

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)



LIVERPOOL CITY COUNCIL
SYDNEY WEST
JOINT REGIONAL PLANNING PANEL
SUPPLEMENTARY REPORT

1. EXECUTIVE SUMMARY

1.1 Reasons for the Report

This supplementary report is prepared pursuant to the decision at the Sydney West Joint Regional Planning Panel (JRPP) meeting on 5 December 2014, to defer the determination of DA-578/2014 and to receive a revised Clause 4.6 variation submission addressing all elements of Clause 4.6 of the Liverpool Local Environmental Plan 2008 (LLEP).

1.2. The proposal

The development application 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.

Details of the proposal are outlined in the report previously provided to the JRPP and considered at their meeting of 5 December 2014.

1.3 The site

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

1.4 The issues subject to this supplementary report

The issues addressed in this supplementary report concern the Clause 4.6 request by the applicant to vary the floor space ratio development standard. All other matters pertaining to this application were considered by the JRPP at the meeting on 5 December 2014.

1.5 Conclusion

The application has been assessed having regard to the matters of consideration pursuant to Section 79C of the Environmental Planning and Assessment Act (EP&A Act).

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 variation to the floor space ratio development standard justified through the revised Clause 4.6 written statement is well founded and the proposal will continue to achieve the objectives of the zone as well as the objectives of the floor space ratio development standard. Importantly, the development aligns with Council's "Growing Liverpool 2023" vision and the important work underway on reforming the planning controls applying to the Liverpool City Centre to achieve this vision.

LIVERPOOL CITY COUNCIL
SYDNEY WEST
JOINT REGIONAL PLANNING PANEL
SUPPLEMENTARY REPORT

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 for those reasons outlined within the report considered by the JRPP on 5 December and discussed within this report. Further, the Clause 4.6 written request to vary the maximum FSR development standard is supported on merit. Therefore, the subject application is recommended for approval.

2. CLAUSE 4.6 – VARIATION TO FLOOR SPACE RATIO CONTROL

As required by the JRPP, the applicant has provided:

- A revised Clause 4.6 written request for a variation of a development standard in respect to the variation to the floor space ratio development standard (**Attachment 1**); and
- Legal advice pertaining to the merits of the Clause 4.6 variation submission (**Attachment 2**).

In addition, Council's City Design Manager has provided detailed information concerning the history of this part of the Liverpool City Centre, Councils vision for the Liverpool City Centre as well as providing information on proposed changes to the planning framework affecting the Liverpool City Centre which is in the preliminary planning stage. This information has been provided to further demonstrate Councils support for this application, particularly given the review of the current planning controls applying to the Liverpool City Centre to give effect to Councils "Growing Liverpool 2023" vision and Liverpool City Councils "Building our New City" program of works.

Floor Space Ratio Control

Sub-clause (4) of Clause 4.6 of the LLEP states:

- (4) Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

Clause 4.4(2B)(e) sets the maximum floor space ratio for sites with an area greater than 2,500m² in the Liverpool City Centre. Sites being greater than 2,500m² in area with a height limit of 80m are subject to a base FSR of 6:1. The site (excluding future road widening) has an area of 6,113m², therefore the maximum FSR calculation in relation to that part of the site zoned B4 is 6:1. For that part of the site zoned R4, the maximum FSR for sites greater than 2,500m² in area, and subject to a 45m height limit is 3.5:1. The site has a total area greater than 2,500m², therefore the maximum FSR calculation in relation to the R4 portion of the site is 3.5:1.

LIVERPOOL CITY COUNCIL
SYDNEY WEST
JOINT REGIONAL PLANNING PANEL
SUPPLEMENTARY REPORT

The proposal is for a total of 39,098 m² GFA. Based on the definition of FSR and the site area of 6,113m², the resultant FSR is 6.396:1, which is an overall variation to the applicable FSR applying to the site of 13.57%. (This compares with the originally submitted floor space of 40,259m² with a FSR of 6.56:1 and a variation of 17.0 %.)

For comparison purposes the actual development proposed on the part of the site zoned R4 High Density Residential comprises a GFA of 1,757m². This equates to a FSR of 1.95:1, substantially (44%) below the FSR control of 3.5:1 attributable to that portion of the site. Such an FSR would equate to a GFA of 3,150m² on that portion of the site.

