

Clause 4.6 – Exceptions to Development Standards – Floor Space Ratio

Address: 420 Macquarie Street, Liverpool

1. Introduction

This is an application to vary a development standard under Clause 4.6 – Exceptions to Development Standards, of the Liverpool Local Environmental Plan 2008 (LLEP 2008). The development standard for which the variation is sought is Clause 4.4 Floor Space Ratio under the LLEP 2008.

The variation relates to a proposed mixed use development located at 420 Macquarie Street, Liverpool. The development site also has frontage to Carey Street, Charles Street and Mill Road. The building contains 438 apartments and 396m² of retail space and consists of a six (6) storey residential flat building facing Charles Street and two mixed use residential towers towards the centre of the site of 29 storeys (26 storeys above a 3 storey podium) in height.

This application has been prepared in accordance with the NSW Department of Planning and Infrastructure (DP&I) guideline *Varying development standards: A Guide*, August 2011.

It is noted that Clause 4.6 also requires the concurrence of the Director-General to be obtained prior to the granting of consent for development that contravenes a development standard unless, concurrence from the Director-General to vary the development standard has been delegated to the Council.

2. Description of the planning instrument, development standard and proposed variation

2.1 What is the name of the environmental planning instrument that applies to the land?

Liverpool Local Environmental Plan 2008 (LLEP 2008).

2.2 What is the zoning of the land?

The zoning of the land that is the subject of the development application is part B4 Mixed Use and part R4 High Density Residential.

2.3 What are the Objectives of the zone?

The objectives of the B4 Mixed Use zone are:

- 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.

The objectives of the R4 High Density Residential zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a high concentration of housing with good access to transport, services and facilities.*
- *To minimise the fragmentation of land that would prevent the achievement of high density residential development.*

2.4 What is the development standard being varied?

The development standard being varied is the maximum floor space ratio.

2.5 Is the development standard a performance based control? Give details.

No. The building floor space ratio development standard is a numerical control.

2.6 Under what Clause is the development standard listed in the environmental planning instrument?

Clause 4.4 of the LLEP 2008 establishes the maximum FSR for land within the Liverpool LGA as identified on the Floor Space Ratio Map. Clause 4.4 also provides for bonus FSR. This is detailed below in Section 2.8.

2.7 What are the objectives of the development standard?

The objectives to the development standard are contained in subclause 4.4 and are reproduced below:

- (a) to establish standards for the maximum development density and intensity of land use, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic,*
- (b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different locations,*
- (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- (e) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (f) to facilitate design excellence in the Liverpool city centre by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.*

2.8 What is the numeric value of the development standard in the environmental planning instrument?

Clause 4.4 establishes that for the land zoned B4 the FSR standard is 2.5:1 (Macquarie Street) with a bonus up to a maximum of 6:1. For that part of the site zoned R4 the FSR standard is 2:1 (Charles Street) with a bonus up to a maximum of 3.5:1.

The table below summarises the provisions of Clause 4.4 (2B) and (2C) as they apply to the Macquarie Street and Charles Street parts of the site.

Macquarie Street	Clause 4.4 (2B) provision	Response
	(a) on a site area greater than 1,000 square metres	The site area is 6,113m ² (taking into account the SP2 zoned land).
	(b) on land in a zone specified in the Table to this clause	The site is part zoned B4 Mixed Use
	(c) on land for which the maximum building height shown on the Height of Buildings Map is as specified in Column 1 of the Table under the heading for that zone, is the amount specified opposite that height in	The maximum building height is 80m
	(d) Column 2 of the Table, if the site area for the building is greater than 1,000 square metres but less than 2,500 square metres,	Not applicable
	(e) Column 3 of the Table, if the site area for the development is equal to, or greater than 2,500 square metres	Site area is greater than 2,500m ²
	Clause 4.4 (2C) formula	
	2.5:1 + 3.5:1	Maximum FSR 6:1
Charles Street	Clause 4.4 (2B) provision	Response
	(a) on a site area greater than 1,000 square metres	The site area is 6,113m ²
	(b) on land in a zone specified in the Table to this clause	The site is part zoned R4 High Density Residential
	(c) on land for which the maximum building height shown on the Height of Buildings Map is as specified in Column 1 of the Table under the heading for that zone, is the amount specified opposite that height in	The maximum building height is 45m
	(d) Column 2 of the Table, if the site area for the building is greater than 1,000 square metres but less than 2,500 square metres,	Not applicable
	(e) Column 3 of the Table, if the site area for the development is equal to, or greater than 2,500 square metres	Site area is greater than 2,500m ²
	Clause 4.4 (2C) formula	
	2:1 + 1.5:1	Maximum FSR 3.5:1

The calculation of gross floor area (GFA) arising from the above FSR figures is based on the relevant definition contained in LLEP 2008:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:
 - (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
 - (h) any space used for the loading or unloading of goods (including access to it), and
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and
 - (j) voids above a floor at the level of a storey or storey above.

