

JRPP Reference No.	2014SYW125 DA
Development Application No.	DA-578/2014
Proposed Development	Mixed Use Development
Property Description	Lot 100 DP 1074417 420 Macquarie Street, Liverpool
Applicant & Owner	Autus Properties Pty Ltd Lucror Developments Pty Ltd
Capital Investment Value	\$93,798,971 (November 2014)
Cost of Works	R4 zone: \$6,289,144.40 (inc GST) B4 zone: \$86,719,694.60 (inc GST)
Recommendation	Approval (subject to conditions)



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1. EXECUTIVE SUMMARY

1.1 Reasons for the Report

The proposed development has a capital investment value that exceeds \$20 million for the purposes of 'General Development' with respect to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979.

Consequently, the subject Development Application is referred to the Sydney West - Joint Regional Planning Panel for determination in accordance with State Environmental Planning Policy (State and Regional Development) 2011.

1.2. The proposal

The proposed development seeks approval for a staged mixed use development comprising:

- Excavation, shoring and piling works;
- Construction of a mixed use development comprising 438 apartments, 376m² of retail and communal facilities within two (2) x 29 storey towers (Buildings A and C) and one (1) x six (6) storey residential flat building (Building B), below and above ground car parking for 507 cars, landscape and open space works;
- Land subdivision into two (2) lots for road widening purposes; and
- Stratum subdivision into three (3) lots.

The development includes the provision of internal communal rooms at level 3 to supplement the open space areas and to enhance resident amenity.

The development incorporates a lift in the south-eastern corner of Building A, providing a convenient, functional and equitable pedestrian link to Carey Street.

Full architectural plans of the proposal are attached as **Attachment 7.1**.

1.3 The site

The subject site is identified as Lot 100 in DP 1074417 being No. 420 Macquarie Street, Liverpool.

1.4 Exhibition of the proposal

The subject Development Application was placed on public exhibition from 16 – 31 July 2014 in accordance with the Liverpool Development Control Plan (LDCP) 2008.

A total number of five submissions opposing the development were received. The matters raised in the submissions are canvassed later in this report. Copies of the submissions received are attached as **Attachment 7.2**.

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1.5 Joint Regional Planning Panel Briefing

A briefing meeting with the JRPP was held on 11 September 2014.

1.6 Conclusion

The subject Development Application was assessed having regard to the matters of consideration pursuant to Section 79C of the Environmental Planning and Assessment Act (EP&AA 1979).

The proposed mixed use development is considered to be an appropriate form of development and an efficient use of land as reflected in the mixed use zoning of the site.

The proposal is a significant project for Liverpool, representing a high quality design benchmark and an iconic development. The proposed development is considered an appropriate form of development for the site with a number of measures which would mitigate the impacts identified during the assessment process. The proposed development represents a significant opportunity to develop a highly visible site as a gateway to Liverpool.

It is considered that the proposed development is considered to be satisfactory and notwithstanding the submissions received, the subject application is recommended for approval.

2. SITE DESCRIPTION AND LOCALITY

2.1 The Site

The subject site is located at 420 Macquarie Street, Liverpool and is legally described as Lot 100 in DP 1074417. The site is located within the Liverpool City Centre and is well served by public transport facilities.

The site is irregular in shape and shares a boundary with adjoining properties. The site has frontages to the following:

- Carey Street to the north;
- Charles Street to the east;
- Mill Road to the south; and
- Macquarie Street to the west.

An aerial photograph of the site is included as Figure 1 below.

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Figure 1: Aerial photograph of the site (Source: Liverpool City Council)

The site is irregular in shape with a total site area of 6,158m² and the following boundary dimensions:

- Approximately 100m frontage to Macquarie Street;
- 7.445m northern boundary to Carey Street;
- Approximately 44m southern boundary to Mill Road, and
- 19.865m eastern boundary to Charles Street.

The site slopes from west to east with a fall of approximately 8m from Macquarie Street to Charles Street and also from south to north by approximately 2m from Mill Road to Carey Street.

The site is currently vacant. The site is adjoined by existing residential flat buildings to the south and east. Adjoining to the north, on the corner of Macquarie and Carey Streets, is an existing service station.

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2.2 The Locality

The site is located in an urban area undergoing transition. Currently, the major roads and streets such as the Hume Highway and Macquarie Street have been dominated by low scale commercial uses associated with the motor vehicle industry and bulky goods retailing. Opposite the site on the corner of Macquarie Street and the Hume Highway is an existing motor vehicle trader.



Figure 2: View of the site looking from the Hume Highway east down Mill Road



Figure 3: View of the site (left side) looking south along Macquarie Street towards Hume Highway

3. DETAILS OF THE PROPOSAL

The proposed mixed use development involves the following:

- Staged excavation, shoring and piling works;
- Staged construction of a mixed use development comprising 438 apartments, 376m² of retail and communal facilities within two (2) x 29 storey towers (Buildings A and C) and one (1) x six (6) storey residential flat building (Building B), below and above ground car parking for 507 cars, landscape and open space works;
- Land subdivision into two (2) lots for road widening purposes; and
- Stratum subdivision into three (3) lots.

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The applicant's intention is to stage construction (refer to table below) to enable the delivery of this project in a timely and commercially viable manner.

The application proposes to stage the development in the following manner:

Stage	Works
1	Excavation, shoring and piling works to buildings A & B
2	Construction of basement works to ground level for buildings A & B (building A to ground floor, building B semi basement)
3	Construction of above ground works building A & B & Carey Street open space
4	Excavation, shoring and piling works to Building C
5	Construction of basement works to ground level building C
6	Construction of above ground works building C

3.1 Development Statistics

Element	Proposal
Site area	6,158m ² , but subject to SP2 zoned land, with net site area of 6,113m ²
Site frontage	Variable, with major frontage of 100m to Macquarie Street
Dwellings	438
Gross Floor Area	39,098m ²
Floor Space Ratio	6.44:1
Building Height	Varies across the site, with a maximum height of two residential towers of approximately 90m
Car Parking	Cars: 507 Motor bike: 25 Bicycle: 330
Communal open space	1,950m ²
Deep soil	595m ²

3.2 Plans and Reports

The following reports have accompanied the subject Development Application and used throughout the planning assessment:

- Architectural Plans;
- Landscape Plans;
- Shadow Diagrams;
- Subdivision Plans;
- Traffic and Parking Study;
- BASIX Report;
- SEPP 65 Design Documentation;
- Acoustic Report;
- Geotechnical Report;
- Environmental Site Assessment;

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- Reflectivity Report;
- Security Management Plan / CPTED Report;
- Wind Assessment;
- BCA Report;
- Accessibility Report;
- Waste Management Plan;
- Civil Engineering Plans;
- Photomontages;

3.3 Photomontages



Figure 4: Photomontage looking north (Tower C in foreground)

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Figure 5: Photomontage - Street frontage Macquarie Street



Figure 6: Photomontage – Tower A & C)

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Figure 7: Photomontage – Macquarie Street frontage showing communal open space

4. STATUTORY CONSIDERATIONS

The subject site is zoned part B4 Mixed Use and part R4 High Density Residential under the LLEP 2008. The south-western corner of the site is also zoned SP2 Infrastructure.

The development is a permissible form of development with Consent.

In addition to LLEP 2008, the following planning instruments and controls are relevant to the development:

- Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment;
- State Environmental Planning Policy: State and Regional Development 2011;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (BASIX) 2004;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;
- Liverpool Development Control Plan 2008 (LDCP 2008);
- Residential Flat Design Code (RFDC);
- Liverpool Contributions Plan 2007 (Liverpool City Centre).

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5. PLANNING ASSESSMENT

The proposal has been assessed in accordance with the requirements of s79C of the EPAA.

5.1 Section 79C(1)(a)(1) – Any Environmental Planning Instrument

(a) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP)

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

Given the site's distance from the George's River, the proposed development will not compromise the aims and objectives of The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.

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 & Clause 9) and compliance with such is provided below:

Clause 8 General Principles	Comment
(a) the aims, objectives and planning principles of this plan,	The proposed development will not compromise the aims and objectives of the GMREP.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	The proposal provides soil and erosion control measures and drainage facilities to manage stormwater leaving the site. There will be minimal effect on downstream local government areas.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	There will be negligible impacts on the Georges River from this development.
(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	The proposed development does not impact on any plans of management approved by the Minister.

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(e) the <i>Georges River Catchment Regional Planning Strategy</i>	The proposal is not inconsistent with this strategy.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice,	The proposal is not inconsistent with these documents.
(g) whether there are any feasible alternatives to the development or other proposal concerned.	The site is zoned for the proposed development.
Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The land is not identified as containing acid sulfate soils on LLEP 2008 Acid Sulfate Soil map.
(2) Bank disturbance	N/A
(3) Flooding	The site is not identified as flood prone land.
(4) Industrial discharges	N/A
(5) Land degradation	An erosion and sediment control plan has been submitted and aims to minimise erosion and sediment loss.
(7) River-related uses	N/A
(9) Urban/stormwater runoff	Stormwater to be discharged to Council stormwater network.
(10) Urban development areas	N/A
(11) Vegetated buffer areas	N/A
(12) Water quality and river flows	Stormwater to be disposed to Councils stormwater network.
(13) Wetlands	N/A
Clause 11 Planning Control Table	
N/A	

It is considered that the proposal satisfies the provisions of the GMREP No.2 and would have minimal impact on the Georges River Catchment.

(b) State Environmental Planning Policy – State and Regional Development 2011

State Environmental Planning Policy – State and Regional Development 2011 confers functions on Joint Regional Planning Panels to determine development applications. Clause 3 of Schedule 4A of the EPAA specifies development that has a capital investment value of more

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than \$20 million is to be determined by a JRPP.

(c) State Environmental Planning Policy (Infrastructure) 2007

SEPP Infrastructure provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing consultation with relevant public authorities during the development assessment process.

The application is also supported by a Traffic and Parking Report which confirms that the development provides adequate car parking and the traffic impacts of the development on the surrounding street system is satisfactory. Councils Transport department have reviewed the report and agree with its conclusions.

Clause 101 of the SEPP includes provisions regarding development with a frontage to a Classified Road. The site does not have frontage to the Hume Highway (which is a classified road) but is nonetheless within close proximity and so the relevant provisions have been taken into consideration. In particular, design measures to mitigate potential traffic noise and vehicle emissions have been considered and are deemed satisfactory.

