns through appropriate orientation of windows and balconies for the development to overlook either Macquarie Street or the rear boundary, the proposed setbacks are considered acceptable. The upper levels of the development (being levels 5 to 8) maintain a setback of 9m to the building alignment, which ensures that possible redevelopment of adjoining properties is not prejudiced in the future.

As demonstrated by the compliance table above, the development generally satisfies the requirements of Liverpool Development Control Plan 2008 Parts 1.1, 1.2 and 4.

## **6. Liverpool Contributions Plan 2007 (Liverpool City Centre)**

The application is subject to Section 94 Contributions as detailed in the Liverpool Contributions Plan 2007 (Liverpool City Centre). In the event the application is approved, a condition of consent will be imposed requiring the applicant to pay to Council a levy equal to 3% of the proposed cost of carrying out development, as the site is located within the B4 Mixed Use zone.

## DEPARTMENTAL COMMENTS (Summary of Comments)

INTERNAL REFERRALS:	
<b>Building</b>	<b>Referral – Yes</b>
No objection subject to conditions of consent.	
<b>Land Development Engineer</b>	<b>Referral – Yes</b>
No objection subject to conditions of consent.	
<b>Traffic</b>	<b>Referral – Yes</b>
No objection subject to conditions of consent.	
<b>Landscaping</b>	<b>Referral – Yes</b>
No objection subject to conditions of consent.	
<b>Environmental Health</b>	<b>Referral - Yes</b>
No objection subject to conditions of consent	
<b>Heritage</b>	<b>Referral - Yes</b>
No objection subject to conditions of consent	
EXTERNAL REFERRALS:	
<b>Liverpool Local Area Command (safer by design)</b>	<b>Referral – Yes</b>
LLAC has conducted a Safer By Design Evaluation based in accordance with AS4360.1999. The proposal has been identified as low, however recommendations have been provided that have been incorporated into the draft conditions of consent.	
<b>Design Review Panel</b>	<b>Referral – Yes</b>
DRP chair satisfied with the proposal subject to some minor amendments which have been incorporated into the proposal. Further commentary is provided in relation to the matter below.	

### ***Design Review Panel***

The Chair of the Design Review Panel which previously considered this proposal at pre-development application meeting stage, considered the proposed development to be satisfactory and has made the following comments in relation to the proposal:

- *The proposal is a satisfactory response in terms of the desired future character for the area.*
- *The proposed gymnasium and café proposed at ground level is desirable and should have a positive relationship with Liverpool Pioneers Memorial Park.*

The Chair also raised some areas where further design improvements could be made. These recommendations included:

- *The fenestration to the front façade to the gym and café should be openable and active.*
- *Ensure that the exposed podium side walls are designed by modulation, relief, colours, textures and patterns to provide an acceptable visual impact especially when viewed from the public domain.*
- *Western facing windows require effective solar screening.*

The applicant submitted additional information and amended plans to Council on 2 March 2011 to address the recommendations of the DRP.

Overall the Chair of the DRP is satisfied with the proposal and all issues raised previously at pre-DA stage have been satisfactorily resolved.

## PUBLIC PARTICIPATION

In accordance with Liverpool Development Control Plan 2008 Part 1.1, the development application was advertised between 12 January 2011 to 31 January 2011. No submissions were received during the exhibition period.

## SECTION 79C CONSIDERATIONS

The following summarises the assessment of the proposal in terms of the heads of consideration in Section 79C of the Environmental Planning and Assessment Act 1979.

### **(a) The provisions of:**

#### **(i) Any Environmental Planning Instrument**

The proposed development is defined as a '*mixed use*' development under Liverpool Local Environmental Plan 2008 (LLEP). Development for the purpose of '*mixed use*' is permitted with the consent of Council in the B4 Mixed Use zone. The proposal is consistent with the relevant objectives of the B4 Mixed Use zone and complies with the relevant standards prescribed by LLEP 2008.

#### **(ii) Any Draft Environmental Planning Instrument**

No draft environmental planning instrument applies to the site.

#### **(iii) Any Development Control Plan**

Liverpool Development Control Plan 2008 (DCP) applies to the development. The proposed development has demonstrated general compliance with the requirements of Parts 1.1, 1.2 and 4 of the DCP.

#### **(iiia) Any Planning Agreement**

No planning agreement applies to the site or proposed development.

#### **(iv) The Regulations**

There are no matters prescribed by the Regulations that apply to this development.

### **(b) The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

The scale, density, and built form is considered appropriate with respect of the context of the site and the desired future character of the area. The development presents as a high quality architectural built form and does not result in any adverse impacts to the built environment as demonstrated in this report. The development is not considered to result in unreasonable amenity impacts to surrounding lands, taking into account both existing and possible future development. The development will provide a positive contribution to the streetscape of Macquarie Street within the Liverpool City Centre, whilst maintaining a sympathetic approach to the nearby heritage item Liverpool Pioneers Memorial Park. The proposal is thus considered satisfactory with respect of the natural, built, social, and economic impacts in the locality.

**(c) The suitability of the site for the development**

These matters have been considered in the assessment of the development application. The site is not known to be affected by any site constraints or other natural hazards likely to have a significant adverse impact on the proposed development. Car parking and servicing arrangements for the proposed development have been provided. Matters relating to investigation of site contamination have been addressed throughout the assessment. Accordingly, the site is considered suitable to accommodate the proposed development, being for construction of a new mixed-use multi-unit residential/commercial development to a site located within the B4 Mixed Use zone, in the context of the site and locality.