Note that (g) above excludes from the calculation of GFA car parking to meet the requirements of the consent authority.

The calculation of the maximum gross floor area (GFA) arising from Clauses 4.4 (2B) and (2C) and 4.5 is as follows:

- Macquarie Street
5,213m² (area zoned B4 and height of 80m) x 6:1 FSR = 31,278m² GFA
- Charles Street
900m² (area zoned R4 and height of 45m) x 3.5:1 = 3,150m²
- Total applicable GFA: 34,428m²

The calculation of maximum FSR across the whole of the site, arising from the definition of FSR being *the ratio of the gross floor area of all buildings within the site to the site area* is 5.634:1 (34,428m² GFA/6,113m² site area).

The proposal includes **39,098 m² of GFA**. Based on the definition of FSR and the site area of 6,113m², the resultant FSR is **6.44:1**, which is an overall % variation to the applicable FSR applying to the site of **14%**. This compares with the originally submitted floor space of 40,259m² with a FSR of 6.58:1 and a variation of 17.6%.

A further matter for consideration in the calculation of GFA are the provisions of Clause 7.3 (4) of LLEP 2008, applying to car parking in the Liverpool city centre:

- (4) In this clause, the following are to be included as part of a building's gross floor area:
 - (a) any area of the building that is used for car parking and is at or above ground level (existing), except to the extent permitted by a development control plan made by the Council,
 - (b) any area of the building that is used for car parking below ground level (existing), except where the car parking is provided as required by this clause.

The overall car parking numbers provided are consistent with the requirements of Liverpool Development Control Plan 2008 and the requirements of LLEP 2008 so this area is not calculated as GFA or FSR. The

parking provided in the podium is less than 25 percent of total parking and as such is not to be calculated as part of the FSR pursuant to Clause 7.3 (5) of LLEP 2008.

2.9 What is the proposed numeric value of the development standard in the development application?

The proposal includes 39,098m² GFA. Based on the definition of FSR and the site area of 6,113m², the resultant FSR is 6.44:1.

2.10 What is the percentage variation (between the proposal and the environmental planning instrument)?

The proposal varies the maximum GFA arising from the FSR applying to the site by 14%.

3. Assessment of the proposed variation

3.1 Overview

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under a local environmental plan. Subclause 4.6(3)(a) and 4.6(3)(b) requires that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

4.6(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

In addition, the 4.6(4)(i) requires that development consent must not be granted for a development that contravenes a development standard unless the:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)..

An assessment of the floor space ratio variation is provided below in accordance the requirements of Clause 4.6. In addition, this variation has also been prepared in accordance with the Guidelines, which identifies matters to be addressed in an application to vary a development standard. The matters identified in the Guideline are consistent with the SEPP 1 objection principles identified in the decision of Justice Lloyd in *Winten v North Sydney Council* outlined below:

- Is the planning control in question a development standard;
- What is the underlying object or purpose of the standard;
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the *EP&A Act 1979*;
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case;
- Is a development which complies with the development standard unreasonable or unnecessary; and
- Is the objection well founded.

In accordance with the Guideline, this assessment also addresses the 'five part test' established by the NSW Land and Environment Court. The five part test was established in the decision of Justice Preston in *Wehbe v Pittwater [2007] NSW LEC 827* to determine whether compliance with a development standard is unreasonable or unnecessary based on the following:

- Would the proposal, despite numerical non-compliance, be consistent with the relevant environmental or planning objectives;
- Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard is unnecessary;
- Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable;
- Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable; or
- Is the "zoning of particular land" unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land. Consequently compliance with that development standard is unnecessary and unreasonable.

3.2 How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

In the circumstances of this case, the provision of strict numerical compliance would be unreasonable due to the following:

1. The proposal remains consistent with the objectives of both the B4 Mixed Use zone and the R4 High Density Residential zone, despite the non-compliance with the FSR control as demonstrated in the assessment of the objectives below:

B4 Mixed Use Zone

(a) To provide a mixture of compatible land uses.

The proposal provides a mixture of compatible land uses with residential use over a retail use at ground level.

(b) 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.

The site is within a highly accessible location within the defined Liverpool city centre and includes retail and residential floor space. The site is within walking distance of Liverpool Railway Station and Bus routes 872, 870, 852, M90, T80. The Mirambeena Chipping Norton Lakes Cycling Track is 500m away down Mill Road.

