

**JOINT REGIONAL PLANNING PANEL
(Sydney West)**

JRPP No	2016SYW024
DA Number	DA-1066/2015
Local Government Area	Liverpool City Council
Proposed Development	Demolition of existing buildings, excavation works and construction of a 9-23 storey high mixed-use building comprising 3 levels of basement car park, with ground floor comprising 6 commercial tenancies and residential lobby and 162 residential units above.
Street Address	LOT 100 DP 861369 No. 387 MACQUARIE STREET, LIVERPOOL NSW 2170
Applicant/Owner	PRESWAND PTY LTD
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	The Capital Investment Value of the development is over \$20 million (\$46,561,000)
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development. • State Environmental Planning Policy No.55 – Remediation of Land. • State Environmental Planning Policy (State and Regional Development) 2011. • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. • State Environmental Planning Policy (Infrastructure) 2007. • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment. • Liverpool Local Environmental Plan 2008 <ul style="list-style-type: none"> - Part 1 – General Controls for all Development. - Part 4 – Development in the Liverpool City Centre. • Draft City Centre LEP Amendment No.52.
Does the DA require Special Infrastructure Contributions conditions (s94EF)?	The proposal is not subject to a Special Infrastructure Contributions (SIC) condition.

List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Recommended conditions of consent • Architectural Plans • Landscape Plans • Schedule of Finishes • SEPP 65 - Design Quality Principles • ADG - Compliance Table • Design Review Panel (DEP) Comments • Applicant's Response to DEP Comments • Statement of Environmental Effects • Acoustic Report • Traffic and Parking Report • Stormwater Management Plan • Stormwater Concept Drawings
Recommendation	Approval (Subject to Conditions)
Report by	Brad Harris, Senior Development Planner
Report date	24 June 2016
Meeting Date	Electronic Determination

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

The Sydney West Joint Regional Planning Panel is the determining body as the Capital Investment Value (CIV) of the development is over \$20 million, pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979. The CIV is \$46,561,000.

1.2 The proposal

The application seeks consent for demolition of existing buildings and structures, excavation works and construction of a 9-23 storey high mixed-use building comprising three levels of basement car park, with the ground floor comprising six commercial tenancies and a residential lobby and 162 residential units above.



Figure 1: Artists Impression of Proposed Development

1.3 The site

The subject site is identified as Lot 100 in DP861369, and is known as 387 Macquarie Street, Liverpool.

1.4 The issues

The primary issues identified in relation to the proposal are minor variations to the Liverpool City Centre Development Control Plan relating to setbacks as detailed in Section 5 of this report.

1.5 Exhibition of the proposal

The application was exhibited for a period of 14 days from 19 January to 1 February 2016 to all properties within 75m of the site. No submissions were received.

1.6 Briefing Meeting with JRPP

A briefing meeting was held with the JRPP on 10 February 2016. The Panel noted that the application would need to provide full justification to the proposed non-compliance with the FSR provisions of LLEP 2008. It should be also noted that following consideration of the proposal by Council's Design Excellence Panel the applicant agreed to reduce floor space to comply with the FSR development standard.

1.7 Conclusion

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 (EP&A Act) 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 of significant scale and although inconsistent with the scale and character of existing immediate surrounding developments, it will make a positive contribution to the changing face of Liverpool as it further evolves into a major centre within western Sydney. Considered in terms of the context of the expected growth of the Liverpool City Centre, the proposed building is considered an appropriate form of development for the site. It is considered a reasonably high quality building and will contribute to establishing a benchmark for future development in the City Centre. It is further noted that there are development approvals for development of a similar scale within the immediate vicinity of the site, with one substantial development under construction south of the site at 420 Macquarie Street, Liverpool.

It is worth noting that the subject site is within an area identified as an 'Eat Street' as part of Council's proposal to activate the southern part of the Liverpool City Centre. The proposed mixed-use development is considered to be consistent with Council's 'Eat Street' vision.

Further, the proposed development is considered to substantially comply with the relevant planning controls and will have minimal environmental impacts. Accordingly, it is recommended for approval subject to recommended conditions of consent.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The subject site is known as 387 Macquarie Street, Liverpool and is located on the corner of Macquarie and Castlereagh Streets and Norfolk Serviceway. The site is legally described as Lot 100 in DP861369.

The site is regular in shape and has frontages to the following streets:

- Macquarie Street to the south east;
- Castlereagh Street to the north east;
- Norfolk Serviceway to the north west.

The site has a frontage of 49.05m to Macquarie Street, 42.44m to Castlereagh Street and 49.445m to Norfolk Serviceway and 45.13m to the adjoining property to the southwest known as 405 Macquarie Street. The site area is 2,391m².

The site is currently occupied by a two storey building comprising three commercial tenancies. An 'at grade' customer car parking area is located in front of the existing building with vehicular access from Castlereagh Street.

Two additional service entries are located at the rear off Norfolk Serviceway.

With the exception of the at grade car parking area, the existing building has a nil setback to Macquarie Street, Castlereagh Street and Norfolk Serviceway.

An aerial photograph of the site is shown in Figure 2 below.

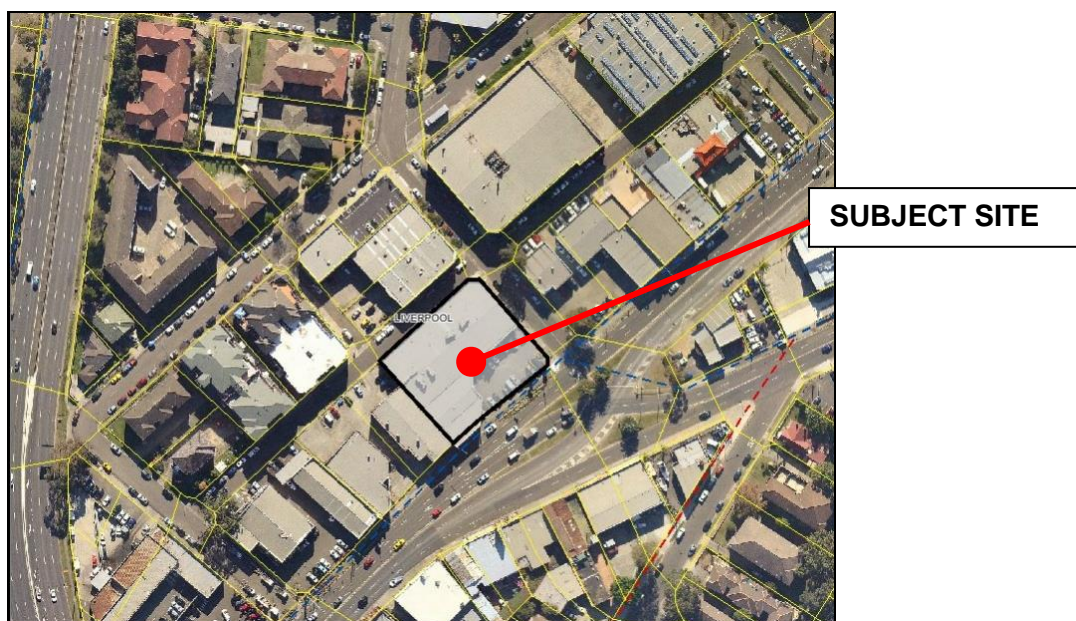


Figure 2 - Aerial Photo showing subject site

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.