**(d) Any submissions made**

No submissions were received during the exhibition period.

**(e) The public interest**

The provision of mixed use development comprising commercial tenancies and residential units will contribute to the diversity of housing within the locality along with an active street frontage to Macquarie Street for the ground floor commercial uses. The development will not result in any unacceptable amenity impacts to the surrounding properties. The proposed development seeks to provide a contemporary building of high quality that will address the surrounding public spaces and achieve a satisfactory form as presented to the immediate and wider locality. The development satisfactorily addresses the relevant planning objectives under all the applicable legislations, State Environmental Planning Policies, and Local Environmental Planning Controls. It is therefore considered that the proposal serves the broader public interest.

## **CONCLUSION**

The application has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, and the relevant Environmental Planning Instruments including the applicable State Environmental Planning Policies, Liverpool Local Environment Plan 2008, Liverpool Development Control Plan 2008, and the relevant codes and policies of Council.

The proposed development is generally consistent with the standards contained within LLEP 2008 as well as the intention and objectives of the design principles contained within the Residential Flat Design Code in accordance with SEPP 65.

The proposal is also generally consistent with the controls contained within the Liverpool DCP 2008, except for some minor departures from the controls contained within Part 4 – Development in the Liverpool City Centre, relating to building separation. These have been assessed on their merits and found to be acceptable.

The proposed development for a mixed use comprising commercial tenancies to the ground and first floor levels being a café and gym, and residential units on levels 2 to 9, is well within the context of the Liverpool City Centre. The high quality architectural design is appropriate for the subject site and takes into consideration the amenity of existing adjoining land uses and future expected occupants.

The development application is accompanied by the Statement of Heritage Impact which outlines that the proposal will have no adverse impacts on the heritage significance of Liverpool Pioneers Memorial Park. Council's heritage advisor concurred with these findings.



Assessment of the development application has revealed that previous issues raised by both Council and the Design Review Panel were taken into consideration and have been adequately resolved.

The development application has been assessed on its merits and is considered satisfactory. Accordingly it is recommended that the development application be approved subject to conditions of consent.

## **RECOMMENDATION**

That:

1. Joint Regional Planning Panel Sydney West Region (JRPP) approves Development Application 622/2011 for demolition of existing buildings and the construction of a nine (9) storey mixed use development comprising of ground floor and first floor commercial tenancies and twenty one residential units on Levels 2 – 9 with associated basement car parking at 54 - 56 Macquarie Street, Liverpool, subject to the attached conditions.

## **SUMMARY OF CONDITIONS OF CONSENT:**

### **A. THE DEVELOPMENT**

#### **Approved Plans**

1. Development the subject of this determination notice must be carried out strictly in accordance with the following plans/reports marked as follows:
  - (a) Architectural plans (Drawings No. 1-4, 6-9, 11-14, 19-23, Issue A dated Oct 2010, and Drawings No. 5, 10, 15-18, Issue B dated Feb 2011, prepared by Bentley Architects)
  - (b) Landscape plan (Drawing L1, prepared by Eximia Design, Issue A dated Oct 2010)
  - (c) Drainage plan (Drawings D1 – 11, prepared by LMW Design Group, Issue A dated Nov 2010)
  - (d) Demolition, erosion, and sediment control plan (Drawings E1 – 2, prepared by LMW Design Group, Issue A dated Nov 2010)
  - (e) Waste management plan (prepared by Global Demolitions Group, dated 2/11/2011)
  - (f) Schedule of external colours and finishes (Drawing No. F1, prepared by Bentley Architects, dated Oct 2010)
  - (g) BASIX certificate (No. 344826M\_02 dated 17/11/2010 and ABSA # 20745 dated 15/11/2010)
  - (h) Arborist report (prepared by Eximia Design, dated 7/11/2011)
  - (i) Preliminary (Stage 1) Contamination Assessment (prepared by Strategic Environmental and Engineering Consulting, Ref 09000304, dated 16/11/2010)
  - (j) Salinity report (prepared by Strategic Environmental and Engineering Consulting, Ref 09000304, dated 2/12/2010)
  - (k) Heritage impact assessment (prepared by Stedinger Associates, dated Nov 2010)

except where modified by the undermentioned conditions.

### **B. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

**The following conditions are to be complied with or addressed prior to issue of a Construction Certificate by the Principal Certifying Authority:**

#### **SECTION 94A PAYMENT (Liverpool Contributions Plan 2006 Liverpool City Centre)**

2. As a consequence of this development, Council has identified an increased demand for public amenities and public services. The following payment represents 3% of the cost of the development and is imposed in accordance with Liverpool Contributions Plan 2006 Liverpool City Centre.

The total contribution is **\$ 347,827.00**

A breakdown of the contributions payable is provided in the attached payment form.

Contributions will be adjusted at the time of payment in line with the Consumer Price Index (all groups index number for Sydney) using the following formula:

$$\text{Contribution at the time of payment} = \frac{\mathbf{C} \times \mathbf{CPI}_2}{\mathbf{CPI}_1}$$

Where:

**C** = Original contributions as shown on the consent

**CPI<sub>2</sub>** = Latest "Consumer Price Index: All Groups Index Number" for Sydney available from the Australian Bureau of Statistics at the time that the contribution is to be paid

**CPI<sub>1</sub>** = Latest "Consumer Price Index: All Groups Index Number" for Sydney available from the Australian Bureau of Statistics as at the time of granting the development consent

The Contributions Plan may be inspected at Council's Administration Centre, Level 2, 33 Moore Street, Liverpool or at [www.liverpool.nsw.gov.au](http://www.liverpool.nsw.gov.au).