Clause 102 of the SEPP requires that development including a building for residential use adjacent to a road with an annual average daily traffic volume of more than 40,000 vehicles must take into account the impact of road noise and vibration. While the site does not have frontage to the Hume Highway, it is in reasonably close proximity and therefore the impacts of road noise and vibration have been taken into consideration.

The provisions of Section 102 (3) of the SEPP include the following:

If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am, anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

The acoustic report prepared by Acoustic Logic Consultancy nominates the abovementioned internal noise level criteria for the development. It is proposed to install a combination of laminated glass (ranging from 6.38mm to 10.38mm) and double glazing in accordance with recommendations provided by Acoustic Logic and in order to achieve compliance with the Infrastructure SEPP.

Section 104 of the SEPP deals with traffic generating development, requiring developments generating certain quantities of car parking and traffic to be referred to the RMS for comment. This proposal has been referred to the RMS for comment. They have provided comments and recommended conditions of consent.

In addition, Councils Transport department have considered traffic impacts from the proposed development and have concluded that vehicular access to the proposed development is satisfactory and the traffic generated by the development would be unlikely to have an adverse

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traffic impact on the surrounding street network, subject to mitigation measures required by the RMS and Council which have been imposed by way of conditions of consent.

In this respect, the proposed development has satisfied the requirements of State Environmental Planning Policy (Infrastructure) 2007.

(d) State Environmental Planning Policy (BASIX) 2004

A BASIX Certificate has been issued for the proposed development. The Certificate ensures the proposal meets the required water and energy targets and accordingly satisfies the aims of the SEPP. The architectural plans have incorporated the requirements of the BASIX certificate.

(e) State Environmental Planning Policy 55 – Remediation of Land

State Environmental Planning Policy 55 – Remediation of Land (SEPP 55) promotes the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Council must consider Clause 7 of SEPP 55 as follows: -

“7 Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless:*
 - (a) it has considered whether the land is contaminated, and*
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

An Environmental Site Assessment (Stage 1 and Stage 2) has been undertaken by Environmental Investigations.

The conclusions from the report were that contamination was not identified exceeding adopted investigation criteria through intrusive investigation of the site.

Pursuant to Clause 7 of the SEPP, the Environmental Site Assessment Report concludes that the site is suitable for its intended use.

The proposal is considered to be consistent with the requirements of SEPP No. 55 and can be considered suitable for mixed use and high density residential development.

The conclusions from the Stage 2 report are provided below:

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10.1.3 Discussion of Soil Results

Soil results analysed for heavy metals, PAH, TRH and BTEX were reported at concentrations below adopted investigation criteria, or below LOR. Additionally, asbestos was not reported in soil samples analysed.

We note that underground storage tanks and associated infrastructure, and a waste oil sump was not identified during field investigations, as was previously identified by Connell Wagner (2004). We recommend that an unexpected finds protocol is implemented in the advent that former site facilities are identified during site excavation.

(f) State Environmental Planning Policy 65 – Design Quality of Residential Flat Development

The proposal seeks to construct a residential flat building development comprising 438 apartments in the form of one (1) x six (6) storey residential flat building fronting Charles Street and two (2) mixed use residential towers, and accordingly the provisions of SEPP 65 applies to the proposal.

SEPP 65 requires:

- A design verification from a qualified designer, verifying he/she completed the design of the residential flat development, and that the design quality principles set out in Part 2 of SEPP 65 — Design Quality of Residential Flat Development are achieved; and
- In determining a development application for consent to carry out residential flat development, the consent authority is to take into consideration the publication Residential Flat Design Code (a publication of the Department of Planning & Environment, September 2002).

The DA is accompanied by detailed SEPP 65 assessment prepared by Mosca Pserras Architects. Included is a Design Verification Statement, a written response to the Design Quality Principles contained in SEPP 65, a Compliance Table in relation to the provisions and Rules of Thumb contained in the Residential Flat Design Code and development data sheets. The SEPP 65 compliance table is attached as **Attachment 7.3**.

The response to the Design Quality Principles demonstrates that the proposed development achieves the design quality principles set out in Part 2 of SEPP 65 - Design Quality of Residential Flat Development.

The application is also supported by a SEPP65/Residential Flat Design Code (RFDC) Amenity Compliance Report. This report confirms that 69.2% of residential apartments will receive the solar access requirements specified in the RFDC and 70% will received the required cross-ventilation.

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The application is also subject to the Design Excellence provisions contained in Clause 7.5 of LLEP 2008, which is discussed in detail later in this report.

(g) Liverpool Local Environmental Plan 2008

(i) Permissibility

The subject site is zoned part B4 Mixed Use and part R4 High Density Residential. The south-western corner of the site is also zoned SP2 Infrastructure pursuant to the LLEP.

An extract from Council's zoning map is shown in Figure 8.

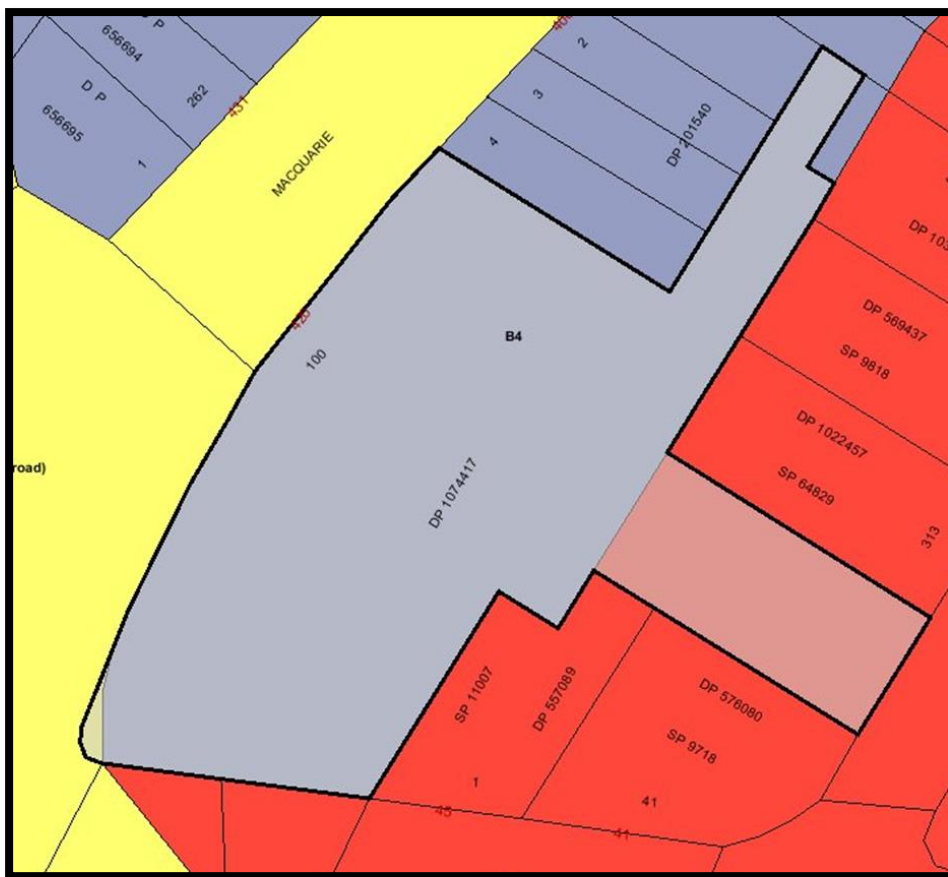


Figure 8: Zoning Map

The proposed development is suitably defined as 'shop top housing' with a residential flat building proposed on the land fronting Charles Street.

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

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(ii) Zone Objectives

The objectives of the B4 Mixed Use zone are outlined 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.*

With respect to the objectives of the B4 zone, the following comments are offered

- The proposal provides a mixture of compatible land uses, with residential and retail use.
- The site lies outside the retail core and on the south-western edge of the Liverpool City Centre. As a result, the development provides retail space consistent with mixed use developments outside of retail cores.
- The space provided is for the purpose of small shops / businesses servicing the development and the immediate locality.
- 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 numerous bus routes.
- The development includes retail and residential lobbies at street level, which will activate the street.
- The design of the development as amended is of a high standard and provides good public amenity

The objectives of the R4 High Density Residential zone are outlined as follows:

- *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.*

With respect to the objectives of the R4 zone, the following comments are offered

- The development, with the varied floor space, will provide a range of housing. The development will be in the form of high density residential, within the context of the Liverpool City Centre and significantly boost housing supply.
- There are a total of 438 apartments, made up of 3 x 1 bedrooms; 393 x 2 bedroom; and 42 x 3 bedroom. The development has been designed to provide maximum flexibility in

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terms of apartment 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.

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

The objectives of the SP2 Infrastructure zone are outlined as follows:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To reserve land for the provision of infrastructure.*

With respect to the objectives of the zone, the following comments are offered:

- The development includes the provision of the zoned land for future road widening.
- The road infrastructure is capable of being provided.
- The design of the development acknowledges the reservation.

(iii) Principal Development Standards

The following standards apply to the proposal development and are discussed below:

Clause	Comments	Compliance
Clause 4.1 Minimum subdivision lot size	The size of any lot resulting from a subdivision of land is not to be less than 1,000m ²	The lot size map does not apply to that part of the site zoned SP2 (proposed Lot 100). This lot is for the purposes of road widening and is zoned SP2 Infrastructure. Proposed lot 101 is 6,113.77m ² .
Clause 4.3 Height of Buildings	B4 zone = 80 metres R4 zone = 45 metres	NO. See commentary below
Clause 4.4 Floor Space Ratio	B4 zone = FSR 6:1 R4 zone = FSR 3.5:1	NO. See commentary below
Clause 4.6 Exceptions to Development Standards	A written request has been provided to varying the LEP development standard of height and FSR.	See commentary below

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Clause 4.3 - Height of buildings

Clause 4.3 of the LLEP establishes a maximum height control of 80m (B4 zone) and 45m (R4 zone) for the site.

Building height is defined under the LEP as:

***building height** (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The development is proposed to have building heights as follows:

- Charles Street: maximum up to 21.24m; and
- Macquarie Street: maximum up to 90.62m.

The proposal in part complies and in part does not comply with the maximum building height development standards.

The two (2) towers on the site will exceed the height standard to varying amounts. The building fronting Charles Street (Block C) is six (6) storeys and a maximum height of approximately 21m. This is significantly lower than the maximum building height of 45m. There is no building fronting Carey Street.