(c) 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 the development includes retail uses and residential lobbies at ground level which will activate the street.

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(d) To facilitate a high standard of urban design, convenient urban living and exceptional public amenity.

The design of the development is of high standard providing convenient urban living in close proximity to parklands, cycleways and public transport. The surrounding public domain will be renewed and the variation in height will create a slimmer more attractive tower form.

R4 High Density Residential zone

To provide for the housing needs of the community within a high density residential environment.

Comment: The development with the varied floor space will provide a range of housing within the proposed 438 apartments. The development will be in the form of high density residential, within the context of the Liverpool city centre and significantly boost affordable housing supply.

To provide a variety of housing types within a high density residential environment.

Comment: There are a total of 438 apartments, made up of 3 x 1 bedrooms; 393 x 2 bedroom; and 42 x 3 bedroom. Notwithstanding, the development has been designed in order to provide maximum flexibility in terms of apartments sizes and configurations, in order to deliver a wide variety of housing types and choice. A total of 271 studio/1 bedroom apartments are located within dual key apartments. This will significantly boost affordable housing supply to Liverpool.

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Comment: The development includes a flexible multi purpose room and ground floor retail space fronting Macquarie Street to service the development and locality.

To provide for a high concentration of housing with good access to transport, services and facilities.

Comment: The provision of 438 apartments will deliver a high concentration of housing on a very large site within the Liverpool city centre, with good access to transport, services and facilities. The site is within walking distance to Liverpool railway station and bus routes 872, 870, 852, M90 and T80. The Mirrambeena, Chipping Norton Lakes cycle track is located at the end of Mill Road.

To minimise the fragmentation of land that would prevent the achievement of high density residential development.

Comment: The development is to occur on a large consolidated site which, due to its size, is capable of accommodating the scale and density of development proposed, while at the same time mitigating potential impacts on adjoining residential sites and the locality. Accordingly there is no fragmentation of land.

2. The proposal remains consistent with the objectives of the FSR standard outlined in subclause 4.3(1) despite the non-compliance demonstrated below:

- (a) to establish standards for the maximum development density and intensity of land use, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic

Comment: This objective relates to the application of the FSR control generally. The proposal is not inconsistent with this objective as the site is within the Liverpool city centre and through the Council's strategic planning for the LGA, it has determined that the site has the available infrastructure to meet the vehicle and pedestrian traffic likely to be generated. The application is supported by a Traffic and Parking Report that confirms the acceptability of the development in the location. The development complies with the overall car parking requirements of the Liverpool DCP 2008.

The drawings as amended provide a direct and convenient pedestrian link to Carey Street which will encourage future residents to access public transport and local shops on foot.

The proposed variation to the FSR development standard will allow for the provision of additional residential floor space that will further assist in meeting the housing demands within Liverpool city centre and take advantage of nearby parklands and public transport infrastructure as mentioned above.

- (b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different locations,

Comment: The development standard clearly contemplates tower forms of development in the location.

The subject site is very large (6,158 sqm) and capable of accommodating a significant scale of development, while at the same time mitigating potential impacts on adjoining and surrounding sites. The reduction of the area of the SP2 zoned land marginally reduces the site area for the purposes of calculating the FSR (6,113 sqm).

While large in size, the site does contain two “fingers” of land extending into Carey Street and Charles Street respectively. These sections of the site are the most sensitive in terms of proximity and relationship to residential neighbours.

The variation in height and floor space for the towers is caused by the redistribution of building height and floor space away from the Carey Street and Charles Street sections of the site to the central and western sections of the site. This redistribution results in a low scale and discrete residential flat building in Charles Street (5-6 storeys) that is consistent with the scale of buildings in this street but nonetheless well below the allowable floor space ratio and building height standard associated with this section of the site. The Carey Street section of the site, which could accommodate a residential flat building, is proposed to be used for deep soil landscaping and pedestrian access so as to mitigate potential impacts of development on the adjoining sites.

The scale and form of slim tower development is consistent with the desired future character in this location in the Liverpool city centre. The variation to the floor space allows slimmer tall towers which are more attractive.

The image on page 9 is an extract from a document titled Liverpool City Centre Vision 2006. This plan prepared by the NSW Department of Planning in close consultation with Liverpool City Council sets a vision for Liverpool as one of the key regional centres of Sydney going forward.

The opening remarks by the then Minister for Planning Mr Frank Sartor state:

“This draft vision for Liverpool is designed to identify the city centre’s strengths and achieve a more dynamic economy for the future, with recreational and cultural opportunities, investment and a healthy lifestyle for local families.