Please note. Payment must be accompanied by the attached form.

### **Fee Payments**

3. Unless otherwise prescribed by this consent, all relevant fees or charges must be paid. Where Council does not collect these payments, copies of receipts must be provided. For the calculation of payments such as Long Service Levy, the payment must be based on the value specified with the Development Application/Construction Certificate.

The following fees are applicable and payable:

- (a) Damage Inspection Fee – relevant where the cost of building work is \$20,000 or more, or a swimming pool is to be excavated by machinery.
- (b) Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve.
- (c) Long Service Levy – based on 0.35% of the cost of building work where the costing of the CC is \$25,000 or more.

These fees are reviewed annually and will be calculated accordingly.

4. All fees associated with a road opening permit required for the connection, extension or amplification of any services within Council's road reserve must be paid to Council and receipts provided to the PCA. A separate form must be submitted in conjunction with payment of the fees. The fees include the standard road opening permit fee and any restoration fees that may be required as a result of the works.

### **Security for Cost of Damage and Completion of Public Work**

5. Prior to issue of a CC authorising the carrying out of any work in accordance with this development consent, the applicant must provide security to the Council for the payment of the cost of the following:
  - (a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which the consent relates,
  - (b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in

- connection with the consent,
- (c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security is to be for an amount that is the greater of \$5000 or 5% of the estimated cost of carrying out the development and may be provided by way of:

- (a) cash deposit with the Council, or
- (b) an unconditional bank guarantee in favour of the Council.

The security may be used to meet any costs referred above and on application being made to the Council by the person who provided the security, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the security within 6 years of the date of issue of the subdivision certificate for the development the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

### **Dilapidation Report**

- 6. A dilapidation report is to be undertaken. This shall include clear photos and descriptions of all existing Council infrastructure adjacent to the subject site. A copy of the dilapidation report shall be submitted to Council.

### **Provision of Services**

- 7. An application to obtain a Section 73 Compliance Certificate under the Sydney Water Act 1994, must be lodged with Sydney Water. To facilitate this, an application must be made through an authorised Water Servicing Coordinator. Please refer to the “building and developing” section of Sydney Water’s web site at [www.sydneywater.com.au](http://www.sydneywater.com.au), or telephone 13 20 92.

Following receipt of the application, a ‘Notice of Requirements’ will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. A copy of the ‘Notice of Requirements’ must be submitted to the PCA.

- 8. Written clearance from Integral Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development must be submitted to the PCA.
- 9. Certification from an approved telecommunications carrier shall be submitted to Council confirming that satisfactory arrangements have been made to ensure the provision of underground telephone services to the approved development.

### **Site Development Work**

- 10. Site development work in the form of excavation, underpinning or shoring works must not take place, until such time as a CC has been issued.
- 11. All aspects of construction shall comply with the applicable Performance Requirements of the BCA. Compliance with the Performance Requirements can only be achieved by:
  - (a) Complying with the Deemed to Satisfy Provisions; or
  - (b) Formulating an Alternative Solution, which complies with the Performance Requirements or is shown to be at least equivalent to the Deemed to Satisfy Provision, or a combination of (a) and (b).

## **Notification**

12. The certifying authority must advise Council, in writing of:
  - (a) The name and contractor licence number of the licensee who has contracted to do or intends to do the work, or
  - (b) The name and permit of the owner-builder who intends to do the work.

If these arrangements are changed, or if a contract is entered into for the work to be done by a different licensee, Council must be immediately informed.

## **Fire Safety Measures**

13. A schedule specifying all of the essential fire safety services, which are required for the building, shall be attached to the CC and submitted to Council, in compliance with the provisions of the EP&A Regulation.

## **Design Verification Statement**

14. In accordance with the EP&A Regulation and State Environmental Planning Policy (SEPP) 65 "Design Quality of Residential Flat Development", the subject development must be undertaken or directed by a 'qualified designer' (i.e., a registered architect under the Architects Act). In this regard, a design verification statement shall be submitted to the PCA. The PCA shall ensure that the statement prepared by the qualified designer provides the following:
  - (a) A valid and current chartered architect's certificate number (as issued by the Board of Architects of NSW);
  - (b) That the qualified designer has designed or directed the design of the subject development; and
  - (c) That the plans and specifications lodged with the CC achieve or improve the design quality of the development for which the subject development consent was granted, having regard to the design principles set out in Part 2 of SEPP 65.

Note: The design verification statement must provide an explanation of the design in terms of the design quality principles set out in Part 2 of SEPP 65.