The subject site is very large (6,158m² and 6,113m² minus the SP2 zoned land) and capable of accommodating a significant scale of development, while at the same time mitigating potential impacts on adjoining and surrounding sites. While large in size, the site does contain two (2) "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 underlying 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 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 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 redistributed floor space is accommodated in the two towers that are increased in height above the LLEP standard of 80m, by a maximum of approximately 10m. The relationship of the built form to the building height standards across the site are shown below.

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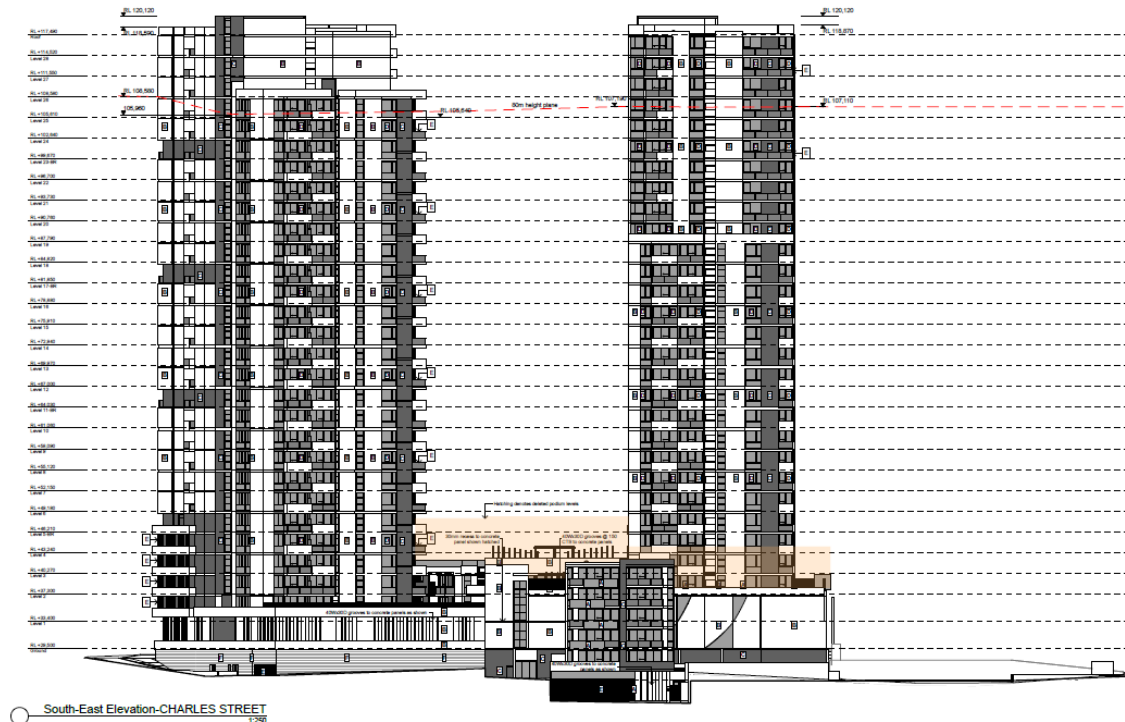


Figure 10 – South east elevation showing height limit in red

The objectives of the height standard are:

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,
- (b) to permit building heights that encourage high quality urban form,
- (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

The proposal is considered to comply with these objectives and the variation to the building height development standard is subject to a written request from the applicant under Clause 4.6 of LLEP. This request is attached as **Attachment 7.4**.

Revised shadow diagrams are provided with the Clause 4.6 written justification and illustrate the following:

- That the additional shadow from the variation is minimal and acceptable;
- That a larger shadow is cast by a compliant building form.

In consideration of the Clause 4.6 Written Request for a variation and a detailed assessment, the following additional comments are made in respect to the building height variation:

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- The application is proposing a variation to the height of buildings development standard of between 9.76m and 13.01m for Building A and between 11.16m and 14.16m for Building C. In both cases, the calculations are to the absolute top of the building rather than the predominant roof levels. It is also important to note that Building B fronting Charles Street is 26.77m lower than the maximum 45m height of buildings standard applying to this part of the site.
- In the case of Building A, the percentage variation ranges from 12.2% to a maximum of 16.2%. Building C varies between 13.9% and 17.7%. Building B is 59.4% below the relevant 45m height standard.

Notwithstanding the increase in height of the buildings and the resulting non-compliance with the development standard, the proposal remains consistent with the objectives of the B4 Mixed Use zone and the objectives of the building height standard.

The height of buildings development standard contemplates tower forms of development in this location. The underlying 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 residential flat building in Charles Street that is consistent with the scale of buildings in this street but nonetheless is 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.

This section of the Liverpool city centre will undergo significant change to the built environment as a result of the significant increases in building height controls in comparison to the existing scale of development within the locality. The redistribution of building height and floor space away from Charles Street and Carey Street achieves the objective of an appropriate transition.

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 standard, and is compatible with the anticipated scale of new development within this section of the Liverpool city centre.

There are no unacceptable additional impacts arising from the variation. No views will be impacted by the additional height. The extent of overshadowing that impact on the surrounding properties is marginally increased but is still acceptable (given the zoning applying to the site). A development that concentrated greater height and floor space towards the Carey Street and Charles Street sections of the site would have a greater and likely unacceptable impact.

Development standards are a means of implementing planning purposes for a development or area. The building height is considered appropriate to the context and circumstances of the site, and does not result in a scale of development that is out of character with the intended future character of this section of Liverpool city centre.

A development strictly complying with the numerical standard would not discernibly alter the scale of the building or improve the amenity of surrounding development or the public domain. On the contrary, if floor space and building height were to be distributed towards the sensitive

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boundaries of the site, and in particular Carey Street and Charles Street in compliance with the applicable development standards, the resultant built form would have a much greater environmental impact.

It has been demonstrated that compliance with the height development standard is both unnecessary and unreasonable in the circumstances of this case and there is sufficient planning grounds to justify contravening the standard.

Clause 4.4 and Clause 4.5 - Floor space ratio

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

The provisions of Clause 4.4 are as follows:

Clause 4.4 Floor space ratio

(1) The objectives of this clause are as follows:

- (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.*

The definition of **floor space ratio** under the LLEP Clause 4.5 (2) is:

The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

The definition of **site area** under the LLEP Clause 4.5 (3) is:

In determining the site area of proposed development for the purpose of applying a floor space ratio, the site area is taken to be:

- (a) if the proposed development is to be carried out on only one lot, the area of that lot,*
or

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- (b) *if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.*

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

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.*

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 39,098m² 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 control

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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%.

The departure from the FSR development standard is supported by a written request from the applicant under Clause 4.6 of LLEP. Refer to **Attachment 7.4**.

In consideration of the request and a detailed assessment, the following additional comments are made in request to the FSR variation:

The application is proposing a variation to the floor space ratio development standard of 14%. The development standard applying to the site is 6:1 and the application is proposed an FSR of 6.44:1. Notwithstanding the increase in the FSR and the resulting non-compliance with the development standard, the proposal remains consistent with the objectives of the B4 Mixed Use zone and the objectives of the FSR standard.

The variation to the floor space ratio control 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 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 within the Liverpool city centre. The variation to the floor space allows slimmer tall towers which mitigate impacts to adjoining properties and are architecturally desirable.

It has been demonstrated that compliance with the floor space ratio development standard is both unnecessary and unreasonable in the circumstances of this case and there is sufficient planning grounds to justify contravening the standard.

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 includes the following objectives:

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The application seeks variations from the height of buildings (Clause 4.3) and floor space ratio (Clause 4.4) development standards, pursuant to the provisions of Clause 4.6 – Exceptions to development standards.

In accordance with Clause 4.6 (3) the application is supported by written requests that seek to justify the contravention of the development standards by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in*

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the circumstances of the case, and

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

The written justification as provided by the applicant is included at **Appendix 7.4.**

(iv) Miscellaneous Provisions

The following standards apply to the proposal development and are discussed in the following:

Clause	Comments	Compliance
Clause 5.1 Relevant Acquisition Authority	Part of the site is zoned SP2 (Infrastructure) and marked as classified road. The Roads and Maritime Service is the acquiring authority	See commentary below.
Clause 5.9 Preservation of trees	No trees proposed to be removed.	Yes, see commentary below.
Clause 5.10 Heritage conservation	The site is not a known archaeological site or Aboriginal place of heritage significance, or known to contain Aboriginal objects of heritage significance. The site is not listed as a heritage item and is not located within a conservation area. The site is located in proximity to a listed heritage item (Collingwood Inn Hotel)	Yes, see commentary below

Clause 5.1 - Relevant acquisition authority

Portions of the subject property are zoned SP2 Infrastructure (Classified Road) under the LLEP 2008. The Roads and Maritime Service is the acquiring authority.

The proposed development includes a two lot subdivision of the site in order to excise off the portion of the SP2 land required for road purposes.

Clause 5.9 - Preservation of trees or vegetation

There are no trees on the site to be removed

Clause 5.10 – Heritage Conservation

Clause 5.10 seeks to conserve the environmental heritage of the Liverpool LGA including heritage items, conservation areas, archaeological sites and Aboriginal objects and places of heritage significance.

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The site is not a known archaeological site or Aboriginal place of heritage significance, or known to contain Aboriginal objects of heritage significance. The site is not listed as a heritage item and is not located within a conservation area.

The site is in proximity of a heritage item known as the Collingwood Inn Hotel located on the Hume Highway to the south-west.

Given a development consent for a multi-storey mixed use development immediately north of the site known as “The Point Apartments” (DA-628/2003 and subsequent modification applications), the proposed development on the subject site is unlikely to have any adverse heritage impact on the two (2) storey heritage item, which will be largely hidden behind the approved development and will have a limited direct line of site.

The subject site has in place planning controls that contemplate a substantial scale of redevelopment within the Liverpool city centre context and therefore the relationship and context relevant to the heritage item will inevitably change over time. In addition to the changing urban context, the heritage item is physically separated from the subject site by approximately 100m and the six lane Hume Highway. There is no direct physical relationship between the two sites. The application has been considered by Council’s heritage officer who raised no concerns with the proposed development. The proposal does not result in any unacceptable heritage impacts.

(v) Part 7 - Additional local provisions – Liverpool City Centre

Clause	Comments	Compliance
Clause 7.1 – Objectives for development in Liverpool City Centre	The proposed development is to be consistent with the objectives for redevelopment of the city centre.	See commentary below.
Clause 7.2 – Sun access in Liverpool City Centre	The site is not located within any of the areas identified in Column 1	N/A
Clause 7.3 – Car parking in Liverpool City Centre	Requirements for car parking for new buildings in the Liverpool City Centre	See commentary below.
Clause 7.4 – Building separation in Liverpool City Centre	Requirement for minimum separation of buildings for visual appearance, privacy and solar access.	Yes, see commentary below.
Clause 7.5 – Design excellence in Liverpool City Centre	Requirement to deliver the highest standard of architectural and urban design.	Yes, see commentary below.

