

## Request to vary Height of Buildings development standard under Clause 4.6 of LLEP2008

---

### 1 Height of Buildings development standard under Clause 4.3 of LLEP2008

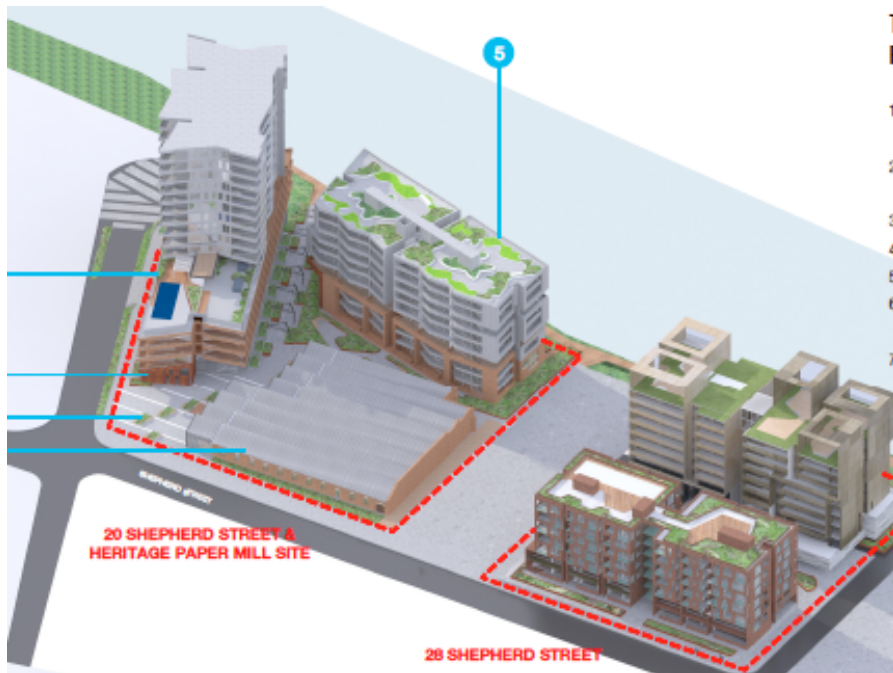
The 'Heights of Buildings Map' (Sheet HOB\_0012) identifies a maximum building heights for the site as 24m, as shown in Figure 1 below.



**Figure 1: Height of Buildings Map**  
Source: Liverpool Council

The subject development has two buildings (A and B), with the tower element achieving a maximum height of 53.27m.

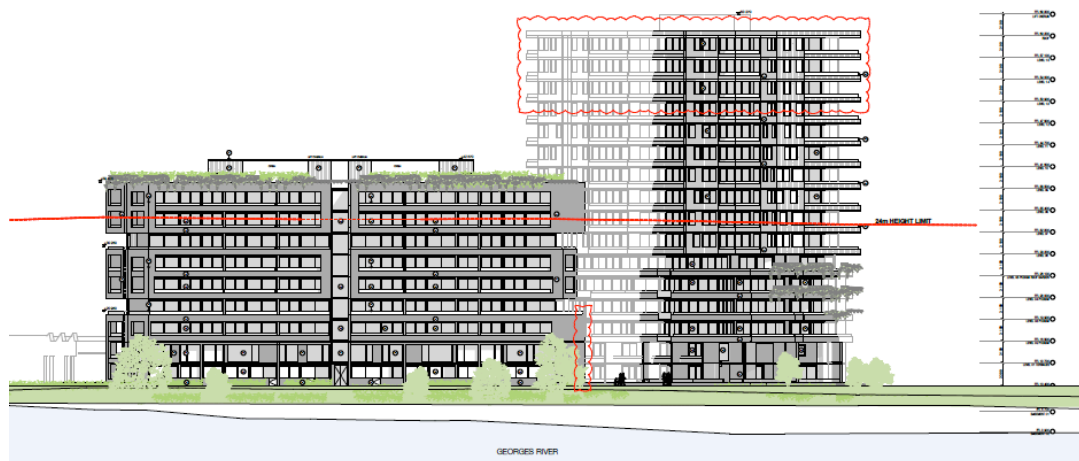
Figure 2 below provides a high-level render of the proposed development within context of the development under assessment at 20 Shepherd Street.



**Figure 2 – Render of proposed developments at 20 and 28 Shepherd Street.**  
Source: Woods Bagot

The design of the buildings has been deliberately intended to 'step' from the lower massing of the Heritage Mill Building along Shepherd Street to the tower element adjacent the riverfront along Atkinson Street.

Figure 3 below shows the extent of the height non-compliance of the proposed development.



**Figure 3 – Proposed development from Georges River (red line indicates height control)**  
Source: Woods Bagot

## 2 Clause 4.6 of LLEP 2008

Clause 4.6 of the LLEP 2008 enables an exception to the height standard upon consideration of a written request from the applicant justifying the contravention in the terms stated below:

### **Clause 4.6 Exceptions to development standards**

- (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.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (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, and
  - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

## 3 Request to vary under Clause 4.6

This section provides a written request for an exception to the height standard under Clause 4.6 of the Liverpool LEP 2008. The matters specified in Clause 4.6 of Liverpool LEP



2008 that are required to be addressed in the proposed contravention to the LEP height limit are addressed below.

### **There are sufficient environmental planning grounds**

There are sufficient environmental planning grounds for the contravention to the height standard as follows.