## **Crime Prevention Through Environmental Design**

15. It is recommended that the following Crime Prevention Through Environmental Design (CPTED) principles be incorporated into the building. Where necessary, plans shall be amended to reflect incorporation of the principles and/or details of such to be submitted to the PCA.
  - (a) Back to base alarm systems shall be considered;
  - (b) Basement parking areas shall be painted a light colour;
  - (c) CCTV for the ground level, entry/exit points, car parks, lifts and the exterior of the building shall be considered;
  - (d) 'Way finding' signage should be utilised at all major interchanges such as lifts and stair wells;
  - (e) Lighting is required to be designed in accordance with the Australian and New Zealand Lighting Standard AS 1158. A lighting maintenance policy should be established. Security lighting should be installed in and around the building, and such shall not impact on any adjoining premises. The lighting should be vandal

- resistant, especially external lighting;
- (f) Corrugated ramps should be considered to prevent skate boarding activities;
- (g) Glazed tiling, patterned, porous and non solid surfaces reduce the reward for graffiti offenders;
- (h) Any external approved palisade or pool style fencing shall be black in colour, unless otherwise noted on the approved plans/details;
- (i) Access to the basement parking levels relating to the residential component of the building shall be controlled via a security controlled device.

### **Driveway/Services**

16. All driveways are to be graded in such a manner as to provide continuous surface drainage flow paths to appropriate points of discharge. In this context, these are to be into roads or swales, as appropriate, connecting into the major trunk drainage system.
17. Driveways entry points must be located clear of all utility services. It is recommended that discussion be held with the relevant authorities before construction works commence. Council does not accept any responsibility towards these services.
18. Driveways are to conform to Council standard requirements for vehicle crossings as detailed in Council's Design and Construction Specifications for Subdivisions (as amended) and as per the requirements in Council's DCP.

### **Paving**

19. Core Type paving is to be installed along the entire Macquarie Street frontage of the site, as part of this development, in accordance with the Liverpool CBD Street Tree and Landscape Strategy and, The Liverpool CBD Streetscape and Paving Guidelines.

Detailed plans are required to be submitted to and approved by Council showing the proposed tree locations, species and planting sizes, paving location and layout, including references to the relevant details and specifications as contained in the abovementioned documents.

To ensure that the street tree planting size, quantity and quality is maintained throughout the Liverpool CBD, please contact Council's Senior Development Engineer on 1300 36 2170 for further information.

### **Permit to Carry out Works**

20. A separate application for a permit to carry out works must be issued by Council for –
  - (a) A permit to carry out works in Council's drainage/recreation reserve or drainage easement, pursuant to Section 68 of the Local Government Act, 1993.
  - (b) A Permit to carry out works in Council's road reserve, pursuant to Section 138 of the Roads Act, 1993.
  - (c) The required hoarding, protective footway, temporary protective footway crossings. These are to be installed along Macquarie Street compliant with Section 138 Roads Act approval. The hoarding, protective footway crossing and general safeguards for building sites are to be designed and erected in accordance with Liverpool City Guidelines and in accordance with WorkCover "Code of Practice for Overhead Protective Structures" 1995 as amended.

### **Drainage**

21. Engineering plans will be required defining all physical works necessary on the site and adjacent to it. These plans are to be certified by Council or an accredited certifier.

- (a) These plans must satisfy the following requirements:
- i. Council's current Design and Construction specification for subdivisions (as amended), and supplementary code,
  - ii. Council's Trunk Drainage Scheme(s),
  - iii. Council's Development Control Plans,
  - iv. All proposed road and drainage works must adequately match existing infrastructure
- (b) These plans must incorporate the following:
- i. A geotechnical report forming the basis of a road pavement design
  - ii. An acoustic report identifying the height of the required acoustic fence to achieve the noise levels as defined in Council's D.C.P. No.4.
  - iii. A geotechnical report identifying any contamination of the site, the chemicals present, and proposed remediation required
  - iv. A drainage study identifying the location and design required of any drainage channel, or detention basin.

### **Stormwater**

22. Stormwater is to be collected within the site and conveyed in a pipeline to the appropriate point of discharge as directed by Council and as detailed on the approved plans.
23. A stormwater drainage plan, including hydraulic calculations based on a 1 in 5 year storm (ARI), is required. The plan must show how the stormwater generated by this site, and other inter-allotment overland flow water entering onto this site, is to be collected within the site and conveyed in a suitable pipeline to the most appropriate point of discharge as advised by Council.

This plan shall also show existing and proposed surface contours within the site and along its boundaries with immediately adjacent properties, and shall define overland flow paths for storms which exceed the capacity of the underground pipe system.

The applicant is to contact Council to determine maximum allowable discharge from site. (Council engineers to nominate maximum discharge flow from site). If drainage investigations reveal that downstream drainage pipes are not capable of catering for the discharge, then Council requires the design and construction of an on-site detention system. This is to be designed in accordance with Council's On Site Detention Policy

### **Site Contamination**

24. The report by the contaminated land consultant must be reviewed by a contaminated land auditor accredited under the DECC (EPA) Contaminated Land Management Act 1997. The accredited auditor must provide Council with a copy of the Site Audit Statement.
25. A Stage 2 Detailed Contamination Investigation must be undertaken to identify possible soil and groundwater contamination. The Stage 2 Investigation must be undertaken by a suitably qualified consultant to the requirements of NSW EPA's *Guidelines for Consultants Reporting on Contaminated Sites (2000)*. Details of which are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

## **C. PRIOR TO WORKS COMMENCING**

**The following conditions are to be complied with or addressed prior to works commencing on the subject site/s:**

### **Construction Certificates**

26. Detailed engineering plans and specifications relating to the work shall be endorsed with a CC, in accordance with Section 81A of the EP&A Act, and a copy submitted to Council, with payment of any relevant fees.
27. Any CC that may be issued in association with this development consent must ensure that any certified plans and designs are generally consistent (in terms of site layout, site levels, building location, size, external configuration and appearance) with the approved Development Application plans.