Three automotive repair tenancies are located to the east of the site. To the south of the site, on the opposite side of Macquarie Street are various one and two storey commercial tenancies, which have been built up to the street boundary.

Immediately to the west of the site is a part one, part two storey commercial building occupied by a bike shop fronting Macquarie Street. This building is built to the shared boundary with the subject site.

Immediately to the north of the site at 100 Castlereagh Street, is the former Tenpin Bowling Centre. This site has a current approval for a 25 storey mixed-use development comprising two towers containing a total of 257 residential apartments (DA-459/2006). The development has been physically commenced and there is currently a modification application with Council for determination which seeks approval for an additional 41 residential apartments within the development. Below are plans showing the approved development and the proposed additional height being sought under the current modification application.

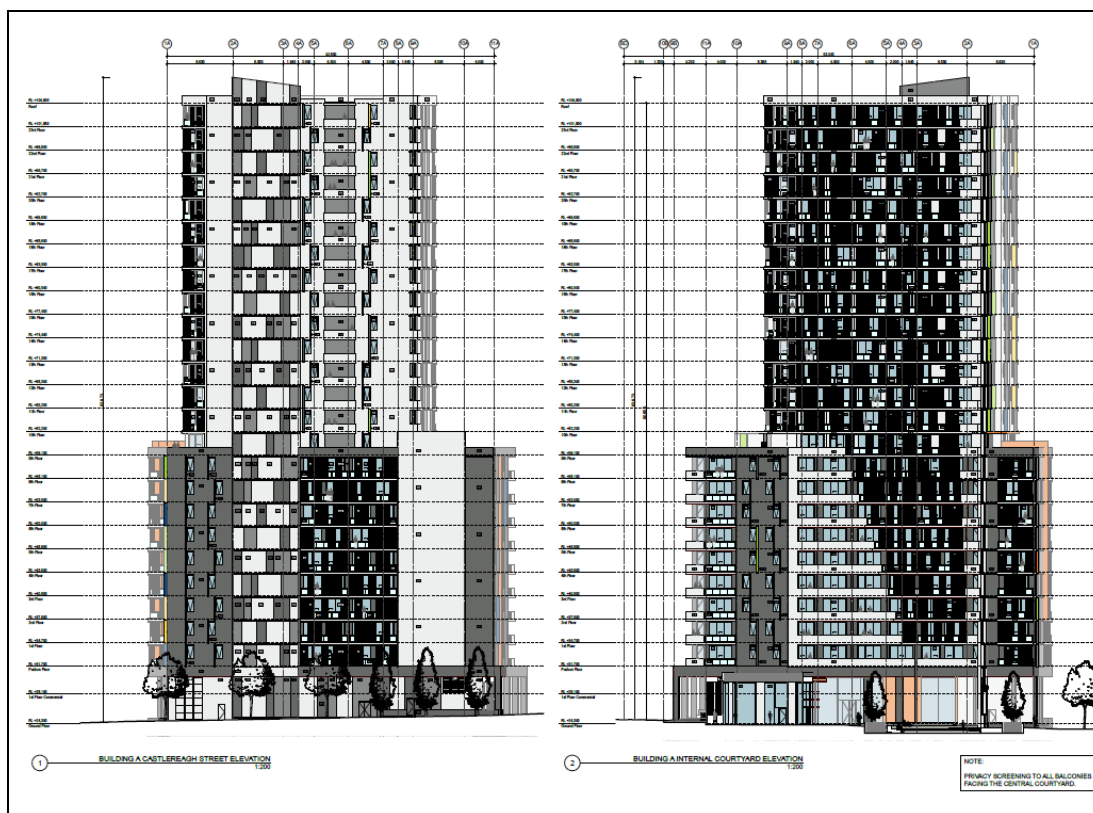


Figure 3 - Approved Development at 100 Castlereagh Street



Figure 4 - Artist's Impression showing additional height proposed by current modification application for 100 Castlereagh Street.



Figure 5: View of the site looking west from Macquarie Street



Figure 6: View of the site looking northeast along Macquarie Street towards the Liverpool City Centre



Figure 7: View of the rear of the site looking east towards Norfolk Serviceway



Figure 8: Photos showing surrounding development in Macquarie Street

In Figure 8 above, the bottom right photo shows the construction of a 30 storey mixed-use and residential flat building approved by the JRPP (2014SYW125 / DA-578/2014). The building proposed under the current application is of a similar style and scale as that development. An artist's impression of the development under construction at 420 Macquarie Street is provided below (Figure 9).



Figure 9: 30 Storey Mixed Use Development at 420 Macquarie Street Liverpool

2.3 Site affectations

The subject site is not affected by any constraints that would affect the proposed development.

3. DETAILS OF THE PROPOSAL

The proposal, as amended on 13 April 2016, seeks consent for:

- Demolition of the existing buildings and structures on the site and excavation to form a three level basement carpark.
- Construction of a mixed-use development, comprising:
 - Three basement levels to accommodate 15 bicycle spaces, 202 car spaces (including 17 accessible), 4 service/car wash bays, residential storage and plant equipment;

- A ground floor comprising six commercial tenancies, a lobby associated with the residential component, dedicated loading dock, plant rooms and storage facilities;
- Landscaping and public domain works including the provision of new landscaping, street trees and paving to the street frontages;
- A residential tower of 9-23 storeys in height, comprising a total of 162 apartments being 37 x one bedroom, 115 x two bedroom and 10 x three bedroom units;
- Communal open space comprising a landscaped areas on Level 1, 4, 9 and 11, a swimming pool with open space on Level 2 and a rooftop garden; and
- Removal of redundant crossovers to Norfolk Serviceway and Castlereagh Street and construction a new vehicle crossovers on Norfolk Serviceway to provide access to the basement car parking area and service/loading dock.

4. BACKGROUND

4.1 Issues Identified in Initial Assessment

The initial assessment of the proposal indicated that the development exceeded the allowable floor space ratio development standard under Clause 4.4 of the Liverpool Local Environmental Plan 2008. This issue was discussed at the JRPP Briefing meeting held on 10 February 2016 where it was indicated that the applicant would need to provide valid justification for varying the FSR standard. This issue was subsequently raised by Council's Design Excellence Panel at its meeting on 25 February 2016 where the applicant agreed to amend the plans to reduce the proposed FSR by reducing building height adjacent to the courtyard to increase solar access and improve amenity. Amended plans were lodged on 13 April 2016 and the proposal now complies with the FSR development standard.

4.2 History

a) Pre-DA meetings

A Pre-DA meeting was held for the proposed development on 23 June 2015.

b) DA Lodgement

The Development Application was lodged on 2 November 2015.

