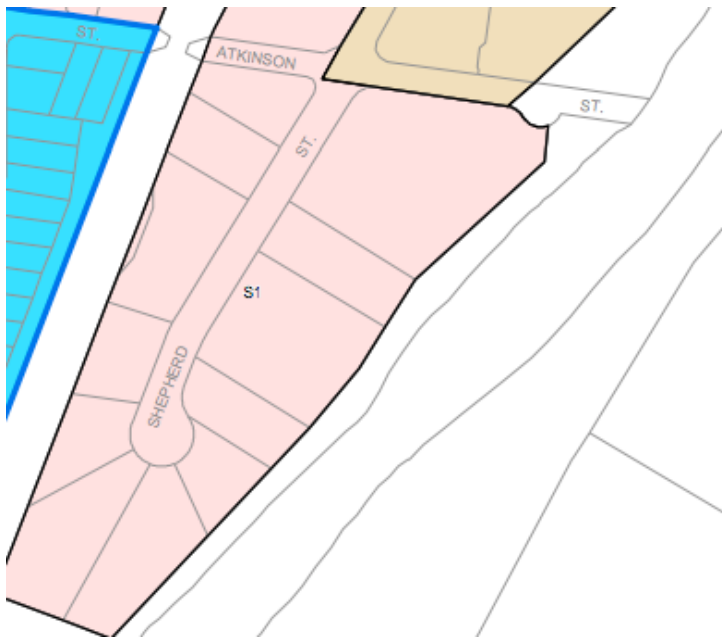


## Request to vary FSR development standard under Clause 4.6 of LLEP2008

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### 1 Floor Space Ratio development standard under Clause 4.4 of LLEP2008

The 'Floor Space Ratio Map' (Sheet FSR\_0012) identifies a maximum FSR for the site as 2.5:1m, as shown in Figure 1 below.



**Figure 1: FSR Map**  
**Source: Liverpool Council**

The subject development was originally submitted with a complying FSR of 2.5:1. However, as part of recent discussions with Liverpool Council Officers on 13 July 2015, minor modifications were required to the gross floor area (GFA) in order to provide an improved public domain within the site and connection to the riverfront. As a result the amended scheme has a slight increase in FSR to 2.56:1.

Figure 2 below provides an overview of the slight envelope modifications and improved connection to the riverfront that resulted in the additional GFA.



**Figure 2 – Amended Ground Floor Layout**  
Source: Woods Bagot

In consultation with Council officers, the design of Building B was amended at the lower 3 floors adjacent the connection to the riverfront. This was done to provide a clearer connection from the public plaza to the waterfront that had an appropriate edge and was adequately perceived as public space. The amended design results in an additional 0.06:1 FSR, which is a 2.5% increase of GFA across the site.

## 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 FSR standard as follows. The proposed variation to the FSR control is minor and results in a small 2.5% increase to total GFA across the site. The variation has occurred in order to achieve a better environmental design outcome for the site by providing a strong connection from the public plaza to the riverfront with an appropriate edge framing the walkway and improved building envelope layouts.

The small increase in GFA as a result of this re-design does not create any additional environmental or amenity impacts such as overshadowing, privacy or loss of necessary private or communal open space.

The development has been deliberately designed to provide a positive environmental benefit. Rather than distributing the floor space evenly across the site, the majority of massing is consolidated in the 16-storey tower at the northeast corner of the site, resulting 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, 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 environmental benefits across the entire precinct.

**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 FSR standard**

The relevant objectives for FSR contained in Clause 4.4 of LLEP 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 proposed development is consistent with the above objectives of the FSR standard:

- The increase in FSR is minor and constitutes only an additional 2.5% of GFA across the entire development site. The proposed additional GFA will have a negligible impact on the intensity of the land use with respect to generation of vehicle or pedestrian traffic. The site is well-located in proximity to infrastructure including the City Centre and transport interchanges;
- The additional GFA will not create any major modifications to the existing built form and density and will not create any adverse environmental effects. In contrast, the amended building envelope for Building B will provide a stronger edge adjacent the public connection to the riverfront that will improve the local environment;
- The proposed development will maintain an appropriate visual relationship between new development and the existing Heritage Mill Building; and
- The proposed development, as amended, facilitates design excellence by ensuring that the amended building envelope has generous space for articulation and modulation and provides a strong edge to the riverfront.



### **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 FSR standard**

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

- Improved building layout and massing to provide a strong visual and physical connection from the public plaza to the riverfront between Buildings A and B;
- Improved transition and massing from Shepherd Street to the riverfront and associated setbacks;
- High quality architectural design to provide good quality residential accommodation within the Liverpool City Centre; 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 FSR standard as demonstrated below;
- The proposed development is nevertheless consistent with the objectives of the FSR standard and R4 High Density Residential Zone as described above;
- The contravention of the FSR 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 above.

### **Conclusion to exception to FSR standard**

This written request for an exception to the FSR standard under Clause 4.6 of the Liverpool LEP 2008 justifies the contravention to the FSR 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 FSR development standard meets the requirements of Clause 4.6 of the LLEP2008.