### **Notification/Principal Certifying Authority**

28. The applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 81A (4) of the Act.
29. The PCA must advise Council of the intended date to commence work which is the subject of this consent by completing a notice of commencement of building works or subdivision works form, available from Council's Customer Service Centre. A minimum period of two (2) working days notice must be given.
30. Written notice of intention shall be given to the owner of the adjoining allotments of land, outlining the particulars of the proposed work, which involves:
  - (a) Any excavation, below the base of the footings of a building on an adjoining allotment of land.
  - (b) The notice shall be given seven (7) days prior to the commencement of work.
31. In the event the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the following is to be undertaken at full cost to the developer:
  - (a) Protect and support the adjoining premises from possible damage from the excavation, and
  - (b) where necessary, underpin the adjoining premises to prevent any such damage.

### **Facilities**

32. Toilet facilities must be available or provided at the work site and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.



## **Construction Requirements**

33. Lifting or craning materials over a public footway or roadway is not permitted unless a “B” class construction hoarding has been installed in compliance with work cover authority requirements.
34. The applicant/ builder shall be responsible to report to the Council any damage to Council's footpath and road carriageway as a consequence of demolition or excavation or building activities or delivery/ departure of materials associated with this site. The damage shall be reported to Council as soon as the damage becomes apparent to the builder/ site manager. Arrangements to the satisfaction of Council are to be made for making safe by temporary repairs to the public way until permanent restoration and repair can be organised with Council.
35. Retaining walls or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated subsoil drainage and surface stormwater drainage measures, shall be designed strictly in accordance with the manufacturers details or by a practising structural engineer. Retaining walls on any boundary are to be of masonry construction.
36. Structural supporting elements or bracing of the building must be designed and certified by a qualified chartered structural engineer having regards to supporting ground conditions.

## **Demolition**

37. Prior to demolition the existing building(s) on the land must be investigated for the presence of asbestos. All asbestos must be removed and disposed of in accordance with all regulatory requirements, including those of WorkCover NSW and the Environment Protection Authority.

## **Site Facilities**

38. Adequate refuse disposal methods and builders storage facilities shall be installed on the site. Builders' wastes, materials or sheds are not to be placed on any property other than that which this approval relates to.

## **Site Notice Board**

39. A sign must be erected in a prominent position on the premises on which work is to be carried out. The sign is to be maintained during work, and removed at the completion of work. The sign must state:
  - (a) The name, address and telephone number of the principal certifying authority for the work; and
  - (b) The name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
  - (c) Unauthorised entry to the premises is prohibited.

## **Hoarding**

40. A construction hoarding of class B must be erected to prevent any substance from, or in connection with the construction site, falling onto a public area:

This applies, as follows:

- (a) If the work is likely to cause pedestrian or vehicular traffic in a public area to be obstructed or rendered inconvenient; or
- (b) If craning of materials is to occur across a public area or road reserve area.

Such hoarding or barrier must be designed and erected in accordance with Council's guidelines on hoarding construction. Relevant application under the Roads Act approval must be completed and fees paid prior to the construction of a hoarding on Council road reserve area.

#### **Notification of Service Providers**

- 41. CC plans as submitted to Council are to be approved by Sydney Water, to verify that the development meets its requirements concerning the relationship of the development to any water mains, sewers or stormwater channels.

#### **Waste Classification**

- 42. Prior to the exportation of waste (including fill or soil) from the site, the material shall be classified in accordance with the provisions of the POEO Act and NSW DECCW, (EPA) 'Environmental Guidelines: Assessment, Classification and Management of Non-Liquid Wastes'. The classification of the material is essential to determine where the waste may be legally taken. The POEO Act provides for the commission of an offence for both the waste owner and transporters if waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid and non liquid waste advice should be sought from the DECCW (EPA).

#### **Environmental Management**

- 43. Adequate soil and sediment control measures shall be installed and maintained. Furthermore, suitable site practices shall be adopted to ensure that only clean and unpolluted waters are permitted to enter Council's stormwater drainage system during construction/demolition. Measures must include, as a minimum:
  - (a) Siltation fencing;
  - (b) Protection of the public stormwater system; and
  - (c) Site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

### **D. DURING CONSTRUCTION**

**The following conditions are to be complied with or addressed during construction:**

#### **Building Work**

- 44. In the case of a class 2, 3 or 4 building, critical stage inspections must be carried out by the appropriate person in accordance with the EP&A Regulation, with Compliance Certificates issued for each inspection. The last critical stage inspection must be carried out by the PCA. The following components of construction are relevant:
  - (a) after excavation for, and before the placement of, any footings, and
  - (b) prior to covering of waterproofing in any wet areas for a minimum of 10% of rooms with wet areas within a building, and
  - (c) prior to covering any stormwater drainage connections; and
  - (d) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Note: These certificates or documentary evidence must be submitted to Council with any OC issued for the development.

### **Identification Survey Report**

45. The building and external walls are not to proceed past ground floor/reinforcing steel level until such time as the PCA has been supplied with an identification survey report prepared by a registered surveyor certifying that the floor levels and external wall locations to be constructed, comply with the approved plans, finished floor levels and setbacks to boundary/boundaries. The slab shall not be poured, nor works continue, until the PCA has advised the builder/developer that the floor level and external wall setback details shown on the submitted survey are satisfactory.