4.3 Design Excellence Panel Briefing

The application was considered by the Design Excellence Panel on 25 February 2016. The Panel made the following comments in respect of the proposal:

- *The height of the building around the courtyard is too great and should be reduced in height by 2-3 levels.*
- *Consider implementing this change by deleting apartments 01 – 03 on the northern wing to ensure a better proportioned courtyard.*
- *This would enable the floor space to be reduced so that it complies with the FSR*

- *The open access to the units around the courtyard should be redesigned so that there are planters adjacent to the units providing privacy and a buffer between apartment windows and passers-by.*
- *The proposal is to comply with FSR.*
- *An acoustic report is required describing necessary measures to manage the significant noise impacts along Macquarie & Terminus Streets.*
- *Consider introducing sound baffles into the underside of the floor above the balconies on these street frontages to assist in reducing the negative impacts of the sound from the traffic.*

The Panel also recommended that the applicant engage a qualified artist/architect to design and develop the proposal for the façade screening elements.

On 13 April 2016 the applicant submitted amended plans which included the following design changes:

- *Reconfiguration of the storage cages and motorcycle bays within Basement 2 and 3, resulting in the reduction of one motorcycle space;*
- *Provision of shower/change room facilities on the ground floor;*
- *Provision of planters in front of the windows facing the central courtyard on Level 1, Level 3, Level 5, and Level 7;*
- *Introduction of voids, reconfigured circulation gallery and additional planters on Level 2, Level 4 and Level 6;*
- *Removal of two levels of residential units within the northern wing, resulting in the deletion of six one-bedroom units on Levels 9 and 10;*
- *Provision of a roof terrace on Level 9;*
- *Modified feature screen above the central courtyard;*
- *Overall reduction in GFA from 14,215sqm to 13,724.33sqm, resulting in a floor space ratio (FSR) of 5.74:1; and*
- *Overall reduction in the number of units from 168 to 162, resulting in the provision of 37 one-bedroom, 115 two-bedroom and 10 three-bedroom units.*

In relation to façade screening elements the applicant advised that they are currently in the process of undertaking a detailed study that will inform the design of the façade screening elements. To allow this matter to be appropriately resolved, it is recommended that a condition of consent, requiring a plan of the façade screen be submitted for Council's consideration and approved prior to the issue of the Construction Certificate be included. This would afford the applicant the opportunity to engage an artist to progress the design of this feature screening. Council's Design Excellence Panel would have the opportunity to review the revised mesh design as part of Council's approval of the submitted plan.

Council's City Architect has advised that this approach is considered acceptable.

4.4 JRPP Briefing

The JRPP was briefed on the subject development application on 10 February 2016. The Panel was made aware of the following issues:

- The proposed development included a Clause 4.6 Variation, as the proposed development exceeded the maximum FSR that applies to the site. The maximum FSR that applies to the site is 5.74:1, the development had proposed an FSR of 5.99:1. The Panel advised that it would be necessary for the applicant to provide strong justification for the proposed variation to the FSR development standard.

Note: As discussed above, the applicant has subsequently provided amended plans which deleted two levels from the northern wing resulting in a compliant FSR of 5.74:1. The originally submitted Clause 4.6 Variation is therefore no longer relevant.

- The application was accompanied by a Clause 4.6 Variation for the building separation clause under Clause 7.4 of the LLEP 2008. Clause 7.4 of the LLEP 2008 requires a building separation of 28m for building heights above 45m on land in zone B3 Commercial Core or B4 Mixed Use.

Note: A Clause 4.6 variation is not required to address this development standard as there are no buildings on adjoining or adjacent sites above the 45m height limit that triggers the required building separation. Notwithstanding this, building separation is discussed further later in this report.

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The following Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development.
- State Environmental Planning Policy No.55 – Remediation of Land.
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- State Environmental Planning Policy (Infrastructure) 2007.
- State Environmental Planning Policy (State and Regional Development) 2011.
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.
- Liverpool Local Environmental Plan 2008.

Draft Environmental Planning Instruments

- Draft Amendment 52 (Planning Proposal) to Liverpool Local Environmental Plan 2008 in respect to B4 zoned land within Liverpool City Centre. The Draft Amendment 52 has been publicly exhibited. The proposal is not inconsistent with the Draft Amendment 52 to LLEP 2008 and is relevant to the subject site. This matter is discussed further in this report.

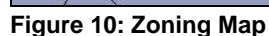
Other Plans and Policies

- Metropolitan Plan for Sydney 2031, and
- Apartment Design Guide.

- *Liverpool Development Control Plan 2008*
 - Part 1 – Controls applying to all development
 - Part 4 – Development in Liverpool City Centre

- Liverpool Contributions Plan 2007 (Liverpool City Centre) applies to all development within the Liverpool City Centre, and requires the payment of contributions equal to 3% of the cost of the development pursuant to Section 94A of the EPA & Act.

The site is zoned B4 Mixed Use pursuant to LLEP 2008 as depicted in the figure below.



6. ASSESSMENT

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

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)

The proposal seeks to construct a 9-23 storey high mixed use development including residential apartments (shop-top housing) and therefore provisions of SEPP 65 apply to the proposal because the proposal is greater than 3 storeys in height and contains more than 4 residential apartments.

SEPP 65 requires:

- A design verification from a qualified designer, verifying he/she completed the design of the residential apartment development, and that the design quality principles set out in Part 4 of SEPP 65 — Design Quality of Residential Apartment Development are achieved; and
- In determining a development application for consent to carry out residential apartment development, the consent authority is to take into consideration the publication Apartment Design Guidelines.

The application is accompanied by a 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 and a Compliance Table in relation to the provisions of the Apartment Design Guide. These are attached to this report.

The response to the Design Quality Principles demonstrates that the proposed development achieves the design quality principles set out in Schedule 1 of SEPP 65 - Design Quality of Residential Apartment Development and that the proposed development is unlikely to prevent adjoining sites from similarly re-developed in accordance with the LLEP and LDCP.

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.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The objectives of SEPP 55 are:

- *to provide for a state wide planning approach to the remediation of contaminated land.*
- *to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

Pursuant to the above SEPP, Council must consider:

- whether the land is contaminated.
- if the land is contaminated, whether it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the proposed use.

The current use of the site is commercial/retail and the site comprises hard surface only. There is no evidence of past uses on the site which might result in land contamination. Council's Environmental Health Section is satisfied that a contaminated land report is not

required with respect to the provisions of SEPP 55, given that the proposal will not result in an increase in sensitivity compared to the current land use.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

The application is supported by a BASIX Certificate in accordance with the provisions of the SEPP which indicates that the required targets for water, thermal comfort and energy are met by the proposal.

State Environmental Planning Policy (Infrastructure) 2007

The proposed development constitutes a proposal specified within **Column 3** of Schedule 3 (Traffic Generating Developments) of State Environmental Planning Policy (Infrastructure) 2007 as it comprises more than 75 dwellings and is within 90m of a classified road, being Macquarie Street. In accordance with Clause 104 of SEPP (Infrastructure) 2007, the application was referred to the Roads and Maritime Services for comment.

RMS advised by letter dated 17 February 2016 that they have no objections to the proposal subject to conditions of consent.

Clause 101 of the SEPP require that the consent authority not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the development, or
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The proposed development is considered to satisfy the above criteria in that vehicular access is from the rear of the site being Norfolk Serviceway and further, Roads and Maritime Services have no objections to the proposal.