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Clause 7.1 – Objectives for Development in Liverpool City Centre

This Clause of the LLEP requires that the consent authority must be satisfied that the proposed development is consistent with the objectives for the redevelopment of the city centre.

These objectives are:

- (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.*

With respect to these objectives, the following comments are offered:

- The development provides building alignments consistent with the requirements of the LDCP.
- The residential units within the development will receive adequate solar access. The surrounding residential development will be impacted to an extent commensurate with the anticipated scale of development on the site or in some cases less, given the low scale proposed on Charles Street, where development up to a height of 45m is possible.
- Extensive communal space is provided at podium level and the Carey Street access way, allowing residents to have access to areas with good solar access.
- The site does not have direct frontage to the Hume Highway. Pedestrian and vehicular traffic generated by the development are safely separated.
- The development will have no impact on public spaces within the city centre.
- The development will have no direct impact on the physical area surrounding the Liverpool Railway Station.
- The development of the site for high density residential development will ensure good access for residents to Liverpool Railway Station.
- The development will have no direct physical relationship with the Georges River foreshore but is well located so as to provide direct convenient and safe pedestrian links to the commercial area of the city centre and to transport.

Clause 7.3 – Car parking in Liverpool City Centre

Clause 7.3 includes provisions regarding car parking within Liverpool city centre. For development within the B4 zone, the following requirements apply:

- (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*

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(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 application includes 507 car parking spaces. A Traffic and Parking Report has been prepared which assesses car parking against the Council's planning controls.

Clauses 7.3 (4) and (5) includes the following additional provisions:

(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.*

*(5) Council owned public car parking **and parts of a building used for residential purposes must not be included as part of a building's gross floor area for the purposes of this clause.** (underline and bold added)*

The development, based on the revised November 2014 plans, includes 507 spaces for residential parking below and above ground with the overall quantum complying with the Council's requirements contained within Liverpool DCP and LLEP. As a result, the above ground car parking is not included in GFA calculations. With regard to the non-residential car parking, there are proposed to be four (4) spaces and these are also proposed above ground.

Clause 7.4 – Building Separation in Liverpool City Centre

Clause 7.4 provides minimum building separations within the Liverpool city centre:

- (1) The objective of this clause is to ensure minimum sufficient separation of buildings for reasons of visual appearance, privacy and solar access.*
- (2) 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:*
 - (a) 9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished) on land in Zone R4 High Density Residential, and*
 - (b) 12 metres for parts of buildings between 25 metres and 35 metres above ground level (finished) on land in Zone R4 High Density Residential, and*
 - (c) 18 metres for parts of buildings above 35 metres on land in Zone R4 High Density Residential and*
 - (d) 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, and*
 - (e) 28 metres for parts of buildings 45 metres or more above ground level (finished) on land in Zone B3 Commercial Core or B4 Mixed Use.*

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The development includes:

- A minimum 12m separation between the rear wall of Building B being the 21m high six storey residential flat building fronting Charles Street located on R4 zoned land and the Building A podium and tower located on B4 zoned land; and
- A minimum 29m separation between Buildings A and C, both located on B4 zoned land
- Complies with the separation distances to other residential apartments surrounding the site, given the limited heights of those apartment buildings. .

Tower A is setback 5.217m from the boundary with 406 Macquarie Street. This site is currently a service station. This site is identified as a future development site with the same development potential (height and FSR) as the current site. Clause 7.4 does not apply to this site as there are no buildings on the site at the heights stipulated in the clause.

The design review panel has carefully considered this issue. An extract from the DRP report is provided below:

- *An increased side boundary setback for proposed Block A is not necessary to protect redevelopment potential of the neighbouring service station property: recent City-centre development practice indicates that permissible FSR would most-likely be achieved by a street-wall building with eight or nine storeys that is constructed hard against the proposed podium, containing two or three residential storeys above the level of that proposed podium, but without any impact upon residential yield due to dwellings which would be oriented primarily toward the street frontage;*
- *An increased side boundary setback for proposed Block A also is not necessary to protect the amenity of proposed north-facing apartments: amenity of between 6 and 9 apartments on levels 4 to 6 of the proposed Tower A might be affected marginally by future redevelopment of the service station property, but the number of potentially-affected dwellings would comprise less than 2% of the total proposed yield, and due to design of proposed 'corner' balconies, oblique views from the 'affected' dwellings would be preserved;*
- *Visual impacts arising from the proximity of Block A to the eastern residential boundary should be mitigated by a variety of design amendments: primarily, to moderate the scale of the proposed podium which has a height equivalent to six residential storeys facing neighbouring apartments and, secondly by providing taller landscaping along the corridor from Carey Street where current plans indicate that the majority of proposed trees would achieve maximum mature heights of 6m to 8m;*
- *Side setbacks in proposed Block B would not compromise the amenity of neighbouring apartments or of proposed dwellings due to satisfactory distance separation from western neighbours that face Mill Road; however mutual amenity impacts in relation to the north-eastern neighbour should be moderated by fixed screening of windows to bedrooms and living rooms.*

The applicant provided amended plans addressing many of the concerns of the Panel. Given the above, the objectives of Clause 7.4 has been achieved.

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Clause 7.5 – Design Excellence in Liverpool City Centre

The design excellence provisions contained within LLEP have the objective to deliver the highest standard of architectural and urban design, and to this end consent may not be given unless the consent authority considers that the development exhibits design excellence.

The design of the development has been subject to pre-lodgment discussions with the Council including those between the Architect and the Council's urban design advisor. The site and the application do not require an architectural design competition as the site is not identified as a 'key site' in Councils LEP.

The application has been the subject of review and comments from the Council's Independent Design Review Panel. The panel considered the application and suggested changes be made to the proposal in order to achieve design excellence.

In summary the Panel noted the significant scale of this development proposal, and its potential as a catalyst for redevelopment in the Liverpool City Centre. The Panel also considered that many aspects of the identified numerical non-compliances would not be inherently unacceptable.

The recommendations of the Design Review Panel are attached as **Appendix 7.5**. The applicant has made amendments to the design of the development following the Design Review Panel discussion. Their response to the recommendations of the Design Review Panel is attached as **Appendix 7.6**.

In relation to the relevant matters for consideration under Clause 7.5, the following comments are provided:

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved*

Comment:

The Council's design review panel has addressed architectural design, materials and detailing. The relevant paragraph from their report is provided below:

The following elements demonstrate design excellence:

- Although tower forms are near-identical, each tower has an individual alignment which ensures visually-varied backdrops to street frontages and vantage points further away;
- All facades in the tower buildings incorporate primary and secondary elements which contribute to visible diversity of building forms and aesthetics: for example, primary elements of the street elevations comprise five storey stacks of 'boxed' balconies which are separated by an indented storey, which are contrasted by secondary elements that comprise vertical panels of curtain wall windows, plus corner elements which include folded wall planes and indented balconies;

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- Although balconies are predominant features of the towers' northern elevations, the potentially-monotonous appearance of repeated elements is disguised by a crescent-shaped alignment of solid and glazed balconies;
- While architectural treatment of the towers does not differentiate the proposed penthouse levels, effective termination of each building is achieved by a variety of design elements which include strongly-expressed horizontal parapets which are visually-supported by tall blade walls that extend from the base of each tower;
- Notwithstanding the limited palette of finishes which are proposed, proposed application of mid-to-dark grey tones would accentuate proposed articulation of building forms;
- Exterior architecture of proposed Block B, although not identical to the tower buildings, would complement the taller buildings and would be compatible with the scale of neighbouring lower-rise apartment buildings.

The Panel recommended changes to the proposed development including height of podium. The applicant has amended their plans to address some of the concerns of the Panel.

(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain

Comment:

The quality and amenity of the public domain will be significantly enhanced, particularly along Macquarie Street, Carey Street and Charles Street. Macquarie Street will include ground floor retail space and shop fronts providing pedestrian activity in what is currently a relatively hostile and unattractive pedestrian environment. Deep soil planting is to be provided on the corner of Mill Road and Macquarie Street as well as the frontage to Charles Street. Carey Street will have extensive planting at the front of the site.

(c) whether the proposed development detrimentally impacts on view corridors

Comment:

Given the relative scale of development and the absence of nearby towers, the proposal is unlikely to have any impact on view corridors from surrounding properties. The public view along Macquarie Street and the vista toward the city centre are maintained.

(d) whether the proposed development detrimentally overshadows Bigge Park, Liverpool Pioneers' Memorial Park, Apex Park, St Luke's Church Grounds and Macquarie Street Mall (between Elizabeth Street and Memorial Avenue)

Comment:

The development will not result in overshadowing to any of the above.

(e) any relevant requirements of applicable development control plans,

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Comment:

The relevant DCP provisions are discussed later in this report.

(f) how the proposed development addresses the following matters:

i. the suitability of the site for development,

Comment:

The site has been identified for the scale and density of development proposed.

ii. existing and proposed uses and use mix,

Comment:

The proposed land use mix is consistent with the land zoning.

iii. heritage issues and streetscape constraints,

Comment:

There are no heritage issues arising from the development and there are no streetscape constraints.

iv. the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

Comment:

There are no towers located on adjoining sites and unlikely to be on the adjoining residential flat building sites. The tower setbacks on the site comply with the provisions of LLEP.

v. bulk, massing and modulation of buildings,

Comment:

The bulk and massing of the buildings is consistent with that anticipated for residential towers in this location. The buildings are well modulated and have been designed with input from Council's urban design panel.

vi. street frontage heights,

Comment:

Street frontage heights are consistent with the design provisions for the site.

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- vii. *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*

Comment:

The design concept seeks to minimise overshadowing to adjoining properties by locating the towers towards the central and western sections of the site and away from the adjoining boundaries.

- viii. *the achievement of the principles of ecologically sustainable development,*

Comment:

The development meets the requirements of the BASIX SEPP.

- ix. *pedestrian, cycle, vehicular and service access, circulation and requirements,*

Comment:

Pedestrian access to and from the site will be enhanced with the provision of a landscaped access way from Carey Street (including equitable lift access to the communal open space on level 3) and improvements along the Macquarie Street frontage. Bicycle parking is provided on site, as are facilities for service vehicles.

- x. *the impact on, and any proposed improvements to, the public domain.*

Comment:

There will no detrimental impacts on the public domain.