In the event that Council is not the PCA, a copy of the survey shall be provided to Council within three (3) working days.

On placement of the concrete, works again shall not continue until the PCA has issued a certificate stating that the condition of the approval has been complied with and that the slab has been poured at the approved levels.

### **Hours of Construction Work and Deliveries**

46. Construction work/civil work/demolition work, including the delivery of materials, is only permitted on the site between the hours of 7:00am to 5:00pm Monday to Saturday. No work will be permitted on Sundays or Public Holidays, unless otherwise approved by Council.

### **Security Fence**

47. A temporary security fence to WorkCover Authority requirements is to be provided to the property during the course of construction.

Note. Fencing is not to be located on Council's reserve area.

### **Demolition Work**

48. All demolition work is to be carried out in accordance with the requirements of AS 2601. Demolition is to be carried out strictly in accordance with the approved procedures and work plan.

### **Disabled Access**

49. Access, parking and facilities for persons with disabilities to be provided in accordance with the provisions of the BCA.

### **General Site Works**

50. Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.
51. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.

### **Car Parking Areas**

52. Car parking spaces and driveways must be constructed of a minimum of two coat finish

seal or better. The spaces must be clear of obstructions and columns, permanently line marked and provided with adequate manoeuvring facilities. The design of these spaces must comply with Council's DCP 2008, and Australian Standard 2890.1 Parking Facilities – Off Street Car Parking.

All car parking areas to be appropriately line marked and sign posted in accordance with the approved plans. All customer/visitor/staff parking areas are to be clearly signposted limiting car parking for customers/visitors/staff only. The applicant is to cover the costs of installation and maintenance of the signage.

The on-site parking spaces shown in the approved plans must be identified in accordance with A.S.2890.1 Parking Facilities – Off-Street Car Parking.

53. Directional signage indicating the location of customer parking, “in” and “out” crossings and directional arrows are to be provided in accordance with the approved plans.

### **Traffic Management**

54. All works within the road reserve are to be at the applicant cost and all signage is to be in accordance with the RTA's Traffic Control at Worksites Manual and the RTA's Interim Guide to Signs and Markings.
55. If a works zone is required, an application must be made to Council's Transport Planning section. The application is to indicate the exact location required and the applicable fee is to be included. If parking restrictions are in place, an application to have the restrictions moved, will need to be made.
56. Notice must be given to Council's Transport Planning section of any interruption to pedestrian or vehicular traffic within the road reserve, caused by the construction of this development. A Traffic Control Plan, prepared by an accredited practitioner must be submitted for approval, 48 hours prior to implementation. This includes temporary closures for delivery of materials, concrete pours etc.
57. Applications must be made to Council's Transport Planning section for any road closures. The applicant is to include a Traffic Control Plan, prepared by a suitably qualified person, which is to include the date and times of closures and any other relevant information.

### **Waste Management Plan**

58. The Waste Management Plan submitted to and approved by Council must be adhered to at all times throughout all stages of the development. Supporting documentation (receipts/dockets) of waste/recycling/disposal methods carried out, is to be kept and must be produced upon the request of Council or any other authorised officer.

Note: Any non-compliance with this requirement will result in penalties being issued.

### **Vegetation**

59. No trees are to be removed without the prior approval of Council.
60. All existing trees and areas of native vegetation not identified for removal on approved plans of the proposed development shall be protected from damage during site works. This protection shall consist of 1800mm high protective fencing, securely installed beneath the outer canopy of any tree to be retained. Trees may be fenced off in clusters where it is not practical to fence off individual trees. There shall be no storing materials, washing machinery or changes to existing soil levels within the fenced areas.

## **Landscaping Works**

61. Premium quality organic garden soil shall be incorporated into all planting areas in sufficient quantity to achieve optimum plant growing conditions.
62. All garden/planting areas shall be mulched to a depth of not less than 75mm using weed free leaf mulch, wood chip or similar, not pine bark.
63. Edging shall be installed to separate all mass planted areas from turf areas. Edging shall consist of brick on a concrete/mortar bed or sawn treated timber to finish level with adjacent turf areas.
64. Street Trees and Footpath Paving within the Liverpool CBD shall be installed in accordance with the requirements outlined in the Liverpool Street Tree & Landscaping Strategy and The Liverpool CBD Paving Guidelines. These booklets can be purchased from the Council Administration Building at Level 2, 33 Moore Street, Liverpool.

## **External**

65. Switchboards for utilities shall not be attached to the street and/or road elevations of the development.
66. Any external lighting is to incorporate full cut-off shielding and is to be mounted so as to not cause any glare or spill over light nuisance within the development, neighbouring properties or road users.
67. The reflectivity index of glass used in the external facade of the building is not to exceed 20%.

## **Graffiti**

68. A graffiti resistant coating shall be applied to any fences or structures that have frontage to a public area, for example a roadway, public reserve etc.

## **Salinity**

69. Any works or activities shall adhere to the recommendations outlined in the approved Salinity Management Plan prepared for the site.

## **Contamination**

70. All fill introduced to the site must undergo a contaminated site assessment. This assessment may consist of either:
  - (a) a full site history of the source of the fill (if known) examining previous land uses or geotechnical reports associated with the source site to determine potential contamination as per the NSW DECCW 'Waste Classification Guidelines' April 2008; or
  - (b) clearly indicate the legal property description of the fill material source site;
  - (c) provide a classification of the fill material to be imported to the site in accordance with the 'NSW DECCW 'Waste Classification Guidelines' April 2008.
  - (d) a chemical analysis of the fill where the site history or a preliminary contamination assessment indicates potential contamination or contamination of fill material; and
  - (e) must provide Council with copies of validation certificate verifying the material to be used is free of contaminants and fit for purpose re use in residential, commercial or industrial use.

71. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately after discovery. A Section 96 Application under the EP&A Act shall be made for any proposed works outside the scope of the approved development consent.

#### **Air Quality**

72. Dust screens shall be erected and maintained in good repair around the perimeter of the subject land during land clearing, demolition, and construction works.
73. Where operations involve excavation, filling or grading of land, or removal of vegetation, including ground cover, dust is to be suppressed by regular watering until such time as the soil is stabilised to prevent airborne dust transport. Where wind velocity exceeds five knots the PCA may direct that such work is not to proceed.
74. All vehicles involved in the delivery, demolition or construction process departing from the property shall have their loads fully covered before entering the public roadway.

#### **Erosion Control**

75. Sediment and erosion control measures are to be adequately maintained during the works until the establishment of grass.
76. Vehicular access to the site shall be controlled through the installation of wash down bays or shaker ramps to prevent tracking of sediment or dirt onto adjoining roadways. Where any sediment is deposited on adjoining roadways is shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.

#### **Water Quality**

77. All topsoil, sand, aggregate, spoil or any other material shall be stored clear of any drainage line, easement, water body, stormwater drain, footpath, kerb or road surface and there shall be measures in place in accordance with the approved erosion and sediment control plan.

#### **Pollution Control**

78. Building operations such as brick cutting, mixing mortar and the washing of tools, paint brushes, form-work, concrete trucks and the like shall not be performed on the public footway or any other locations which may lead to the discharge of materials into Council's stormwater drainage system.
79. The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated "spoil" material.

### **E. PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

**The following conditions are to be complied with or addressed prior to issue of either an Interim or Final Occupation Certificate by the Principal Certifying Authority:**

#### **Certificates**

80. The premises must not be utilised until an OC is issued by the PCA. Copies of all documents relied upon for the issue of the OC must be attached to the OC and registered

with Council.

81. The Principal Certifying Authority (Building) and/or the Accredited Certifier (Subdivision) shall ensure that all compliance certificates required by this development consent are referenced to the condition consent number. The Compliance Certificate is to state that the works as constructed comply fully with the required condition of consent being acted on by the certifier.
82. All required Compliances Certificates for the critical stage inspections carried out prior, during and at the completion of construction, must be submitted to Council together with the required registration fee payment.
83. A final fire or interim safety certificate is to be attached to any OC, except in the case of a Class 1a or Class 10 building(s). This must include all the “essential fire services” installed in the building.
84. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA.
85. Any rectification works required by council regarding the condition of Council infrastructure shall be undertaken, at full cost to the developer.

#### **BASIX**

86. Supporting documentation issued by a suitable qualified person who has installed or carried out the works associated with the BASIX commitments shall be submitted to Council.

#### **Landscaping**

87. Upon completion of the approved landscape works associated with the development and prior to the issue of any OC, an Implementation Report is to be submitted to the PCA attesting to the satisfactory completion of the landscape works in accordance with the approved landscape plan. The report is to be prepared by a suitably qualified person.

#### **Display of Street Numbers**

88. Street numbers must be prominently displayed at the front of the development in a contrasting colour to the building materials and at the front of each individual unit to comply with the Local Government Act 1973, Section 124(8). The number should be a minimum height of 120mm and be visible at night.

#### **Road Works**

89. Suitable concrete vehicular footpath crossings must be provided at the entrance to and exit from the property. These crossings must be constructed in accordance with Council’s standard requirements for commercial crossings. The section of the vehicular crossing that traverses the road reserve shall be constructed of plain concrete, i.e., no stencil, pattern, coloured concrete etc.
90. All redundant vehicular crossings shall be removed and replaced with Council’s standard kerb and gutter at no cost to Council. The removal and replacement of a driveway with standard integral kerb and gutter shall be the subject of a driveway application to Council and works supervised by that driveway inspection process.

## **Design Verification Statement**

91. In accordance with the Environmental Planning and Assessment Regulation 2000 and State Environmental Planning Policy (SEPP) 65 "Design Quality of Residential Flat Development", the subject development must be undertaken or directed by a 'qualified designer' (i.e., a registered architect under the Architects Act). In this regard, a design verification statement shall be submitted to the PCA assessing the development, upon completion of all works subject of this consent and its accompanying CC. The PCA shall ensure that the statement prepared by the qualified designer provides the following:
- (a) A valid and current chartered architect's certificate number (as issued by the Board of Architects of NSW);
  - (b) That the completed development achieves the design quality of the development as shown in the plans and specifications submitted and approved with the CC, having regard to the design principles set out in Part 2 of SEPP 65.

## **Lot Registration/Dedication**

92. All separate lots must be consolidated. The OC cannot be issued until the plan of consolidation has been registered as a deposited plan by the LPI Service.