Clause 102 of the SEPP deals with noise and vibration and requires a determining authority, before granting consent to a building for residential use adjacent to a road corridor development fronting a road with an annual average daily traffic volume of more than 40,000 vehicles, 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,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.

The applicant was requested to submit an acoustic report to address the above requirements and Council's Environmental Health Officer is satisfied that the proposed development meets the requirements of the SEPP with respect to Clause 102, having regard to an assessment of the submitted acoustic report.

Clause 45(2) of Subdivision 2 of Division 5 of the SEPP relates to development likely to affect an electricity transmission or distribution network and requires that before determining a development application for development to which this clause applies, the consent authority:

- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
- (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

Council notified Endeavour Energy of the proposed development who advised that no concerns were raised with respect to the proposal. Endeavour Energy has provided its recommended conditions of consent, which have been incorporated into the draft conditions of consent.

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

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

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 development application (Clause 8 and 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 is unlikely to 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	The proposed development does not impact on any plans of management approved by the Minister.

Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments)	
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning)	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 sulphate 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.
(6) On-site sewage management	N/A
(7) River-related uses	N/A
(8) Sewer overflows	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

It is considered that the proposal satisfies the provisions of the GMREP No.2 and that, subject to site appropriate sedimentation and erosion controls during construction, the development will have minimal impact on the Georges River Catchment.

State Environmental Planning Policy (State and Regional Development) 2011

One of the aims of State Environmental Planning Policy (State and Regional Development) 2011 is to confer functions on Joint Regional Planning Panels to determine development applications. The current application is referred to the JRPP in accordance with the Policy having regard to the Capital Investment Value of the development exceeding \$20 million.

Liverpool Local Environmental Plan 2008

As stated previously, the subject site is zoned B4 Mixed Use under the Liverpool Local Environmental Plan 2008 (LLEP 2008). The proposed development is defined as “shop top housing” which is a permissible use with consent in the zone.

Zone Objectives

The objectives of the B4 Mixed Use zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To allow for residential and other accommodation in the Liverpool city centre, while maintaining active retail, business or other non-residential uses at street level.*
- *To facilitate a high standard of urban design, convenient urban living and exceptional public amenity*

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 uses.
- 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 considered to be of a high standard and provides good public amenity.

Principal Development Standards (Part 4 LLEP)

The following principal development standards are applicable to the proposal:

CLAUSE	REQUIRED	PROPOSED	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	No Subdivision proposed	N/A

CLAUSE	REQUIRED	PROPOSED	COMPLIANCE
Clause 4.3 Height of Buildings	Zone B4 - 80 metres	79.8m	Yes
Clause 4.4 Floor Space Ratio	<p>2.5:1.</p> <p>However clause 4.4(2B) provides for bonus floor space provisions for sites in the Liverpool city centre that have a site area exceeding 1,000m². The site meets the criteria and based on the applicable formula in the clause (2.5+3.5X:1 where X= Site area -1000/1500) The resultant allowable FSR is 5.74:1</p>	5.74:1	Yes

Miscellaneous Provisions (Part 5 LLEP 2008)

Clause	Comments	Compliance
Clause 5.1 Relevant Acquisition Authority	No land within the subject site is identified as requiring acquisition	N/A
Clause 5.9 Preservation of trees	No trees proposed to be removed.	N/A.
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 or in close proximity to any listed items.	N/A

Additional Local Provisions - Division 1 Liverpool City Centre provisions (Part 2 LLEP 2008)

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.	Yes, 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	Yes, 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.	N/A, 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.

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.

The 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 that have minor non-compliances with the requirements of the LDCP, but are considered acceptable,

- The residential units within the development will receive adequate solar access. The surrounding development will be impacted to an extent commensurate with the anticipated scale of development on the site.
- Extensive communal space is provided at podium levels (Levels 1, 2, 9, 11 and roof) 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 site is within a 10 minute walk to Liverpool Railway Station and thus will provide residents good access to public transport.
- 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 provides:

- (1) The objective of this clause is to ensure that adequate car parking is provided for new or extended buildings on land in the Liverpool city centre that is commensurate with the traffic likely to be generated by the development and is appropriate for the road network capacity and proposed mix of transport modes for the city centre.*
- (2) Development consent must not be granted to development on land in the Liverpool city centre that is in Zone B3 Commercial Core or B4 Mixed Use that involves the erection of a new building or an alteration to an existing building that increases the gross floor area of the building unless:*
 - (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*
 - (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.*
- (3) Despite subclause (2), development consent may be granted to a development with less or no on site car parking if the consent authority is satisfied that the provision of car parking on site is not feasible.*
- (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.*

A Traffic and Parking Report has been prepared by Colston Budd Hunt & Kafes Pty Ltd which assesses car parking against the Council's planning controls. The application includes 207 car parking spaces within 3 levels of basement. The parking provision is well in excess of the 194 spaces required by LDCP 2008 and although all spaces are provided below ground level, this is considered acceptable as the provision of parking at ground floor would limit opportunities to provide commercial tenancies at the ground floor and would have undesirable streetscape issues. It would also result in the need to provide for additional vehicular access points which would be detrimental to traffic flow in surrounding streets. Vehicular access to the basement car parks is via a combined entry/exit driveway off Norfolk Serviceway.

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.*

Comment

The above clause relates only to providing appropriate building separation between development proposal and existing buildings (and between separate towers within a development site). As there are no buildings on adjoining sites that meet the height requirement stipulated, the clause does not apply.

However as a general planning principle, the development is considered satisfactory in that the site has three street frontages which provide adequate separation to sites to the north east and south. Further, to reduce any overshadowing or privacy impacts to the adjoining site to the west (No.405 Macquarie Street) lower towers are proposed.

Assuming development on neighbouring sites occurs in accordance with the LDCP 2008 setbacks, the proposed setbacks of the subject development would result in a building separation of:

- To the east (Castlereagh Street) – 20m to the boundary of the property on the opposite side of Castlereagh Street (between 25m and 45m height) which complies with the required building separation and 26.5m above 45m height which represents a variation of 5.4%. This is on the basis that Castlereagh Street is a 15m wide street and the proposed building is setback 5m from Castlereagh Street and the east

adjoining site on the opposite side of Castlereagh Street is provided with 6.5m setback from Castlereagh Street.

- To the north (Norfolk Serviceway) – 15m to the boundary of the property on the opposite side of Norfolk Serviceway (between 25m and 45m height) which complies with the required building separation and 24.5m (above 45m height) which represents a variation of 12.5.2%. This is on the basis that Norfolk Serviceway is a 9m wide street and the proposed building is setback 6m from Norfolk Serviceway and the north adjoining site on the opposite side of Norfolk Serviceway is provided with 9.5m setback from Norfolk Serviceway.

On the basis that the northern and eastern adjoining sites are separated from the subject site by Castlereagh Street and Norfolk Serviceway, the slight reduction of building separation above the 45m height limit by the proposal is not considered to be unreasonable and are unlikely to result in an unsatisfactory impacts on the development potential of the adjoining sites.