Council has reviewed the applicants Clause 4.6 written request to a variation to the FSR standard and agrees with the reasoning provided, including the environmental planning grounds that justify contravening the development standard in the circumstances of the case. Specifically, the following comments are provided in response to the written request for a variation:

- The proposed height and configuration of development on the site has been demonstrated to have a superior outcome to a development that was compliant with permitted height and FSR controls across the site, particularly at the Charles Street, Carey street and Mill Road interfaces;
- It has been demonstrated that the proposed height and floor space (including the variances) do not result in adverse amenity outcomes to surrounding properties considering the zoning applying to the site;
- The resulting FSR is an outcome of the building height and configuration which has been found to be appropriate in terms of environmental impacts and results in a density of development that can be readily accommodated in the locality in terms of transport networks, services and utility facilities;
- The density proposed (including the additional floor space) results in a commercially viable development with superior amenity which otherwise would not result from a complying development, in this circumstance;
- The additional FSR provides positive outcomes relating to the provision of a new benchmark for development in Liverpool which includes additional cost items relating to:
 - Provision of superior elevated, communal open space with views, consisting of extensive planting and paving, barbecue facilities, a pool (and associated amenities), break out passive and active spaces;
 - Provision of separated and equitable lift access throughout, providing access to the external areas of the podium;
 - Superior public domain design and construction, including decorative paving and “Smart Pole” lighting;
 - Use of durable and maintenance free construction materials;
 - Design and construction of high quality lobbies with better finishes and enhanced amenity;
 - Construction of internal communal spaces such as a multi-function room and learning centre for kids;

LIVERPOOL CITY COUNCIL
SYDNEY WEST
JOINT REGIONAL PLANNING PANEL
SUPPLEMENTARY REPORT

- Design and construction of larger than minimum balcony sizes, both in area and dimensions;
- Provision of additional innovative dual key apartments, which will promote a diverse social mix to the development's population, responding to investor and the extended family demographic in the area.

Additionally, the following comments are made regarding the relevance of the proposed development in respect to Liverpool Council's vision for the Liverpool City Centre.

Councils Vision for the Liverpool City Centre

Council's City Design Manager has provided the following information regarding the history of this part of the Liverpool City Centre and Councils vision for the Liverpool City Centre. This information is provided in order to familiarise the JRPP with the significant amount of work the Council is undertaking to reform the planning controls applying to the Liverpool City Centre.

History

The main road between Sydney and Liverpool was opened in 1814. Known as the Great Southern Road it was proclaimed the Hume Highway in 1928. In the Liverpool Town Plan initiated by Governor Macquarie and designed by Hoddle in 1831, it ran through Liverpool as Macquarie Street. Like many main roads in Sydney the Hume Highway followed the ridge line. Hoxton Park Road intersected the Hume Highway from the west and Copeland Street was set at right angles to Hoxton Park Road.

Spatially Copeland Street was not part of the original Hume Highway and Hoxton Park Road intersection. In 1968 Copeland Street was realigned to join the Hume Highway and become the by-pass for Liverpool leaving Macquarie Street at an acute angle leading directly into Liverpool City Centre as the main street within the Hoddle grid.

The intersection of the Hume Highway, Macquarie Street and Hoxton Park Road therefore has always been a main entry point by road into Liverpool from the south. In the tradition of a rural town it reflected the junction where the town met the country, the place where buildings began and farms ended. In the European context, the town buildings would be located close together creating a very decisive point of difference between urban and rural. In the NSW context, the town buildings were more scattered, blurring the town boundaries.

Originally the intersection of the Hume Highway, Hoxton Park Road and Mill Road was marked by corner buildings differentiating it from the surrounding suburban development. This tradition of creating clear entry points to a town is a sound urban design principle and it is informing Liverpool City Council's current work on the vision for the city.

The Vision

In terms of the built form, the vision for Liverpool city is to define the desired future outcome and from that, agreed three dimensional building and spatial form; extrapolate the appropriate heights, set-backs and floor space ratios. Included in this vision is the need to establish a clear definition for the edges of the city and the entrances to the city.

Although substantially altered by the Liverpool by-pass, the junction of the Hume Highway /

LIVERPOOL CITY COUNCIL
SYDNEY WEST
JOINT REGIONAL PLANNING PANEL
SUPPLEMENTARY REPORT

Copeland Street, Macquarie Street and Hoxton Park Road is still one of the important entrances to Liverpool City Centre. Mill Road joins this four way intersection but as it is not a continuation of Hoxton Park Road it only makes a minor contribution to the overall intersection created by the four main roads. Because of the reconfiguration of the roads for traffic, the intersection is currently overly large, provides no sense of entry, is dominated by cars and is not defined by buildings.

There is however three key development sites located around the intersections that have the potential to redefine its role. They are 420 Macquarie Street (the site subject to this application); 311 Hume Highway on the corner of Hoxton Park Rd and the Hume Highway and the site on the corner of Copeland Street and Macquarie Street.

Development on these sites can be used to structure the place in a more meaningful way by relating the buildings to this new larger spatial context .To do this the buildings have to relate to:

- the neighbouring buildings within and external to the site. These include new buildings and the heritage Collingwood Hotel;
- the various street alignments;
- the topography and ground plane;
- the open spaces. These include the space of the intersection, the set-backs around the buildings and Woodward Park on the corner of Hoxton Park Road and Copeland Street

The form and location of any new development also has to be organised to respond to the view lines from the various streets.