(vi) Part 7 - Additional local provisions – Other Provisions

Clause	Comments	Compliance
Clause 7.6 – Environmentally Significant Land	The site is not environmentally significant land	N/A
Clause 7.7 – Acid Sulfate Soils	The site does not contain acid sulfate soils	N/A
Clause 7.8 – Flood Planning	The site is not identified as flood prone	N/A
Clause 7.14 – Minimum building street frontage	One street frontage must be at least 24 metres	Yes, see commentary
Clause 7.16 – Ground floor development in B4 zone	Ground floor not to be used for the purposes of residential accommodation and will have at least one entrance and at least one door or window on the front of the building facing a street	Yes, see commentary

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Clause 7.17 – Development in flight paths	Development in the Bankstown Airport flight path that exceeds the obstacle height limitation	Yes, see commentary
Clause 7.31 – Earthworks	Substantial earthworks will be undertaken to form the basement of the buildings.	Yes, see commentary

Clause 7.14 – Minimum building street frontage

The objectives of this Clause are:

- (a) to ensure that, visually, buildings have an appropriate overall horizontal proportion compared to their vertical proportions,
- (b) to ensure that vehicular access is reasonably spaced and separated along roads and lanes,
- (c) to provide appropriate dimensions for the design of car parking levels,
- (d) to encourage larger development of commercial office, business, residential and mixed use buildings provided for under this Plan.

Development consent must not be granted to development for the purposes of any of the following buildings, unless the site on which the buildings is to be erected has at least one street frontage to a public street (excluding service lanes) of at least 24 metres:

- (a) any building on land in Zone B3 Commercial Core or B4 Mixed Use, or
- (b) any building of more than 2 storeys on land in Zone R4 High Density Residential, B1 Neighbourhood Centre or B2 Local Centre, or
- (c) any residential flat building.

The site has a maximum street frontage to Macquarie Street that is substantially greater than the minimum 24m required under Clause 7.14 and therefore complies with this standard.

Clause 7.16 – Ground floor development in B4 zone

On that part of the land zoned B4 Mixed Use the LLEP provisions include:

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 ground floor of the building located on the B4 land contains retail space with shop fronts

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and no residential accommodation. Residential lobbies and car parking ancillary to the primary use of the ground floor for commercial use are included at ground level. The development complies with this standard.

Clause 7.17 – Development in flight paths

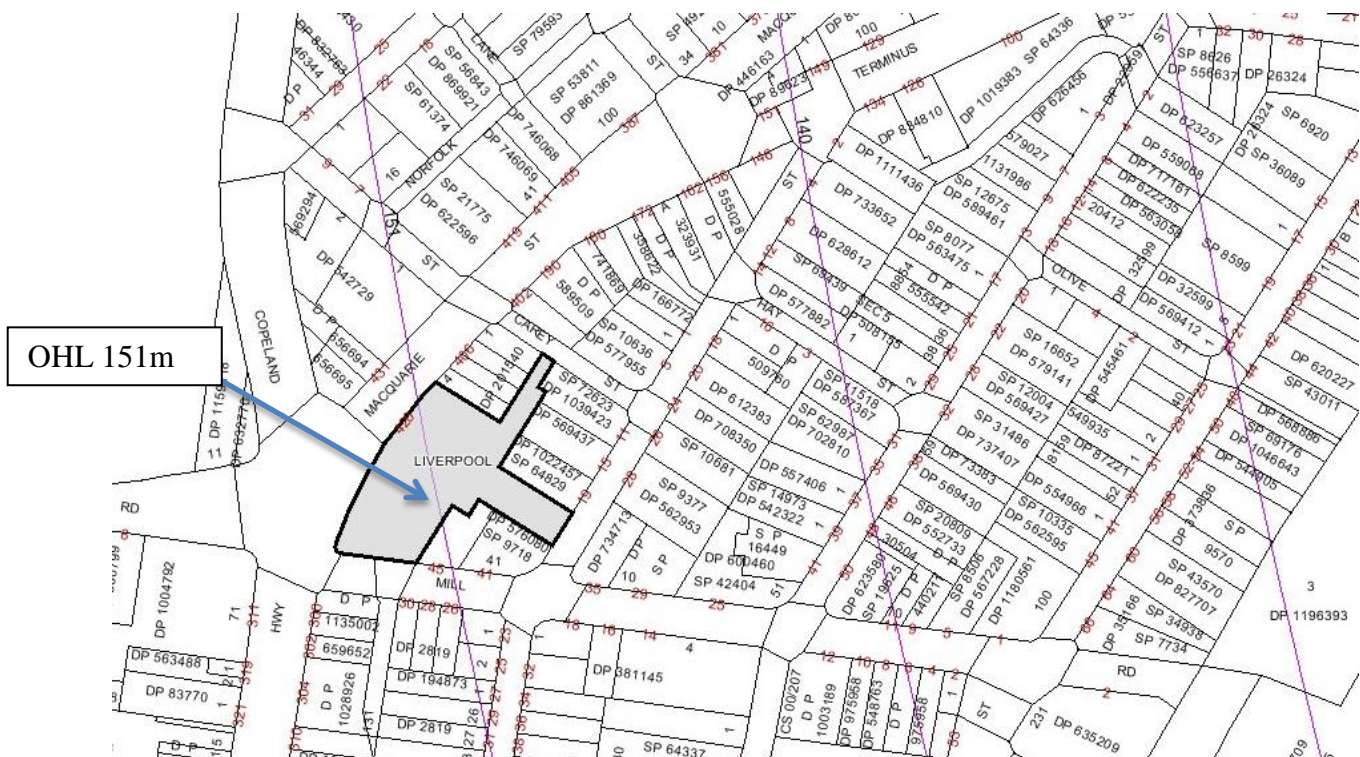
The development site is affected by the obstacle limit height for Bankstown Airport. This height limit is required to:

- (1) (a) to provide for the effective and on-going operation of airports, and
- (b) to ensure that any such operation is not compromised by proposed development in the flight path of an airport.

Clause 7.17 of the LEP states that:

- (2) Development consent must not be granted to erect a building on land in the flight path of Bankstown Airport if the proposed height of the building would exceed the obstacle height limit determined by the relevant Commonwealth body.

The obstacle height limit applying to the site is 151m AHD and is shown in Figure 11 below. The maximum height of the buildings on the site is RL 120.120m AHD. Therefore, there is no intrusion into the obstacle height limit.



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Clause 7.17 of the LEP also states:

- (3) *Before granting development consent to the erection of a building on land in the flight path of Bankstown Airport, the consent authority must:*
- (a) *give notice of the proposed development to the relevant Commonwealth body, and*
 - (b) *consider any comment made by the relevant Commonwealth body within 28 days of its having been given notice of the proposed development, and*
 - (c) *consider whether the proposed use of the building will be adversely affected by exposure to aircraft noise.*

The application was referred to Bankstown Airport who has advised that they will be unable to provide comments within the 28 days as outlined in the LLEP. The reason given is that the federal bodies, Airservices Australia and CASA, will not complete their review of the proposal in that timeframe.

It is clear that the building does not intrude the OHL and a condition of consent is considered appropriate to address Clause 7.17(3).

The City of Sydney routinely adds conditions of consent dealing with similar matters at Zetland and Waterloo. This is considered appropriate in recognition of not delaying development approvals. Accordingly, a note has been placed on the conditions of consent and reads as follows:

EXTERNAL REFERRALS

Commonwealth Airports (Protection of Airspace) Regulations 1996

- The proposal has been referred to Bankstown Airport in accordance with the requirement of Clause 8 of the Airports (Protection of Airspace) Regulation 1996 as the development may be a 'controlled activity' (a building which is proposed within 'prescribed airspace').
- To date no written comments have been provided. However, there is no impediment to determining the proposal as there is no requirement under the Environmental Planning Assessment Act or Regulation for concurrence, nor is the issue of Airport referrals an Integrated matter under S91 of the Act.
- Notwithstanding this, the applicant cannot act upon a development consent and carry out a 'controlled activity' unless it has been granted approval pursuant to Section 183 of the Airports Act 1996. This approval is granted by the Department of Infrastructure, and Regional Development (Federal department) and the applicant is encouraged to engage in consultation with the Department.

Clause 7.31 – Earthworks

Clause 7.31(3) prescribes the following:

- (3) *Before granting development consent for earthworks, the consent authority must consider the following matters:*
- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*

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- (b) the effect of the proposed development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

Comments

- There are no upstream properties and as such there is no effect on existing drainage patterns. The proposed drainage system design caters for the 100 ARI. Given the depth of the water table there will be no need for continued dewatering during the excavation process or will there be any drawdown effect. Perimeter shoring will be carried out to ensure stability during excavation works.
- Earthworks will be immediately followed by construction of the basement. As such the earthworks will have no adverse impact on the future use or redevelopment of the land.
- The environmental site assessment report concludes that the site is suitable for its intended use. Any off-site disposal will be subject to separate waste classification and disposal.
- The earthworks are not extensive and there is limited rock breaking, therefore the impact on surrounding properties will be minimal. Dilapidation reports will be prepared in accordance with normal practice, prior to commencement of earthworks. The development is to be staged, thereby offering respite to occupants of adjoining properties.
- Given past uses on the site it is unlikely that any relics would be found. Nonetheless, an accidental discovery protocol condition has been included as a condition of consent.
- There are no nearby watercourses or environmentally sensitive areas in the vicinity of the development.

The application involves bulk earthworks, particularly in relation to the formation of basements and footings for the towers. The volumes of excavated materials are detailed in the bulk earthworks civil engineering plans submitted with the application. For stage 1, 2 and 3 there will be an estimated 29,130m³ of cut which will be exported from the site. Stage 4 will consist of 11,010m³ of cut which will be exported from the site.

The proposed development is considered satisfactory in respect to the LLEP 2008.

5.2 Section 79C(1)(a)(ii) - Any Draft Environmental Planning Instrument

No draft planning instruments apply to the site.