Impacts are reduced to the site to the west at 405 Macquarie Street by provision of blank walls on the western elevation of the lower towers.

The lower towers which face the western boundary are setback 6m from the boundary and accordingly will achieve the required building separation between the subject development and a new building on the adjoining site to the west.

Clause 7.5 – Design Excellence in Liverpool City Centre

- (1) *The objective of this clause is to deliver the highest standard of architectural and urban design.*
- (2) *Development consent must not be granted to development involving the construction of a new building or external alterations to an existing building in the Liverpool city centre unless the consent authority considers that the development exhibits design excellence.*
- (3) *In considering whether development exhibits design excellence, the consent authority must have regard to the following matters:*
 - (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
 - (b) *whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*
 - (c) *whether the proposed development detrimentally impacts on view corridors,*
 - (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),*
 - (e) *any relevant requirements of applicable development control plans,*
 - (f) *how the proposed development addresses the following matters:*
 - (i) *the suitability of the site for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and 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,

(v) bulk, massing and modulation of buildings,

(vi) street frontage heights,

(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,

(viii) the achievement of the principles of ecologically sustainable development,

(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,

(x) the impact on, and any proposed improvements to, the public domain.

Comment

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 application was considered by the Design Excellence Panel on 25 February 2016.

The Panel noted the significant scale of this development proposal, and its potential as a catalyst for redevelopment in the Liverpool City Centre and were generally supportive of the design. However, some design changes were suggested including the need to resolve the proposed mesh screening elements proposed around the base of the building and above the courtyard between the two smaller tower buildings. These changes were to achieve the necessary reduction in floor space to comply with the FSR development standard.

The applicant has subsequently made design changes to comply with the applicable FSR of 5.74:1. The reduction in floor space was achieved by lowering the height of the northernmost small tower by 2 levels, which has had the added benefit of improving solar access to the southernmost small tower and the common open space courtyard between these two towers.

The matter of the design of the proposed mesh screening element remains outstanding, however Council's City Architect has advised that this can be resolved prior to release of a Construction Certificate. It is intended to impose a condition of consent requiring the applicant to present a revised design for the screening element for approval by the Design Excellence Panel prior to the issue of a Construction Certificate

The application does not require an architectural design competition as the site is not identified as a 'key site' in Council's LEP.

Additional local provisions – Division 2 Other Provisions (Part 7 LLEP 2008)

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
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
Clause 7.17 – Development in flight paths	Development in the Bankstown Airport flight path	Yes, see commentary
Clause 7.31 – Earthworks	No earthworks proposed other than those ancillary to the development being excavation for the proposed basement	N/A

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 approximately 145m AHD and is shown in Figure 11 below. The maximum height of the buildings on the site is RL 106m AHD. Therefore, there is no intrusion into the obstacle height limit.

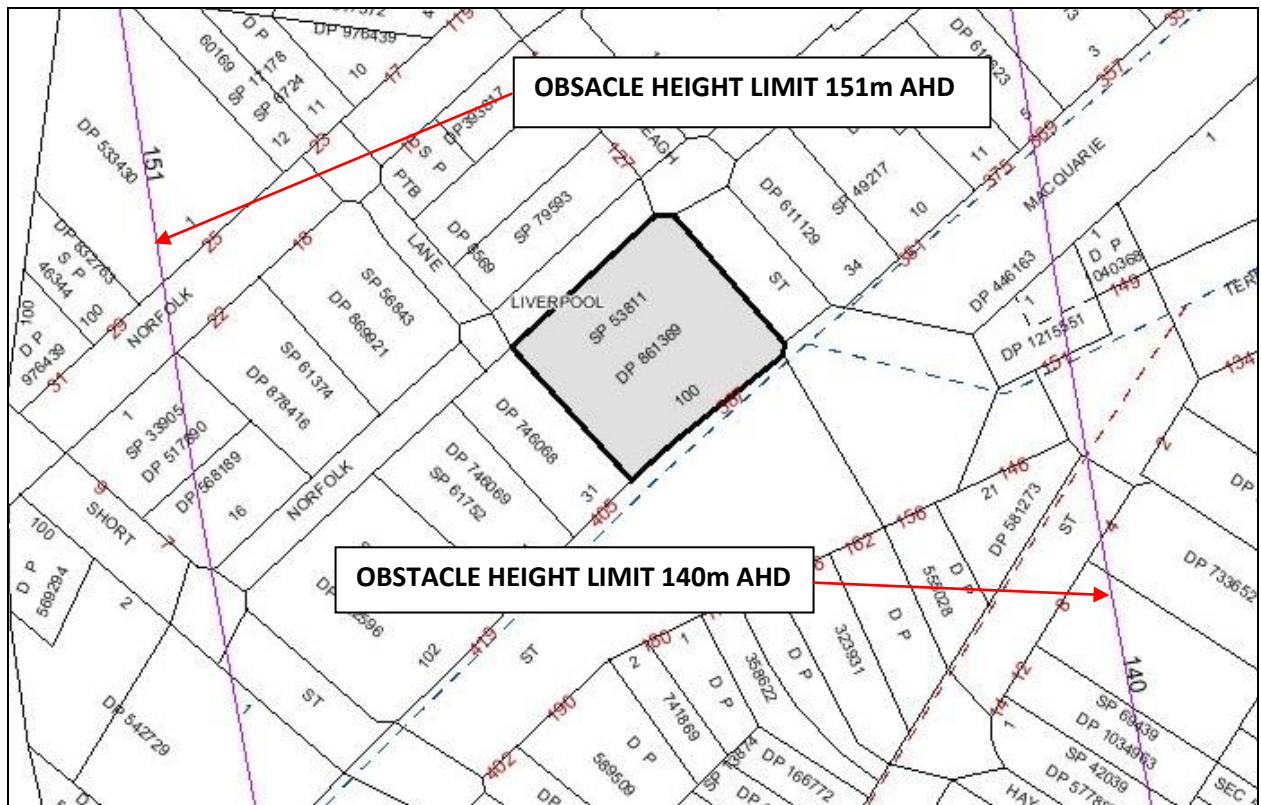


Figure 11: Obstacle Height Limit map

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 the Commonwealth Department of Infrastructure and Regional Development (DIRD) 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'). It was also referred to Bankstown Airport Limited (BAL) for comment. DIRD advised they had no concerns with the proposal and BAL advised that at a maximum height of 106 meters AHD the proposed development will not penetrate the Prescribed Airspace for Bankstown Airport.

The proposed development is considered satisfactory in respect to Clause 7.17 of LLEP 2008.

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

Draft Amendment 52 (Planning Proposal) to Liverpool Local Environmental Plan 2008 seeks to rezone certain land within the Liverpool City Centre from Zone B3 - Commercial Core to B4 - Mixed-use and to modify development standards applying to a number of lots currently zoned B4 - Mixed-use.

The proposed amended development standards will have a base FSR of 3:1 and a height of 28m with a potential to upscale to an FSR of 10:1 with no height limit should certain criteria for the site be met. The criteria includes having a minimum site areas of 1,500m², dual street frontages and ensuring the development provides a public benefit i.e public parking and open space. It is noted the current controls relating to the B4 Zoned land allow a maximum building height of 80m but permit a FSR of only 2.5:1, making the building height unachievable without significant amalgamation.