Due to the scale and irregularity in plan of the intersection, combined with the slope of the land away from the Hume Highway to the east, and the substantial traffic, it is considered that towers are the most preferable building form. Properly scaled and related, towers can provide demarcation of the entry, relate to the scale of the intersection and provide better residential amenity than the alternative of a street wall building form. The need for a podium will depend on the specific site conditions.

Council's vision therefore is to establish a grouping of tall slender towers. They are to be aligned to each other and the road system so that the currently ill-defined amorphous space is made legible by the built form. It is envisaged that all the towers are of a similar height. This is to better define the entrance to the City Centre from a distance, to minimise the apparent density and to ensure that they read as a group. The FSR for all the developments is to be extrapolated out of this desired built form.

The subject development on 420 Macquarie Street is the first proposal that addresses this desired outcome. It complies with the vision by establishing a built form that aligns with Macquarie Street and Mill Road, addresses the street frontages and resolves the towers architecturally with appropriate articulation. The towers require sufficient height to be in scale with that of the intersection, to be slender in footprint and to be able to relate to the other future building forms across the width of the intersection. A podium was required because of the length and curvature of the street alignment.

The issue has been raised that the floor space on the site is in excess of that allowable under the existing controls. If the built form outcome was arbitrary, the excess FSR would be a concern and certainly a complying development could occur on the site. In a complying

LIVERPOOL CITY COUNCIL
SYDNEY WEST
JOINT REGIONAL PLANNING PANEL
SUPPLEMENTARY REPORT

development however, the towers would be reduced in height, more 'squat' and less able to either mark the intersection or to relate to their potential neighbours across the large expanse of road. The FSR generated is the result of the desired built form being the two tall slender towers and the podium.

A complementary proposal for 311 Hume Highway is currently being developed. This will supersede the existing approved development application. The built form for this planning proposal is one slender tower on the corner of Macquarie Street and Hoxton Park Road, with lower street wall buildings on the rear of the site. The tower is a similar height and footprint to the proposed towers subject to this application and has no podium. It has generous set-backs to the Hume Highway, Hoxton Park Road and the historic Collingwood Hotel. The floor space in this proposal will also be derived from the final agreed built form.

Council is strongly of the opinion that far better outcomes can be achieved in highly urban areas if the desired outcomes are the basis for the planning controls. It is understood that the current proposal slightly precedes the work Council is undertaking across the city but this important entry to Liverpool should reflect the high quality urban form that Liverpool City Council is trying to achieve rather than relying on generic zoning controls.

Conclusion

Council is satisfied that the revised Clause 4.6 written statement justifies in detail the proposed departure from the floor space ratio development standard and the requirements of Clause 4.6 of the LLEP. The Council has also reviewed the legal advice provided by the applicant and is satisfied that the request to vary the floor space ratio development standard is sound, has environmental planning merit, and in the circumstances of the case, will not set an undesirable precedent.

The conclusion to the written justification aptly summarises the variation request:

"Development standards are a means of implementing planning purposes for a development or area. The varied floor space ratio is considered appropriate to the context and circumstances of the site, and positively contributes to the intended future built form / character for this location within Liverpool city centre (whilst still respecting the existing built form in Carey Street and Charles Street).

A development strictly complying with the numerical standard would not have any additional positive social or environmental impacts. Indeed a strictly complying development is unlikely to deliver the range of amenity and design quality outcomes that have been identified in this submission. The additional FSR proposed will allow this significant gateway development to occur, with resultant economic benefits.

The unique location and range of factors influencing the outcome justifies a departure from the floor space ratio development standard in this circumstance. Further the departure will not set a precedent given the combination of factors relating to the site and its uniqueness.

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

LIVERPOOL CITY COUNCIL
SYDNEY WEST
JOINT REGIONAL PLANNING PANEL
SUPPLEMENTARY REPORT

This submission satisfies the provisions of 4.6(3)(a), 4.6(3)(b) and 4.6(4)(a) of the LLEP 2008 as it has been demonstrated that:

- *compliance with the GFA/FSR development standard is both unnecessary and unreasonable in the circumstances of this case;*
- *there are sufficient environmental planning grounds to justify contravening the development standard; and,*
- *the proposed development, with the varied floor space, will be in the public interest because*
 - *it is consistent with the objectives of the particular standard;*
 - *it is consistent with the objectives for development within the zone in which the development is proposed to be carried out; and,*
 - *it is consistent with the objectives of clause 4.6. In particular, it will support the provision of superior amenity and will achieve better outcomes for, and from the development, that otherwise would not be achieved by a compliant development.*

3. RECOMMENDATION

Liverpool City Council supports this proposed development and recommends that the JRPP grants approval to this development application subject to the recommended conditions of consent provided with the original report.

Attachments

- **Attachment 1: Revised Clause 4.6 Statement: Floor Space Ratio**
- **Attachment 2: Legal Advice prepared by Gadens Lawyers**