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5.3 Section 79C(1)(a)(iii) - Any Development Control Plan

Liverpool Development Control Plan 2008

The following parts of DCP 2008 are applicable to the proposed development:

- Part 1 – General Controls for all Development; and
- Part 4 – Development in Liverpool City Centre

Compliance with the above components of DCP 2008 is addressed in the table below:

CONTROLS	COMMENT	COMPLIES
PART 1 – General Controls for all Development		
2. Tree Preservation	No trees are proposed to be removed. This has also been addressed in Clause 5.9 of LLEP 2008.	N/A
3. Landscaping	A landscape plan has been prepared for the site. There are no existing trees on the site to be incorporated into the landscape plan	Yes
4. Bushland And Fauna Habitat Preservation	The site does not contain bushland or is adjacent to bushland	N/A
5. Bush Fire Risk	The site is not identified on Council bushfire maps as being bushfire prone	N/A
6. Water Cycle Management	Stormwater plans have been submitted and approved by Council's engineering department.	Yes
7. Development Near Creeks And Rivers	The development site is not near a creek or river	N/A
8. Erosion And Sediment Control	An erosion and sediment control plan has been submitted and approved by Council's engineering department	Yes
9. Flooding Risk	The site is not identified as flood affected	N/A
10. Contamination Land Risk	A detailed site contamination assessment has been provided. Refer to comments made in SEPP 55 discussion.	Yes
11. Salinity Risk	The site is identified as having moderate salinity potential on the Salinity Potential in Western Sydney map produced by the Department of Planning. A detailed salinity assessment had not been carried. An advisory note has been added to the conditions of consent drawing the applicant attention to salinity potential.	Yes
12. Acid Sulfate Soils Risk	The site is not identified as containing acid sulfate soils	N/A
13. Weeds	The site is not identified as containing noxious weeds	N/A

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14. Demolition Of Existing Development	No demolition of any existing buildings is proposed as part of this development application.	N/A
16. Aboriginal Archaeology	There is no known indigenous or non-indigenous heritage or archaeological sites.	N/A
17. Heritage And Archaeological Sites	The site is not identified as containing a heritage or archaeological site.	N/A
18. Notification Of Applications	The proposal was placed on public exhibition. This is discussed later in this report.	Yes
20. Car Parking	A total of 507 parking spaces are provided. Council's Transport Department has reviewed the proposal and notes that sufficient parking has been provided for the proposed development.	Yes
22 and 23 Water and Energy Conservation	A BASIX certificate has been provided.	Yes
25. Waste Management	A waste management plan has been provided. Further discussion provided below.	Yes
26. Outdoor Advertising	No advertising structures are proposed as part of the subject application.	N/A

Waste Management Comments

The objectives of the LDCP regarding waste management are:

- Minimise waste and maximise resource recovery
- Encourage improved environmental outcomes through increased source separation of materials
- Ensure more efficient management of waste and recyclable materials
- Ensure waste management for the end use of the development is designed to provide satisfactory amenity for occupants and provide appropriately designed collection systems
- Minimise ongoing waste to landfill and maximise recycling of ongoing waste.

All equipment movements in the garbage rooms are managed by the building manager/ cleaners at all times. No tenants will be allowed to transport waste or recyclables from the waste room; tenants will only transport their waste to the room allocated.

The building manager/ cleaner duties include, but are not limited to, the following:

- General maintenance and cleaning of the chute doors on each level (Frequency will depend on waste generation and will be determined based upon building operation)
- Organising, maintaining and cleaning the general and recycled waste holding areas (Frequency will depend on waste generation and will be determined based upon building operation)

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- Transporting of bins as required
- Organising both garbage and recycled waste pick-ups as required
- Cleaning and exchanging all bins
- Ensure site safety for residents, children, visitors, staff and contractors
- Abide by all relevant OH&S legislation, regulations, and guidelines
- Assess any manual handling risks and prepare a manual handling control plan for waste and bin transfers
- Provide to staff/contractors equipment manuals, training, health and safety procedures, risk assessments, and PPE to control hazards associated with all waste management activities.

As waste volumes may change according to the development's management and occupants' attitudes to waste disposal and recycling, bin numbers and sizes may need to be altered to suit the building operation. This is subject to consultation with Council's Sustainable Environment Department.

Collection of Waste

Residential waste and recycling can be collected by private contractor, or by Council. The following waste collection strategies are proposed for the residential and retail/commercial of this development. Arrangements and frequency depend on what option is chosen.

- **BUILDING A:**

Residential waste and recycling will be collected from the loading facility off Charles Street

- **BUILDING B:**

Residential waste and recycling will be collected from the loading facility off Charles Street

- **BUILDING C:**

Residential waste and recycling will be collected from the Garbage Collection Holding Area on Mill Road.

- **RETAIL/COMMERCIAL:**

Retail/commercial waste and recycling will be collected by private contractor from the loading dock on Lower Ground level, accessed via Mill Road.

A Condition has been included in the conditions of consent requiring the submission of an amended waste management plan prior to the issue of a construction certificate. This is due to the Council modifying its waste management policy to provide more guidance and options for high density residential and mixed use development.

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Part 4 – Development in Liverpool City Centre

2. Controls for Building Form

CONTROLS	COMMENT	COMPLIES
Part 2.1 – Building Form		
Street building alignment and street setbacks are to comply with Figure 3.	Setbacks from Macquarie Street and Mill Road are to be 2-2.5m. Setbacks from Charles Street are to be 4-4.5 metres. The buildings comply with this standard	Yes
The external facades of buildings are to be aligned with the streets that they front.	The external facades of the buildings are aligned with Macquarie Street, Mill Road and Charles Street	Yes
The street frontage height of buildings must comply with the minimum and maximum heights above mean ground level on the street front as shown in Figure 5.	Street frontage height (SFH): 16-20m (4-6 storeys) Macquarie St & cnr Mill Rd. 12-20m (3-5 storeys) Mill Rd, Charles St & Carey St	Yes. Note, while the Charles Street building is 6 storeys it is less than 20m at the Charles Street frontage
The maximum floor plate sizes and depth of buildings are specified and illustrated in Figure 6 and Table 1.	<p>Floor plate</p> <p>B4 zone: 900m² commercial / retail, 700m² residential.</p> <p>R4 zone: 500m²</p> <p>Building depth</p> <p>B4 zone = 24m R4 zone = 18m</p>	<p>Building A – 1,016m² – does not comply</p> <p>Building B – 472m² - complies</p> <p>Building C – 829m² – does not comply</p> <p>(see commentary below)</p> <p>23m - complies 14m – complies</p>

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Minimum setback from property boundaries – Mixed Use

Building height & uses	Front (upper level) setback	Side Setback	Rear Setback	Complies
Between SFH and 45m	6m	6m	6m	No. Front setback ranges from 2.7m to 6.65m Side setback 5.4m.
Above 45m	6m	14m	14m	
Residential uses up to 12m height	Street setback	0m	6m	Level 1 – Level 5: Rear setback ranges from 4.8m to 11.2m. However there is little or no glazing to walls within 6-8m of the boundary.
Residential uses between 12m-25m height				
Non habitable rooms	6m	4.5m	6m	No. Level 5 – Level 9: Front setbacks range from 2.7m to 6m. Side setback range from 5.2m to 7.5m. However there is little or no glazing to walls within 6m of the side boundary. Rear
Habitable rooms	6m	9m	9m	

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				setback ranges from 4.8m to 11.2m with no glazing within 6m of the boundary.
Residential uses between 25-45m height				
Non habitable rooms	6m	6m	6m	Level 9 – Level 16 as above.
Habitable rooms	6m	12m	6m	
Residential uses over 45m height				
Non habitable rooms	6m	12m	9m	No. Level 16 – Level 28: Front and side setbacks as above. Rear setback ranges from 13.8m to 16.2m for non-habitable rooms. Setback ranges from 4.8m to 17.8m for habitable rooms. However there is little or no glazing to walls within 6m of the boundary.
Habitable rooms	6m	16m	16m	

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CONTROLS	COMMENT	COMPLIES
Part 2.2 – Mixed Use Buildings		
The ground floor component of a mixed-use building is to be used for a permitted non-residential use.	The ground floor is used for activities other than residential	Yes
Ground floor of all mixed-use buildings is to have a minimum floor to ceiling height of 3.6m in order to provide for flexibility of future use. Above ground level, minimum floor to ceiling heights are 3.3m for commercial office, 3.6m for active public uses, such as retail and restaurants, and 2.7m for residential.	Complies with this standard	Yes

CONTROLS	COMMENT	COMPLIES
Part 2.3 – Site Cover and Deep Soil Zones		
Maximum site coverage 75%	81%, however significant communal open space is provided at podium level	NO
Deep soil zone no less than 15% of site area	Approximately 600m ² of deep soil landscaped area is provided across the site. Given that the majority of the site is zoned B4 and the design principle has been to concentrate the bulk and scale towards the central and western section of the site, there are limited opportunities for deep soil. A considerable pocket of deep soil is provided within the Carey Street section of the site.	NO. Approximately 9.8% deep soil provided.

CONTROLS	COMMENT	COMPLIES
Part 2.4 – Landscape Design		
Landscaping plan to be provided for all landscaped areas	Comprehensive landscape plan has been submitted.	Yes
CONTROLS	COMMENT	COMPLIES
Part 2.5 – Planting on Structures		
Any planting on structures shall provide for appropriate irrigation, soil depth and volume and drainage	Comprehensive landscape plan has been submitted detailing compliance.	Yes

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3. Amenity

CONTROLS	COMMENT	COMPLIES
Part 3.1 – Pedestrian Permeability		
Site is not identified in Figure 11 or Figure 12 of DCP	N/A	N/A

CONTROLS	COMMENT	COMPLIES
Part 3.2 – Active Street Frontages		
Active street fronts are required on ground level of all areas identified in Figure 11	Active street frontage provided to Macquarie Street	Yes
Active street frontages to be in the form of non-residential uses on ground level	Non-residential uses provided on ground level	Yes
Residential developments are to provide a clear street address and direct pedestrian access off the primary street front, and allow for residents to overlook all surrounding streets.	Clear entrances provided from Macquarie Street	Yes

CONTROLS	COMMENT	COMPLIES
Part 3.3 – Front fences		
Front fences are to be designed in accordance with Figures 14 and 15, and must not present a solid edge to the public domain greater than 1.3m above the footpath/public domain level	No front fencing is proposed	Yes

CONTROLS	COMMENT	COMPLIES
Part 3.4 – Safety and Security		
Safer by design principles to be incorporated into development	A CPTED report has been submitted with the application	Yes

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CONTROLS	COMMENT	COMPLIES
Part 3.5 – Awnings		
Street frontage awnings are to be provided for all new developments as indicated in Figure 16.	No awning beyond the site boundary. However protection from the elements is afforded to pedestrians by means of building overhang along the commercial component.	Part

CONTROLS	COMMENT	COMPLIES
Part 3.6 – Vehicle footpath crossings		
One vehicle access point only (including the access for service vehicles and parking for non-residential uses within mixed use developments) will be generally permitted.	One access provided from Mill Road and one access provided from Charles Street	Yes

CONTROLS	COMMENT	COMPLIES
Part 3.7 – Pedestrian Overpasses and Underpasses		
Overpasses are discouraged	No pedestrian overpasses are proposed	Yes

CONTROLS	COMMENT	COMPLIES
Part 3.8 – Building exteriors		
Building design	The building's design has been reviewed by Councils Urban Design Review Panel. A SEPP 65 design statement has been prepared.	Yes

CONTROLS	COMMENT	COMPLIES
Part 3.9 – Corner Treatments		
Building control treatments	Building is not located in Figures 20 and 21	N/A

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CONTROLS	COMMENT	COMPLIES
Part 3.10 – Public Artworks		
Major developments in the Liverpool City Centre (i.e. over 5,000sqm in floor space) are required to prepare a Public Art Plan as part of their development proposal.	No public art is proposed. The public benefit of providing public art in this location is negligible. The Council will be collection development contributions which will assist in the revitalisation of the Liverpool City Centre.	No.