The Draft Amendment 52 has been publicly exhibited and has received gateway approval from the Department of Planning & Environment.

The proposed development is not inconsistent with the intent of Draft Amendment 52 to the LLEP 2008.

6.3 Section 79C(1)(a)(iii) - Provisions of any Development Control Plan

Part 1 - General Controls for all Development and Part 4 - Development in The Liverpool City Centre of the Development Control Plan apply to the proposed development and prescribe standards and criteria relevant to the proposal.

The following compliance table outlines compliance with these controls.

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
CONTROLS	PROVIDED	COMPLIES
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. BUSHFIRE RISK	The site is not identified on Council's 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

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
9. FLOODING RISK	The site is not identified as flood affected	N/A
10. CONTAMINATION LAND RISK	There is no evidence to suggest that the site is contaminated.	N/A
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 undertaken. An advisory note has been added to the conditions of consent drawing the applicant's 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
14. DEMOLITION OF EXISTING DEVELOPMENT	The existing building on the site is proposed to be demolished as part of this development application. A Waste Management Plan has been submitted and appropriate conditions imposed.	Yes
15. ON-SITE SEWERAGE DISPOSAL	Connection to Sydney Water Sewer	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 and no submissions received.	Yes
20. CAR PARKING & ACCESS	A total of 207 parking spaces are provided. Council's Traffic Engineer has reviewed the proposal and notes that sufficient parking has been provided for the proposed development.	Yes
22. WATER CONSERVATION	A BASIX certificate has been provided.	Yes
23. ENERGY CONSERVATION	A BASIX certificate has been provided.	Yes

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
25. WASTE DISPOSAL AND RE-USE FACILITIES	Conditions of consent are proposed for provision of a detailed construction waste management plan prior to issue of a Construction Certificate and an Ongoing Waste Management Plan prior to Occupation Certificate.	No (see discussion below)
26. OUTDOOR ADVERTISING	No advertising structures are proposed as part of the subject application.	N/A
27 SOCIAL IMPACT ASSESSMENT	<p>The DCP requires a comprehensive Social Impact Assessment for Residential Apartment Buildings comprising more than 100 units. However, Council resolved at its meeting on 16 December 2015 to adopt the recommendation of the Planning & Development Committee to increase the threshold for such assessments to developments over 250 apartments. Accordingly a Social Impact Assessment is not required.</p> <p>Notwithstanding this, the social impacts of the development are considered to be positive as the development aligns with the objectives of the zone and will be a catalyst for future residential development in the southern areas of the Liverpool City Centre.</p>	Yes

Waste Management

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.

The applicant has provided Council's standard template which forms part of the Development Application Form and provides an overview of how construction waste, including demolition containing asbestos is to be disposed of by licensed contractors.

The details provided in relation to ongoing waste management indicate that 14 x 660 litre bins are to be provided and these will be collected twice weekly.

The plans for the proposed development indicate the following:

- A commercial garbage room on the ground level capable of accommodating 6 x 660L bins.
- A residential garbage room is provided on the ground level capable of accommodating 36 x 660L bins and a compaction system.
- A garbage chute system is proposed to provide convenient access for transportation of general waste from the residential levels to the garbage room in the basement.
- A storage area provided for the storage of bulky waste is located on the ground level having a volume of 91.5m³.

The application also indicates that a caretaker/building manager will be responsible for the management of waste. On collection day bins will be collected from the loading dock located on the site.

It is considered more appropriate that 1,100 litre rubbish bins should be investigated. To further ensure compliance with the DCP, conditions of consent are proposed to ensure detailed waste management plans (for demolition/construction and waste collection) are provided by the applicant to ensure optimal outcomes for waste collection and to minimise the impacts of garbage collection on the street kerb.

Part 4 Liverpool Development Control Plan – Development in Liverpool City Centre

Controls for Building Form

CONTROLS	COMMENT	COMPLIES
Part 2.1 – Building Form		
Street building alignment and street setbacks are to comply with Figure 3.	Figure 3 requires a 2-2.5m building setback from Macquarie Street and a nil setback to Castlereagh Street and Norfolk Serviceway.	No, see commentary below
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, Castlereagh Street and Norfolk Serviceway	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.	Figure 5 requires a street frontage height (SFH) of 16-26m (4-6 storeys) for Macquarie Street, Castlereagh Street and Norfolk Serviceway.	Partial non-compliance: Norfolk Serviceway SFH = 16m Macquarie St - SFH = 35m Castlereagh Street SFH = 21m
The maximum floor plate sizes and depth of buildings are specified and illustrated in Figure 6 and Table 1.	Maximum GFA per floor 900m ² - (commercial / retail) 700m ² (residential) Building depth (excluding balconies) 24m	Max 857m ² – complies Max 846m ² – does not comply (see commentary below) 19.5m (main tower) – complies 9.5m (smaller towers) – complies

Floor Plate Size

The Objectives of the clause are as follows:

- a) To promote the design and development of sustainable buildings.*
- b) To achieve the development of living and working environments with good internal amenity and minimise the need for artificial heating, cooling and lighting.*
- c) To provide viable and useable commercial floor space.*
- d) To achieve useable and pleasant streets and public domain at ground level by controlling the size of upper level floor plates of buildings.*
- e) To reduce the apparent bulk and scale of buildings by breaking up expanses of building wall with building separation, modulation of form and articulation of facades.*

As seen from the above Table, the maximum GFA permitted for the residential floors exceeds the DCP requirement by 146m². This variation is considered acceptable as the floor space is distributed within three separate towers which meets Objective (e) by reducing the apparent bulk and scale of the building which also provides well-articulated facades. The proposal also meets the solar access, natural ventilation and privacy design criteria contained in the ADG.

Minimum setback from property boundaries – Mixed Use

The objectives of the control state:

(a) To ensure an appropriate level of amenity for building occupants in terms of daylight, outlook, view sharing, ventilation, wind mitigation, and privacy.

(b) To achieve usable and pleasant streets and public domain areas in terms of wind mitigation and daylight access.

The required setbacks for each of the street frontages of the subject site and the setback proposed by the application are shown in the below table.

STREET	SETBACK REQUIREMENT	PROPOSED	COMPLIANCE
Norfolk Serviceway	Nil	3.15m – 3.615m	Variation
Castlereagh Street	Nil	2.151m – 2.978m	Variation
Macquarie Street	2m - 2.5m	2m – 4.54m	Variation

Whilst the proposal does not comply with the requirement for a nil boundary setback to Norfolk Serviceway and Castlereagh Street frontages, the applicant has presented a case for varying this control having regard to the non-rectangular shape of the lot. The application provides for well-designed street frontages which will allow for landscaped elements and street activation and will encourage outdoor seating associated with potential ground floor café's as anticipated by Council's 'Eat Street' plan for the southern part of the Liverpool City Centre.