The NSW Government has already recognised Liverpool as a major centre in Western Sydney Through the Metropolitan Strategy, which includes targets for 12,000 new residents and 15,000 new jobs over the next 25 years.

The document also states that:

"One of the key aims of the Liverpool City Centre Plan is to improve access between residential areas and the commercial core. This will spur economic development of the city and will also ensure that sufficient sites are available within the commercial and retail cores. The Plan assumes a growth target of 12,000 residents or 5,000 dwellings within the city centre. These dwellings area share of approximately 11,000 dwellings highlighted in the Metropolitan Strategy to apply to a much greater area than just the city centre. The provision of this growth will occur in both existing residential zoned areas (as apartment buildings) and in mixed use developments within the mixed use and retail zones of the city centre. Analysis has concluded that potential redevelopment of existing strata titled residential areas is low, and therefore it is considered that these areas will remain relatively unchanged for some years. In remaining residential areas, significant increases in density must continue in order to achieve an appropriate population density within the city centre."



The above image illustrates in a general sense and specifically for the subject site that slim tower development forms an integral part of the long term vision for the Liverpool City Centre.

- (c) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*

Comment: As stated above, the proposal has been specifically designed so as to minimise potential impacts on adjoining residential properties and the locality. The design principle adopted for the development is to redistribute building height and floor space away from the Carey Street and Charles Street sections of the site to the central and western sections of the site. This redistribution results in a low scale and discrete residential flat building in Charles Street (6 storeys) that is consistent with the scale of buildings in this street but nonetheless well below the allowable floor space ratio and building height standard associated with this section of the site.

The proposal will significantly improve the public domain along all frontages of the site. The car parking and traffic generated by the proposal has been assessed to be satisfactory and will not have an unacceptable impact on the surrounding street system.

The shadow diagrams do not show any significant additional adverse effect caused by the varied floor space. The varied floor space causes a small compact shadow that moves quickly across the ground. For this reason shadow diagrams at hourly intervals have been prepared and are contained within appendix A.

- (d) *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation*

Comment: The site is situated in a potentially sensitive location due to the existing scale of adjoining development, although the anticipated scale and form of development is expected to significantly change over time, due to the planning controls contained in LLEP 2008. Notwithstanding this, and recognising that the existing residential flat buildings adjoining and fronting Carey Street, Charles Street and Mill Road may not change for some time, the development has been designed with this in mind, as outlined above in response to objectives (b) and (c).

The planning controls for the site anticipated large scale residential towers.

- (e) *to provide an appropriate correlation between the size of a site and the extent of any development on that site,*

Comment: As mentioned above in response to objective (c), the subject site is very large and so capable of accommodating the scale, form and density of development proposed while mitigating potential impacts.

- (f) *to facilitate design excellence in the Liverpool city centre by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design*

Comment: The design of the buildings is highly articulated and modulated and the development complies with the Design Excellence provisions contained in Clause 7.5 of LLEP 2008.

Given the circumstances of the case, the provision of a strict numerical compliance would be unreasonable on the basis that the proposed development achieves compliance with the objectives of the floor space ratio standard.

3.3 How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act?

The objects set down in Section 5(a)(i) and (ii) are as follows:

“to encourage

- (i) *The proper management, development and conservation of natural and artificial resources, including agricultural land, natural area, forest, mineral, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
- (ii) *The promotion and coordination of the orderly and economic use and development of land..."*

Compliance with the standard would hinder the attainment of the objects of section 5(a)(i) and (ii) of the Act, which are to encourage development that promotes the social and economic welfare of the community and a better environment, and to promote and coordinate orderly and economic use and development of land.

The development as proposed is commercially feasible and will ensure that this important gateway site, which has lay idle for many years is able to be redeveloped.

The development as proposed is consistent with the provisions of orderly and economic development. As outlined in 3.2 above, strict compliance with the FSR development standard as it is reflected across the whole of the site is not necessary in order to achieve the intended built form for the site and strategic direction for this location within Liverpool city centre. Furthermore, compliance with the standard would not result in greater social or environmental benefits.

The variation to the floor space allows more people to live and use the available public infrastructure such as parks, cycleways and nearby public transport and promotes the economic viability and development of the land. Approval of this development will act as a catalyst for other slim tower developments in the Liverpool CBD thereby encouraging and promoting the economic use and development of land in the Liverpool CBD.