4. Traffic and Access

CONTROLS	COMMENT	COMPLIES
Part 4 .1 – Pedestrian Access and Mobility		
Main building entry points should be clearly visible from primary street frontages and enhanced as appropriate with awnings, building signage or high quality architectural features that improve clarity of building address and contribute to visitor and occupant amenity.	Main building entry from Macquarie Street is enhanced as required.	Yes
The design of facilities (including car parking requirements) for disabled persons must comply with the relevant Australian Standard (AS 1428 Pt 1 and 2, or as amended) and the Disability Discrimination Act 1992 (as amended).	Facilities comply with relevant Australia Standards	Yes
CONTROLS	COMMENT	COMPLIES
Part 4 .1 – Pedestrian Access and Mobility		
Barrier free access is to be provided to not less than 20% of dwellings in each development and associated common areas.	All dwellings are accessible through the use of lifts to each floor and basement and podium	Yes
The development must provide at least one main pedestrian entrance with convenient barrier free access in all developments to at least the ground floor.	The development provides for this	Yes
The development must provide accessible internal access, linking to public streets and building entry points.	Internal access is accessible through the use of ramps and lifts	Yes

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CONTROLS	COMMENT	COMPLIES
Part 4 .2 – Vehicle Driveways and Manoeuvring Areas		
Driveways should be: - provided from lanes and secondary streets rather than the primary street, wherever practical, - located taking into account any services within the road reserve, such as power poles, drainage inlet pits and existing street trees, - located a minimum of 10m from the perpendicular of any intersection of any two roads, and - Located to minimise noise and amenity impacts on adjacent residential development.	Driveways are provide from secondary streets – Mill Road and Charles Street and are located at least 10m from intersections.	Yes
Vehicle access is to be integrated into the building design so as to be visually recessive.	Vehicular access has been integrated into building design	Yes
All vehicles must be able to enter and leave the site in a forward direction without the need to make more than a three point turn.	All vehicles can enter and exit the site in a forwards manner	Yes
Driveway widths must comply with the relevant Australian Standards.	Complies	Yes
Car space dimensions must comply with Australian Standard 2890.1.	Complies	Yes
Driveway grades, vehicular ramp width/ grades and passing bays must be in accordance with the relevant Australian Standard, (AS 2890.1).	Complies with applicable Australian standards	Yes
Access ways to underground parking should be sited to minimise noise impacts on adjacent habitable rooms, particularly bedrooms.	Complies	Yes

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CONTROLS	COMMENT	COMPLIES
Part 4 .3 – On-site Parking		
Car parking to be provided in accordance with the DCP parking provisions	Overall car parking numbers comply with the requirements of the DCP	Yes
Car parking above ground level is to have a minimum floor to ceiling height of 2.8m so it can be adapted to another use in the future.	Complies with this standard	Yes
Onsite parking must meet the relevant Australian Standard (AS 2890.1 2004) – Parking Facilities or as amended.	Complies	Yes
Required parking for service and delivery vehicles must be provided on site unless Council is satisfied that adequate dedicated on street “loading zone” space(s) are available in the vicinity.	On-site service and delivery parking has been provided.	Yes
Onsite parking is to be accommodated in basement parking, except to the extent provided below; - Up to 25% of the required parking can be provided above ground where it is fully integrated into the building design in accordance with Figure 23 without counting towards gross floor area. - Any parking above the 25% will count towards gross floor area for the purposes of calculating Floor Space Ratio. - Exposed but screened natural parking ventilation may be permitted fronting onto the nominated sections of service lanes as illustrated in Figure 24	3 levels of basement car parking has been provided. Two levels of above ground parking provided.	Yes. 25% of the required car parking is provided above ground level (131 of the 507 spaces. The rest is provided as basement parking)..

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5. Environmental Management

CONTROLS	COMMENT	COMPLIES
Part 5.1 – Energy Efficiency and Conservation		
New dwellings, including dwellings within a mixed use building and serviced apartments intended or capable of being strata titled, are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX). A complying BASIX report is to be submitted with all development applications containing residential activities.	Complies. A BASIX certificate has been provided confirming the environmental performance of the development. In addition, energy efficiency and conservation are achieved by way of naturally ventilated car parking levels, reduced land fill from excavation and no impact on the water table.	Yes

CONTROLS	COMMENT	COMPLIES
Part 5.2 – Water Conservation		
New dwellings, including a residential component within a mixed use building and serviced apartments intended or capable of being strata titled, are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	Complies. A BASIX certificate has been provided confirming the environmental performance of the development.	Yes

CONTROLS	COMMENT	COMPLIES
Part 5.3 – Reflectivity		
Reflectivity shall not exceed 20%. A reflectivity report may be required.	A reflectivity report has been provided	Yes

CONTROLS	COMMENT	COMPLIES
Part 5.4 – Wind mitigation		
A wind effects report is to be submitted	A wind effects report has been submitted. This report recommends prior to the issue of a Construction Certificate that a wind tunnel test be undertaken	Yes

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CONTROLS	COMMENT	COMPLIES
Part 5.5 – Noise		
An acoustic report is required for all noise affected locations as identified in Figure 25.	An acoustic report has been provided	Yes

CONTROLS	COMMENT	COMPLIES
Part 5.6 – Waste		
Waste management plan	Adequate facilities, consistent with the Department of Planning “Better Practice Guide for Waste Management in Multi-Unit Dwellings 2008”. A waste management plan has been provided	Yes

CONTROLS	COMMENT	COMPLIES
Part 5.7 – Floodplain and Water Cycle Management		
Flood liable land	The site is not identified as being flood affected	N/A

CONTROLS	COMMENT	COMPLIES
Part 5.8 – Sewage Treatment Plant		
Development within 400m of the Schrivener Street Sewage Treatment Plant needs to be referred to Sydney Water for assessment.	The site is located greater than 400m from the sewer treatment plant	Yes

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6. Controls for Residential Development

CONTROLS	COMMENT	COMPLIES
Part 6.1 – Housing Choice and Mix		
To achieve a mix of living styles, sizes and layouts within each residential development, comply with the following mix and size: - studio and one bedroom units must not be less than 10% of the total mix of units within each development, - three or more bedroom units must not to be less than 10% of the total mix of units within each development,	A mix of unit sizes is achieved by the flexible design including 271 x 1 beds/ studios contained within dual key apartments. The basic mix of units is 3 x 1 bed; 280 x 2 bed; 113 x 2 bed dual key; 42 x 3 bed dual key.	Yes
An access report shall be provided.	An access report has been provided	Yes

Liverpool Development Contributions Policy

The applicant seeks staged payment of s94 contributions in order to ensure the commercial viability of this project. The requested staging of s94A contributions is as follows:

- 1st instalment – 20% payment prior to the issue of a construction certificate for Stage 1 works (excavation, shoring and piling to Building B);
- 2nd instalment – 30% payment prior to the issue of an occupation certificate for Building A; and
- 3rd instalment – 50% payment prior to the issue of an occupation certificate for Building C.

Normally, the payment of s94A contributions occurs prior to issue of a construction certificate (as required by Clause 4.3 Liverpool City Centre Contributions Policy - timing of payments).

The applicant requests the staging of payments as above. This matter has been considered in accordance with Clause 4.3 of the LCCCP 2007. This clause states:

Deferred Payments

Council will allow payment of contributions to be deferred in the following cases only:

- *where the applicant has the intention and ability to provide a material public benefit in part or to full satisfaction of a condition imposed by development consent; or*
- *in other circumstances, to be outlined in writing by the applicant and determined formally by Council on the merits of the case.*

The period of deferral must be for a limited time only as agreed where land is to be dedicated or a material public benefit is to be provided. In merit cases, the period of deferral will be as approved by Council. The period of deferral may be extended subject

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to providing a renewed bank guarantee, which includes anticipated future interest. Council will discharge the bank guarantee when payment is made in full by cash payment, land transfer or by completion of works in kind.

The Chief Executive Officer has approved the staging of s94A contributions as follows:

Installment 1: (prior to the issue of construction certificate for Stage 1 works (excavation, shoring and piling to Building B);) = \$545,474.80

Installment 2: (prior to the issue of occupation certificate for Building A) = \$818,212.20

Installment 3: (prior to the issue of an occupation certificate for Building C) = \$1,363,687.00

No further deferral of payment of contributions will be considered unless through a s96 modification application, where a bank guarantee may be required and interest payable.

5.4 Section 79C(1)(a) (iia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and.

There is no planning agreement applicable to this application.

5.5 Section 79C(1)(a)(iv) – The Regulations

Relevant provisions of the Environmental Planning and Assessment Regulation 2000 have been considered.

5.6 Section 79C(1)(b) – The Likely Impacts of the Development

(a) Bulk, Scale and Visual Impacts

The subject site will be one of the first in this location within the south-western edge of Liverpool City Centre to be redeveloped at a scale, form and density envisaged under the new local planning controls. As a result, it will be one of the first sites to reveal the transition from the existing low scale and relatively low density form of the built environment to the tower form proposed.

Due to allowable scale of development, compared to that existing and adjoining, there will be an inevitable contrast in built form, bulk and scale. Notwithstanding this, the design approach taken has been one to locate the greater scale and density towards the central and western parts of the site and away from the existing residential flat buildings.

The form of development will be highly visible but this is inevitable under the planning controls that anticipate at least 80m towers and a density of at least 6:1 on a large site. The development will be a gateway form marking the southern entry into Liverpool city centre, as envisaged by the local planning controls.