Norfolk Serviceway does not currently have a footpath within the road reserve and pedestrians are therefore forced to use the road. A 3.6m setback allows for the provision of a publicly accessible footpath adjacent to this frontage. The setback also provides an opportunity for landscaping to be provided at ground level which is considered to have a beneficial streetscape outcome.

The alignment of Castlereagh Street is not parallel with the proposal which contributes to the varying setback. This setback will also provide for landscaping at the frontage, and facilitate an attractive streetscape and context for the commercial development at ground level.

The proposal complies with the 2m setback requirement for Macquarie Street where it abuts the western (side) boundary. This ensures that the setback will be consistent with the future redevelopment of the neighbouring site. As indicated on the Site Plan, the alignment of Macquarie Street is not parallel with the proposal. The variation proposed will not be readily noticeable and is unlikely to compromise the envisaged streetscape character.

The proposal complies with the minimum setback requirements to the western (side) boundary and is generally consistent with the minimum setback requirements to the Norfolk Serviceway, Castlereagh Street and Macquarie Street. The setback to the boundaries generally increases at the upper levels.

Despite the minor non-compliances, the proposal is considered consistent with the underlying objectives of the control in that:

- The proposal will offer a high level of amenity to the future occupants, satisfying the solar access, natural ventilation and visual privacy design criteria contained in the ADG.
- The facades are modulated and the setback varies, which provides for visual interest and assist in dissipating downdrafts.
- The proposal will not result in unreasonable solar impacts on the public domain. The height complies with the development standard in the LLEP 2008 and the building depth and SFH is consistent with the controls in the LDCP 2008.
- The proposal incorporates a six storey podium and provides a 'webbed' structure, which will assist in mitigating downdrafts and provide for a human scale visual relationship.
- The minor variations to the setback controls are not likely to result in adverse view impacts.

Having regard to the above, the street setback variations are considered acceptable under the circumstances.

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 commercial tenancies only.	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%	The proposal occupies 96% of the site.	No (see commentary below)
Deep soil zone no less than 15% of site area	No deep soil zone provided.	No. (See commentary below)

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

Maximum Site Coverage/Deep Soil Zone

Part 4 Control 2.3(1) requires maximum site coverage of 75% in the B4 Mixed Use zone and Control 2.3(2) requires a deep soil zone of no less than 15% of the total site area.

The objectives state:

- a) *To provide an area on sites that enables soft landscaping and deep soil planting, permitting the retention and/or planting of trees that will grow to a large or medium size.*
- b) *To limit building bulk on a site and improve the amenity of developments, allowing for good daylight access, ventilation, and improved visual privacy.*
- c) *To provide passive and active recreational opportunities.*

The proposal occupies 96% of the total site area and does not provide deep soil zones, however, the applicant has stated that the proposal is consistent with the underlying objectives for the following reasons:

- *The existing development includes a minimum area of deep soil and predominantly comprises impervious surfaces such as car parking. There are no trees located on the site. The development will enhance the landscape character of the site through the provision of landscaping adjacent all three street frontages, including the provision of nine street trees.*
- *The development complies with the design criteria contained in the ADG that relate to privacy, solar access and natural ventilation and does not compromise the ability for other sites to do the same.*
- *The site has three street frontages and only one side boundary. The requirement to address all frontages with a nil to 2.5m building alignment results in near total site coverage.*
- *Residents of the development will enjoy excellent access to communal open space, with passive and active recreational opportunities provided on the many levels. The development incorporates 53% of the site area as communal open space, well in excess of the 25% required by the ADG. As demonstrated in the Landscape Plans these areas comprise a mix of ground covers, shrubs and trees.*
- *The proposal provides a generous provision of landscaped area of 487.69sqm, being any part of the site used for growing plants, grasses and trees.*
- *The proposal includes various stormwater management measures, including pollutant reduction systems.*

The applicant has also indicated that the ADG recognises that it may not be possible to provide deep soil zones on some sites, including where:

“The location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres). There is 100% site coverage or non-residential uses at ground floor level “

The arguments presented by the applicant for the non-compliances in regard to site cover and deep soils zones are considered reasonable and the proposal, notwithstanding these non-compliances is considered to provide an appropriate built form for the site with good street presentation and amenity for future residents of the building.

3. Amenity

CONTROLS	COMMENT	COMPLIES
Part 3.1 – Pedestrian Permeability		
Through site linkages	Site is not identified in Figure 11 or Figure 12 of DCP to be required to provide through site links.	N/A

CONTROLS	COMMENT	COMPLIES
Part 3.2 – Active Street Frontages		
Active street fronts are required on ground level.	Active street frontage provided to all street frontages.	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 entrance to residential apartments is provided from Castlereagh 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. The application has also been referred to NSW Police for comments who raise no objection to the development subject to recommended conditions of consent.	Yes

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.	Considered to comply

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.	Two access are provided from Norfolk Serviceway. One for the entrance to the basement car park and one from the loading dock.	No, however these access way are off a service way and is considered acceptable on merit.

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 Design Excellence Panel. A SEPP 65 design statement has been prepared.	Yes

CONTROLS	COMMENT	COMPLIES
Part 3.9 – Corner Treatments		
Building control treatments	Buildings on corner sites are to provide architectural emphasis at the corner and use of distinguishing architectural features and materials to adjacent buildings.	Complies

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, However there is scope to provide an artistic effect with the proposed mesh structure which will be reviewed by the Design Excellence panel as required by recommended conditions of consent.	Considered acceptable

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 Castlereagh 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
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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

CONTROLS	COMMENT	COMPLIES
Part 4 .2 – Vehicle Driveways and Manoeuvring Areas		
<p>Driveways should be:</p> <ul style="list-style-type: none"> - 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. 	<p>Driveways are provide from the secondary street being Norfolk Serviceway. The driveway is 25m from the corner of Norfolk Serviceway and Castlereagh Street.</p>	Yes
<p>Vehicle access is to be integrated into the building design so as to be visually recessive.</p>	<p>Vehicular access has been integrated into building design</p>	Yes
<p>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.</p>	<p>All vehicles can enter and exit the site in a forwards manner</p>	Yes
<p>Driveway widths must comply with the relevant Australian Standards.</p>	<p>Complies</p>	Yes
<p>Car space dimensions must comply with Australian Standard 2890.1.</p>	<p>Complies</p>	Yes
<p>Driveway grades, vehicular ramp width/ grades and passing bays must be in accordance with the relevant Australian Standard, (AS 2890.1).</p>	<p>Complies with applicable Australian standards</p>	Yes
<p>Access ways to underground parking should be sited to minimise noise impacts on adjacent habitable rooms, particularly bedrooms.</p>	<p>Complies</p>	Yes

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.	No parking is provided at ground level.	N/A
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
<p>Onsite parking is to be accommodated in basement parking, except to the extent provided below;</p> <ul style="list-style-type: none"> - 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.	Yes

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.	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 not been provided, however it is recommended a condition of consent be included to ensure compliance.	Will be conditioned to comply.