3.4 Is a development which complies with the standard unreasonable or unnecessary in the circumstances of the case?

A development that strictly complies with the FSR standard is unreasonable or unnecessary in this circumstance for the following reasons:

- The density proposed results in a commercial viable development that is otherwise unlikely to proceed
- There is no discernible difference in the impacts between a development with a complying GFA/ FSR and the proposed development including:
 - Visual and acoustic privacy impacts. The proposed development is designed with a low scale residential flat building fronting Charles Street and no built form fronting Carey Street so as to minimise direct potential impacts on adjoining properties. The two towers are set well back from the adjoining Mill Road residential properties. Tower forms of development are anticipated on the site, with the variation to the FSR development standard being directed to the towers. The anticipated impacts from this tower form are not changed as a result of the variation.
 - Building separation distances required for towers above 45m in height in Clause 7.4 of LLEP 2008 are achieved. Similarly the separation distance to the 5-6 storey Charles Street building are achieved.
 - Visual impacts. Due to the setbacks and building separation distances incorporated into the proposal, and the distribution of the building mass and scale related to the additional floor space, there is a nominal difference in visual impacts between the proposal and a complying development;
 - Overshadowing impacts. The proposal does not unreasonably overshadow existing residential properties or unreasonably overshadow the public domain. In this regard, there is a negligible

difference in shadow impacts arising from tower forms that comply with the FSR and the proposed buildings. The variation of floor space creates a compact fast moving shadow typical of slim towers.

In addition, the distribution of floor space and building height for the two towers away from the sensitive boundaries to adjoining Charles Street, Carey Street and Mill Road properties mitigates direct overshadowing impacts. A complying development (in terms of height and floor space) on the Charles Street section of the site would have a potentially much greater impact on neighbouring properties. Supplementary shadow diagrams have been prepared and are attached to this statement which illustrate:

- that significant additional overshadowing would result if compliant building forms were adopted, notwithstanding compliant building heights and floor space
 - that additional shadow created by the proposed variation to height and floor space is minimal and acceptable
- Traffic and parking impacts. The additional floor space and dwelling yield that results from the non-compliance in the FSR does not have a discernible difference in traffic or parking demand than a complying development. Importantly, as detailed in the Traffic and Parking Assessment included at Attachment 5 to the Statement of Environmental Effects, the proposal will have an acceptable impact. It is also worth noting that a development within the Mixed Use zone with a much greater component of retail and commercial floor space in a complying development would have a significantly greater traffic and parking impact than proposed.

3.5 Are there sufficient environmental planning grounds to justify contravening the development standard?

Yes. In the circumstances of the case, there are sufficient planning grounds to justify contravening the development standard being:

- The proposal remains consistent with the objectives of the applicable B4 and R4 zones, despite the non-compliance with the GFA/FSR control;
- The proposal remains consistent with the objectives of the FSR standard, despite the non-compliance;
- Non-compliance with the standard does not contribute to adverse environmental, social or economic impacts;
- The proposal does not give rise to unacceptable impacts associated with an increased maximum FSR, including traffic generation and bulk and scale;
- The development as proposed is consistent with the provisions of orderly and economic development by ensuring that the project is commercially viable and will proceed; and
- The development is of a scale, form and intensity generally anticipated on this large site within the Liverpool city centre.

3.6 Is the variation well founded?

Yes. For reasons outlined in the preceding sections of this submission, the variation to the FSR limit is well founded as compliance with the standard is unreasonable as the development does not contravene the objects specified within 5(a)(i) and (ii) of the Act and the B4 mixed use zone.

The variation to the floor space results in slimmer tower forms located at the southern entrance to the Liverpool CBD makes the development in reality a Gateway site. The unique location justifies a departure from the floor space ratio development standard in this circumstance. Council's approval of this variation

to the floor space will not abandon and/or destroy the current development standards or give grounds for others to not comply.

A development that strictly complies with the standard is unnecessary in this circumstance as no appreciable benefits would result to the nearby sites, or the wider locality whilst jeopardising the economic viability of the development.

4. Conclusion

Development standards are a means of implementing planning purposes for a development or area.

The varied floor space ratio is considered appropriate to the context and circumstances of the site, and is not out of character with the intended future built form / character for this location within Liverpool city centre whilst still respecting the existing built form in Carey Street and Charles Street.

A development strictly complying with the numerical standard would not have any additional positive social or environmental impacts. The FSR proposed will allow this significant gateway development to occur, with resultant economic benefits.

This development in its current form will be an iconic gateway which will promote and encourage the economic use and development of land not only in this location but for all land in the Liverpool CBD.

This submission satisfies the provisions of 4.6(3)(a), 4.6(3)(b) and 4.6(4)(a)(i) of the LLEP 2008 as it has been demonstrated that compliance with the GFA/FSR development standard is both unnecessary and unreasonable in the circumstances of this case and there is sufficient planning grounds to justify contravening the standard..