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The building form has been revised since the development application lodgement. The revised design provides a better outcome in terms of streetscape and aesthetic form by the reduced height and bulk of the podium.

(b) Parking, Access and Traffic

The site is well located and large enough to accommodate the overall quantum of car parking generated. Car parking is in the form of a podium that is designed so as to enhance the built environment in this location and at the same time allow for natural ventilation and elevation of the communal open space to the top of the podium.

The traffic generated by the development is capable of being accommodated within the local street system, as detailed in the Traffic and Parking Report included with the application.

The site is located within Liverpool City Centre and so is well serviced by public transport and readily accessible to services and facilities for pedestrians residing within the development.

Council's Traffic engineering department has reviewed the proposal and their comments are included in 5.8 below.

(c) Overshadowing

The underlying 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 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 design approach seeks to minimise direct overshadowing impacts onto directly adjoining properties by the positioning of the towers. The extended extent of overshadowing projected beyond the site is generally consistent with what would be expected on a site that provides for 80m high buildings.

The revised shadow diagrams demonstrate that the variance to height and FSR have minimal additional adverse impacts. The tower forms are slim and the additional shadow caused by the varied height moves quickly and is low impact. In addition, the built forms proposed have less impact than less compact building forms which are compliant in height.

(d) Privacy

The design approach mentioned above is also intended to mitigate potential direct overlooking impacts, although some overlooking is inevitable in a high density redevelopment in this location. The additional floor space and building height proposed, over and above the development standards has no direct amenity impacts by way of overlooking or loss of privacy.

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The two towers meet the minimum separation requirements of the LLEP.

(e) Design Excellence

The application is subject to the Design Excellence provisions of LLEP and has been reviewed by Council independent Design Review Panel. The panel recommended a number of changes to the development. The Panel's report is attached as **Attachment 7.5**. The applicant has made modifications to the proposal and their response to the Panel's recommendations is attached as **Attachment 7.6**. An architectural design competition is not required for this site.

(f) Construction Impacts

Construction impacts will be managed through the implementation of a Construction Management Plan to be prepared and submitted to the Private Certifying Authority prior to the commencement of works. Hours of construction will be undertaken in accordance with Council's requirements, and adjoining properties will be notified prior to commencement of works on site.

(g) Social and Economic Impacts

The proposed development is considered to provide for substantial social benefit. These benefits include:

- The proposal would see the redevelopment of a significant and high profile site in the Liverpool City Centre. The site is currently vacant and a poor southern entrance to Liverpool.
- The proposal is considered to be a significant project for Liverpool and would exhibit a high quality design and be an iconic development for the local area and the greater region.
- The proposed development will increase the supply of housing in Liverpool including smaller sized apartments to cater for a variety of incomes and demographics.
- Many constructions jobs will be created during the construction phase of the project, increasing economic activity in Liverpool.
- A development of this scale may be a catalyst for further investment and development in Liverpool.

Section 79C(1)(c) – The Suitability of the Site for the Development

The land is zoned for high density residential and mixed use development. The proposed development is in keeping with the zones objectives and is compatible with the anticipated future character within Liverpool City Centre.

The proposed development has demonstrated that the potential impacts have been addressed and a number of measures are to be implemented to manage any impacts.

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The proposed development represents an opportunity to redevelop a very large and prominent site at the southern gateway to Liverpool City Centre and be an iconic development for Liverpool.

There are no significant natural or environmental constraints that would hinder the proposed development, and accordingly the site is considered suitable for the proposed development.

5.7 Section 79C(1)(d) – Any submissions made in relation to the Development

(a) Internal Referrals

The following comments have been received from Council's Internal Departments:

Internal Department	Status and Comments
Building	No objection, subject to conditions
Landscaping	No objection, subject to conditions
Environmental Health	No objection, subject to conditions
Land Development Engineering	No objection, subject to conditions
Traffic Engineering	No objection, subject to conditions. See commentary below.
Waste	No objection, subject to conditions
CBD – Economic Development	Supportive.
Heritage	No objection, and no conditions
Design Review Panel	Recommended modifications be made to the proposal. The applicant has made some of the recommended changes in revised plans dated November 2014. These are considered satisfactory.
Strategic Planning	Requested changes to be made to the building's design. Some of the changes recommended have been made by the applicant in revised plans dated November 2014.

Traffic Engineering Comments

The application has been considered by Council's transport department. They have recommended approval of the application, subject to conditions of consent. A summary of their assessment of traffic related issues follows.

The Traffic Impact Statement of the proposal has been carried out in accordance with the Roads and Maritime Services (RMS) *Guide to Traffic Generating Developments*, with reference to Council's DCP for the car parking assessment. This assessment also considers possible traffic impacts identified in the recent Liverpool City Centre Traffic Study.

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The critical traffic issues assessed includes:

- Adequacy of the off-street parking provisions;
- Suitability of the vehicular access arrangements;
- Internal circulation and servicing arrangements;
- Review existing traffic conditions adjoining the proposed development; and
- Determining existing and projected traffic generation from the proposed development and to assess impact of increase in traffic on the surrounding road network

Traffic Generation and Impact

According to the submitted TIS, traffic generation from the residential component in the peak traffic periods are estimated as 84 vehicles/hour and 66 vehicles/hour during the AM and PM peaks respectively with 3 vehicles/hour from the retail business. The estimate modal breakup of peak traffic would be:

	AM		PM	
	IN	OUT	IN	OUT
Residential	17	67	46	20
Retail	3	-	-	3
Total	20	67	46	23

Additional traffic from the proposed development is likely to have adverse impacts at the Charles Street and Mill Road intersection. It is recommended that a condition be imposed to design and construct a roundabout at the Charles Street and Mill Road intersection at no cost to Council.

Council has recently undertaken traffic study of the Liverpool City Centre and the proposed site is within the study area. According to the study, access to Charles Street will be restricted to left-in and left-out movements from Terminus Street. The study has identified a grade separated Hume Highway, Hoxton Park Road and Macquarie Street intersection.

Car parking assessment

According to the submitted TIA the proposed development is proposing 507 parking spaces which include the provision for:

- Resident 459 spaces
- Retail 4 spaces
- Visitor 44 spaces
- TOTAL 507 spaces**

In addition the proposed development will also provide:

- Motorcycle Parking 25 spaces
- Bicycle Parking 30 (accessible) and 300 (within storage units) Total: 330 spaces

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Access and car parking design

According to the TIS, vehicular access to the proposed development will be through Mill Road and Charles Street. It is recommended that the driveway access should be designed and constructed in accordance with the Council's DCP and AS 2890.1 to maintain safe sight distance in and out of the driveway.

The driveway should be constructed to an industrial standard.

Parking spaces should be designed and marked in accordance with the latest AS: 2890.1 and 2890.6 for accessible parking spaces.

The developer shall also build footpaths at all frontages in accordance with Council's Streetscape and Paving guidelines.

Street Lighting

All existing street lighting at the frontage of the proposed development is to be upgraded to underground street lighting cables and the provision of new smart poles with LED lighting to Council and Endeavour Energy satisfaction.

(b) External Referrals

External Authority	Status and Comments
Roads and Maritime Services (RMS)	No objection, subject to comments being considered in the assessment of the applicant and conditions of consent.
NSW Police - Liverpool Local Area Command	No objection. Police satisfied that CPTED principles as outlined in the Security Management Plan have been demonstrated.

(c) Community Consultation

The subject Development Application was placed on public exhibition from 16 – 31 July 2014 in accordance with the Liverpool Development Control Plan (LDCP) 2008 Notification Policy.

A total of five submissions opposing the development were received.
The specific issues raised include:

- The height of the proposed towers being out of keeping with the surrounding residential neighbourhood;
- The proposed towers will dominate the surrounding neighbourhood;
- The proposed towers will block sunlight to other buildings in the vicinity;
- The potential for the towers to create a "wind tunnel";

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- Potential impacts of the excavation, shoring and piling works and the potential impacts on adjoining properties;
- Traffic generated during the construction phase and once completed;
- Provide adequate car parking for residents and visitors;
- On street car parking impacts;
- Effects on the local road network;
- Provide separate entrances and exits for vehicles to the local road network;
- Ensure appropriate conditions of consent are imposed to deal with potential adverse impacts;
- Potential increase in noise in the area;

These matters have been satisfactorily addressed in Section 5.6 of this report.

5.8 Section 79C(1)(e) – The Public Interest

The proposed development is consistent with the zoning of the land and would represent a high quality development for Liverpool. The development provides additional housing opportunities within close proximity to employment opportunities and public transport. Moreover, the proposal involves works which would redevelop a key site at the southern entrance to Liverpool City Centre.

In addition to the social and economic benefit of the proposed development, it is considered to be in the public interest.

6. CONCLUSION

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The Development Application seeks development consent for a major mixed use and residential redevelopment at 420 Macquarie Street, Liverpool.
- The proposal is consistent with the objectives of the B4 Mixed Use and R4 High Density Residential zones that are applicable to the site under the LLEP. The proposal is also consistent with the objectives of the floor space ratio and building height development standards. The application is supported by requests to vary these development standards in order to accommodate the form, scale and density proposed.
- The proposal would see the redevelopment of a significant site at the southern entrance to the Liverpool City Centre and be an iconic development for Liverpool.
- The proposal substantially complies with the provisions of the LDCP 2008. There are variations proposed to some controls, however these are considered acceptable on merit.
- The proposal provides an appropriate response to the site's context and satisfies the SEPP 65 design principles and the requirements of the Residential Flat Design Code. The scale

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and built form is consistent with the desired future character of the area that is envisaged under the LLEP and LDCP.

- The development will be well located in relation to transport, employment, shopping, business and community services, as well as recreation facilities. It will deliver an efficient use of the site with well-designed high amenity dwellings.
- The application was referred to a number of external authorities including the Roads and Maritime Services and NSW Police, of which no objection was raised, subject to imposition of conditions.
- The proposed development will have impacts (both positive and negative) on the surrounding area, but those impacts are largely anticipated by the zoning of the site and surrounding areas. The development is in accordance with the zones objectives and the desired future character of the area.

It is for these reasons that the proposed development is considered to be satisfactory and notwithstanding the submissions received, the subject application is recommended for approval, subject to conditions.

7. ATTACHMENTS

- 7.1 Plans of the proposal**
- 7.2 Submissions**
- 7.3 SEPP 65 Compliance Table**
- 7.4 Clause 4.6 Variation Written Justification**
- 7.5 Design Review Panel Report**
- 7.6 Applicant response to Design Review Panel Report**
- 7.7 Recommended conditions of consent**