CONTROLS	COMMENT	COMPLIES
Part 5.4 – Wind mitigation		
A wind effects report is to be submitted	A wind effects report has not been submitted. A recommended condition of consent is included requiring that a wind tunnel test be undertaken prior to the issue of a construction certificate	Will be conditioned to comply

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 5.7 – 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

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:	The mix of apartment sizes is:	Yes
- studio and one bedroom units must not be less than 10% of the total mix of units within each development,	37 x 1 bed; 115 x 2 bed; 113 x 2 bed and 10 x 3 bed.	
- three or more bedroom units must not to be less than 10% of the total mix of units within each development,	One bedroom apartments represent 22% of the total number of apartments	Yes
An access report shall be provided.	Three bedroom apartments represent 6.17% of the total number of apartments	No
	An access report has been provided	Yes

Housing Choice Mix

Whilst the mix of three or more bedroom apartments does not achieve 10% of the overall number of apartments, the applicant has argued that the proposed unit mix has been formulated in response to local demand and is of the view that the dwelling mix is appropriate having regard to the local context. The variation is minor and the proposal is considered to provide an appropriate mix of dwelling sizes, with a generous provision of one bedroom units, in excess of the minimum 10% required by the LDCP 2008.

In the interest of housing affordability and increased housing supply, the provision of 10 three bedroom apartments is considered a beneficial outcome.

Liverpool Contributions Plan

The subject site is within the boundary of the Liverpool Contributions Plan 2007 (Liverpool City Centre) under which the applicable contribution payable is 3% of the development cost. The Contribution required is \$1,396,830.00.

6.4 Section 79C(1)(a)(iiia) - Any Planning Agreement or any Draft Planning Agreement

There are no Planning Agreements that affect the subject site.

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

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

6.6 Section 79C(1)(a (v) – Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates

The site is not within a Coastal Zone.

6.7 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 LLEP 2008 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 is considered to result in a development that will minimise impacts on adjoining properties and not restrict redevelopment opportunities for adjacent sites.

The form of development will be highly visible but this is inevitable under the existing planning controls within the City Centre. Further, an even greater density is proposed under the Draft Amendment 52 to LEP 2008 which proposes to allow an FSR of up to 10:1 on sites that satisfy certain size and locational criteria.

The building form has been revised since the development application was lodged and the revised design provides a development that is compliant with the FSR development control for the site and a better outcome in terms of a reduced height and bulk of the northern tower adjacent to the central courtyard.

(b) Parking, Access and Traffic

The site is well located and of sufficient size to accommodate the overall quantum of car spaces. The vehicular access from the rear of the site from Norfolk Serviceway is considered appropriate.

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 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 is found it to be satisfactory subject to conditions.

(c) Overshadowing

A building of the scale proposed will inevitably result in overshadowing of some properties. The orientation of the site is such that the majority of overshadowing will fall over the adjacent Macquarie Street and will have acceptable impact. The 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 tower forms are slim and the additional shadow caused by the varied height moves quickly and is considered acceptable.

(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.

(e) Design Excellence

The application is subject to the Design Excellence provisions of LLEP 2008 and has been reviewed by Council's independent Design Excellence Panel. The panel recommended a number of changes to the development as discussed above. The applicant has made modifications to the proposal which are considered to address the Panels comments, with the only issue yet to be resolved being the mesh screening element. This item is recommended to be addressed by a condition of consent which has been discussed previously in this report.

(f) Construction Impacts

Construction impacts will be managed through the implementation of a Construction Management Plan to be prepared and submitted to the Principal 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 occupied by low scale commercial development and the introduction of residential apartments will lead to a more vibrant area which will in turn encourage further commercial and retail uses and active streets.
- 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.

6.8 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.

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.

6.9 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 summary of traffic engineers comments below)
Design Excellence Panel	Recommended modifications be made to the proposal. The applicant has made these changes and these are considered satisfactory.

Traffic Engineers Comments

The residential component of the development is likely to generate the following vehicle movements:

Weekdays	Sydney Range	Sydney Average	This development
AM peak veh trip/unit	0.07-0.32	0.19	32
AM peak veh trip/bedroom	0.03-0.13	0.09	27
PM peak veh trip/unit	0.06-0.41	0.15	25
PM peak veh trip/bedroom	0.03-0.17	0.07	21
Daily veh trip/unit	0.77-3.14	1.52	255
Daily veh trip/bedroom	0.35-1.29	0.72	218

The proposed development is forecast to generate 36 to 47 vehicle trips during the peak hour for the commercial component of the development.

The submitted traffic report indicates that the development will generate approximately 40 to 50 vehicle trips per hour during commuter peak periods which is slightly higher than the forecast traffic generation from the RMS guidelines.

The local road network can accommodate the anticipated additional traffic, however the proposed development is likely to have the following traffic impacts:

- Limited on-street parking is available at the property frontage in Norfolk Serviceway, Castlereagh Street and Macquarie Street.
- The submitted plans indicate that garbage will be collected from the loading dock, off Norfolk Serviceway.
- With the expected increase in pedestrian movements along the Macquarie Street and Castlereagh Street frontages of the proposed development, the applicant will be required to upgrade the footpaths fronting the development in accordance with Council's Streetscape and Paving Guidelines for the Liverpool Town Centre.

The development has provided sufficient parking spaces required in accordance with the DCP.

The proposed development is supported on traffic grounds subject to conditions including special traffic related conditions including:

- The applicant to review parking restrictions in Norfolk Serviceway, Castlereagh Street and Macquarie Street at the property frontages and submit a sign posting and line marking plan for safe efficient operation of its driveway.

(b) External Referrals

The following comments have been received from External agencies:

External Department	Status and Comments
Roads and Maritime Services (RMS)	No objection, subject to conditions
Endeavour Energy	No objection, subject to conditions
Bankstown Airport Limited	No objection
Dept. of Infrastructure and Regional Development	No objection
Sydney Water	No objection, subject to conditions
NSW Police	No objection, subject to conditions

(c) Community Consultation

The proposal was notified in accordance with the Liverpool Development Control Plan 2008 (LDCP 2008). The notification was for a 14 day period from 19 January to 1 February 2016 and was provided to properties within 75m of the site. No submissions were received.

6.10 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 the Liverpool City Centre.

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

7 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 387 Macquarie Street, Liverpool.
- The proposal is consistent with the objectives of the B4 Mixed Use zone that is applicable to the site under the LLEP. The proposal is considered to satisfy the objective of the building separation requirements of the LEP noting also that it is compliant with the ADG building separation requirements.
- 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 Apartment Design Guide. The scale 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 Roads and Maritime Services, Bankstown Airport 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 therefore the subject application is recommended for approval, subject to conditions.

8 ATTACHMENTS

- 8.1 Recommended conditions of consent
- 8.2 Architectural Plans
- 8.3 Landscape Plans
- 8.4 Schedule of Finishes
- 8.5 SEPP 65 - Design Quality Principles
- 8.6 ADG - Compliance Table
- 8.7 Design Review Panel (DEP) Comments
- 8.8 Applicant's Response to DEP Comments
- 8.9 Statement of Environmental Effects
- 8.10 Acoustic Report
- 8.11 Traffic and Parking Report
- 8.12 Stormwater Management Plan
- 8.13 Stormwater Concept Drawings