The site is subject to multiple environmental constraints including a Vegetated Riparian Zone and Foreshore Building Line setback of over 15m from the rear of the site due to its proximity to the Georges River. A significant portion of the site is covered by the Heritage Mill Building, which restricts development potential across this portion of the site. Accordingly, to achieve the maximum gross floor area whilst providing a good design outcome for the heritage building results in a non-compliance with the maximum height control. These environmental constraints have meant that in order to achieve the floor space ratio in accordance with Clause 4.4 of the LEP, as well as objective a) of Clause 4.3 of the LEP (Height of Buildings), the development needs to exceed the height control for the non-heritage buildings.

The development has been deliberately designed to provide a positive environmental benefit. Rather than distributing the floor space across the site in a way that creates additional bulk throughout, the majority of the height non-compliance is consolidated in the 16-storey tower at the northeast corner of the site. This results in a good urban design outcome that does not compromise the quality of the streetscape and public domain and also has an acceptable level of impact on the surrounding area.

The proposal results in a public benefit by opening up a public plaza at the north-west corner of the site, allowing the community to interact with the Heritage Mills building through future shop/retail uses. The proposal will not result in any adverse environmental impacts such as unacceptable overshadowing or privacy, and is considered to provide a superior design outcome compared to a complying scheme which would result in the distribution of floor space across lower buildings with large floor plates, presenting poorly to the streets and public domain.

The proposed development maximises connections between the river and Shepherd Street by allowing an opening between Buildings A and B so that the presence of the river can be felt across the site, including from Shepherd Street, promoting Liverpool as a true river city.

Importantly, the design of the site has been developed to align with the overall masterplanning for the Shepherd Street Precinct, which the applicant is engaging concurrently with Council to provide significant public and environmental benefits across the entire precinct. The overall masterplanning for the precinct will allow for new public domain, roads and riverfront improvements to align with Council's vision for a river city.

### **The development will be in the public interest because it is consistent with the objectives of the standard and objectives for development in the zone**

#### **Objectives of the height standard**

The relevant objectives for height contained in Clause 4.3 of LEP are as follows:

- 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 proposed development is consistent with the above objectives of the height standard:

- The proposal maximises the development potential for the site in relation to floor space ratio, in a manner that is characteristic of the high quality and dense apartment living style of development sought for a regional centre such as Liverpool. Importantly the additional height ensures that the floor space can be achieved for the site in accordance with objective (a), while protecting the significant of the Heritage Mill Building and Vegetated Riparian Zone.
- The proposed building heights will encourage high quality urban form with the larger massing adjacent to the Georges River with significant architectural variation to take advantage of the unique riverside setting and providing improved residential amenity through significant views and outlook;
- The larger building heights adjacent the river will improve the solar access of the development and will substantially increase the exposure to sky and sunlight for the dwellings within the development. The riverfront setting allows the dwellings facing the river to have substantial access to sky and sunlight as they are not restricted by other development in close proximity; and
- The proposed building heights provide an appropriate transition with lower height buildings stepping up from the Heritage Mill Building on Shepherd Street to a taller massing adjacent the river to take advantage of the benefits of riverfront access.

### **Objectives of the zone**

The objectives of the R4 High Density Residential Zone are 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.*

The proposal is consistent with the objectives of the R4 High Density Residential zone for the following reasons:

- The proposed development will make a substantial contribution towards the housing needs of the community by providing 250 new residential dwellings at appropriate prices within a high density residential environment with significant communal infrastructure on site;
- The development provides a variety of housing types including 1,2 and 3-bedroom units and townhouse style dwellings;
- The development of new residential dwellings will encourage the provision of other land uses such as local shops and retail to provide facilities and services to meet the day-to-day needs of residents;
- The adaptive reuse of the Heritage Mills Building will provide for local non-residential uses to support and revitalise the surrounding area;
- The proposed development has good access to transport including Liverpool and Casula Train stations and local pedestrian, cycling and bus routes; and



- The proposed development prevents the fragmentation of the site to prevent the achievement of high density residential development.

### **Any matters of significance for State or regional environmental planning**

The contravention of the height standard does not raise any matter of State or regional planning significance.

### **The public benefit of maintaining the height standard**

In the circumstances, there is no significant benefit in maintaining the height standard as the contravention of the height standard facilitates the following public benefits:

- Ability to achieve the FSR in accordance with Clause 4.4 of the LEP and Objective a) of Clause 4.3 of the LEP. This enables additional high-quality residential dwellings within a high-density residential development;
- Redevelopment that facilitates the conservation of the Heritage Mills building and allows for the provision of a publicly accessible plaza, enhancing amenity for the community in this part of Liverpool City Centre;
- Improved residential amenity to the development including improved access to sky and sunlight and improved views and outlook;
- Improved transition and massing from Shepherd Street to the riverfront and associated setbacks;
- High quality architectural design that complements the significance of the Heritage Mill Building and provides good quality residential accommodation within the Liverpool City Centre;
- Alignment of the proposal with the overall masterplanning approach being undertaken for the precinct concurrently that will provide significant public and environmental benefits; and
- Better site layout with respect to building setbacks and site coverage.

### **Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

- There are sufficient environmental planning grounds to justify the contravention to the height standard as demonstrated below;
- The proposed development is nevertheless consistent with the objectives of the height standard and R4 High Density Residential Zone as described above;
- The contravention of the height standard does not raise any matter of State or regional planning significance; and
- There is no public benefit in maintaining the standard in the circumstances of the case as explained below.

### **Conclusion to exception to height standard**

This written request for an exception to the height standard under Clause 4.6 of the Liverpool LEP 2008 justifies the contravention to the height standard in the terms required under clause 4.6 of the LEP, and in particular demonstrates that the proposal provides a significantly better planning outcome with no significant adverse environmental impacts, and therefore the proposed variation to the height development standard meets the requirements of Clause 4.6 of the LEP2008.