## **Certificates**

93. Two copies, both marked up in red, of a "Work As Executed Plan", prepared by a registered surveyor, must be submitted to and approved by Council clearly showing all aspects of the constructed Drainage and/or On-site Detention systems. The plan must include:
- (a) Sufficient levels and dimensions to verify the constructed storage volumes
  - (b) Location and surface levels of all pits.
  - (c) Invert levels of the internal drainage line, orifice plates fitted and levels within the outlet control pit.
  - (d) Finished floor levels of all structures and driveways
  - (e) Verification that trash screens and/or GPT's have been installed
  - (f) Locations and levels of any overland flow paths
  - (g) The work-as-executed plan information should be shown on a (h) stamped copy of the approved civil works drawings.

## **Crossing Application**

94. A concrete vehicular footpath crossing must be provided at the entrance to the property over Council's footpath/pedestrian way. This crossing must be constructed in accordance with Council's standard requirements for commercial crossing. The section of the vehicular crossing that traverses the road reserve shall be constructed of plain concrete, i.e., no stencil, pattern, coloured concrete etc. A crossing application must be made at Council's customer service counter together with payment of the standard fee. Conditions apply, including requirement for inspection prior to consent to pour by Council's driveway inspector.

## **Garbage Services**

95. The owner/developer of the site is to contact Liverpool City Council – Sustainable Environment section to determine the required number of waste/garbage bins for the residential component of the development as well as serving requirements. These waste/garbage bins are to be kept at all times within the residential waste/garbage compartment rooms except before and after collection days. Waste/garbage bins are to



be returned to the compartment room as soon as practical after waste has been collected.

## **F. CONDITIONS RELATING TO USE**

**The following conditions relate to the ongoing use of the premises:**

### **Separate Application for Use**

96. Each separate retail/commercial occupancy shall be subject to submission (and approval by Council), of a separate Development Application for its use.

### **Car Parking/Loading**

97. A total of 105 off street car parking spaces must be provided in accordance with Council's requirements. The parking spaces shall be allocated as follows:
- 80 spaces relating to the commercial component;
  - 3 spaces relating to the 1 bedroom units;
  - 16 spaces relating to the 2 bedroom units;
  - 3 spaces relating to the 3 bedroom units; and
  - 3 spaces designated for visitor parking relating to the residential units.
98. All loading and unloading must take place from the designated loading dock. This area is to be clearly marked/signposted for use by delivery vehicles only.
99. The operator of the development must not permit the reversing of vehicles onto or away from the road reserve, with the exception of garbage and recycling collection vehicles. All vehicles must be driven forward onto and away from the development and adequate space must be provided and maintained on the land to permit all vehicles to turn in accordance with AS 2890.1 Parking Facilities – Off Street Car Parking.

### **Graffiti**

100. Any graffiti carried out on the property shall be removed, within 48 hours, at full cost to the owner/occupier of the site.

### **Alarms**

101. The intruder alarm/s associated with the development shall only be permitted to operate in accordance with the requirements of Clause 53 of the Protection of the Environment Operations (Noise Control) Regulation 2000 under the POEO Act.

### **Landscaping**

102. Landscaping shall be maintained in accordance with the approved plan, in a healthy state and in perpetuity by the existing or future owners and occupiers of the development.

If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species, and similar maturity as the vegetation which has died or was removed.

An annual report shall be submitted to Council, for the 3 years following issue of the OC, certifying that the landscaping works have been satisfactorily maintained.

## **G. ADVISORY**

- a) If you are dissatisfied with this notice of determination or the conditions contained within this

notice of determination, Section 82A of the Environmental Planning and Assessment Act 1979 gives you the right to request a review of the determination within 12 months after the date on which the application is taken to have been determined.

- b) If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which the application is taken to have been determined.
- c) In accordance with Section 95 of the Environmental Planning and Assessment Act 1979, unless otherwise stated by a condition of this consent, this consent will lapse unless the development is commenced within five (5) years of the date of this notice.
- d) In accordance with Section 98 of the Environmental Planning and Assessment Act 1979, an objector who is dissatisfied with the determination of a consent authority to grant consent to a development application for designated development (including designated development that is integrated development), may, within 28 days after the date on which the application is taken to have been determined, appeal to the Land and Environment Court.
- e) The Planning Assessment Commission has not conducted a review of the application.
- f) These conditions are imposed to control development, having regard to 79C of the Environmental Planning and Assessment Act 1979.
- g) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the developer should investigate their liability under the Act.
- h) The requirements of all authorities including the Environmental Protection Authority and the Work Cover Authority shall be met in regards to the operation of the building.
- i) “DIAL BEFORE YOU DIG” DIAL 1100  
Before any excavation work starts, contractors and others should phone “Dial Before You Dig” service to access plans/information for underground pipes and cables.  
[www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au)
- j) Letter boxes must be provided in accordance with the requirements of Australia Post. In this regard, the developer is required to obtain approval from Australia Post for address numbering, and letter box positioning and dimensions.
- k) The Liverpool City Council Local Government area soils and ground water may be subject to varying levels of Salinity. Whilst Council may require applicants to obtain Salinity reports relating to some developments, no assessment may be made by Council in that regard. Soil and ground water salinity levels can change over time due to varying factors. It is recommended that all applicants make their own independent inquiries as to appropriate protection against the current and future potential affect of Salinity to ensure the ongoing structural integrity of any work undertaken. Liverpool City Council will not accept any liability for damage occurring to any construction of any type affected by soil and or ground water Salinity.
- l) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.
- m) Care shall be taken by the applicant and the applicant’s agents to prevent any damage to adjoining properties. The applicant or the applicant’s agents may be liable to pay compensation to any adjoining owner if, due to construction works, damage is caused to such an adjoining property.