

SYDNEY SOUTH WEST PLANNING PANEL
COUNCIL ASSESSMENT REPORT

Panel Reference	2016SYW169
DA Number	DA-767/2016
LGA	Liverpool City Council
Proposed Development	Construction of a twenty-one (21) storey mixed-use development with five (5) levels of basement for parking, storage and plant. Four (4) retail tenancies on the ground floor facing Bathurst Street, four (4) storey podium comprising two (2) commercial tenancies with a courtyard, a mezzanine and communal open space for residents and a seventeen (17) storey tower with 66 residential units.
Street Address	64 Bathurst Street and 203-209 Northumberland Street Liverpool (Part Lot 10, DP 816556)
Applicant/Owner	Stirling 203 Northumberland/Scenic NSW Pty Ltd
Date of DA lodgement	18 August 2016
Number of Submissions	Eleven (11)
Recommendation	Approval (subject to conditions)
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	The Capital Investment Value of the development is over \$20 million at the time of lodgement
List of all relevant s4.15(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 (Building Sustainability Index: BASIX) 2004; - State Environmental Planning Policy (State and Regional Development) 2011 - Greater Metropolitan Regional Environmental Plan No. 2 - Georges River Catchment; - Liverpool Local Environmental Plan 2008. <p>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii)</p> <ul style="list-style-type: none"> - N/A <p>List any relevant development control plan: s79C(1)(a)(iii)</p> <ul style="list-style-type: none"> - Liverpool Development Control Plan 2008 - Part 1 - General Controls for all Development; and - Part 4 - Liverpool City Centre. <p>List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered</p>

	<p>to enter into under section 93F: s4.15(1)(a)(iv)</p> <ul style="list-style-type: none"> - No planning agreement relates to the site or proposed development <p>List any coastal zone management plan: s4.15(1)(a)(v)</p> <ul style="list-style-type: none"> - The subject site is not within any coastal zone management plan. <p>List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288</p> <ul style="list-style-type: none"> - Consideration of the provisions of the Building Code of Australia (BCA)/National Construction Code (NCC).
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> 1. Recommended Conditions of Consent 2. Architectural Plans 3. Landscape Plans 4. Statement of Environmental Effects with Laneway Vision 5. Acoustic Report 6. Phase 1 Contamination Assessment 7. Traffic and Parking Assessment 8. Waste Management Plan 9. ADG/SEPP 65 Assessment 10. Combined DEP Minutes 11. Legal Advice for site consideration and Clause 5.3 advice 12. Letter from adjoining owner re consolidation 13. Urban Analysis Drawings 14. Urban Analysis advice
Clause 4.6 requests	Not Applicable
Summary of key submissions	<ul style="list-style-type: none"> • traffic and parking concerns • Built form/Scale • Overshadowing • Privacy • Aesthetics • Devaluation
Report prepared by	George Nehme
Report date	11 May 2020

Summary of Section 4.15 matters Have all recommendations in relation to relevant Section 4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes

Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	N/A
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.11)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	N/A
Conditions Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Yes

1. EXECUTIVE SUMMARY

1.1. Reasons for the report

The Sydney Western City Planning Panel is the determining authority as the proposed development was submitted to Council with a Capital Investment Value (CIV) in excess of \$20 million, pursuant to Schedule 4A of the Environmental Planning and Assessment Act 1979.

1.2. The Proposal

The application proposes the construction of a twenty-one (21) storey mixed-use development with five (5) levels of basement for parking, storage and plant. Four (4) retail tenancies on the ground floor facing Bathurst Street, four (4) storey podium comprising two (2) commercial tenancies with a courtyard, a mezzanine and communal open space for residents and a seventeen (17) storey tower with 66 residential units.



Figure 1. Artist impression of 64 Bathurst St, Liverpool (southern view along Bathurst St)

1.3. The site

The subject site, although physically divided by Huckstepp Serviceway is identified as one allotment, being Part Lot 10, DP 816556, 64 Bathurst Street and 203-209 Northumberland Street, Liverpool NSW 2170. The reasoning as to why the development site is considered one site, despite the physical separation is subject to legal advice provided by the applicant. The legal advice provided is discussed in detail further in this report. The physical site, fronting Bathurst Street, is identified to be the development area.

The portion of the development site subject to this application fronting Bathurst Street has a total site area of 1,331.0m² and the remaining portion of the site fronting Northumberland Street to the east has a total site area of 1,593.0m². The overall consolidated site area equates to 2,924.0m².

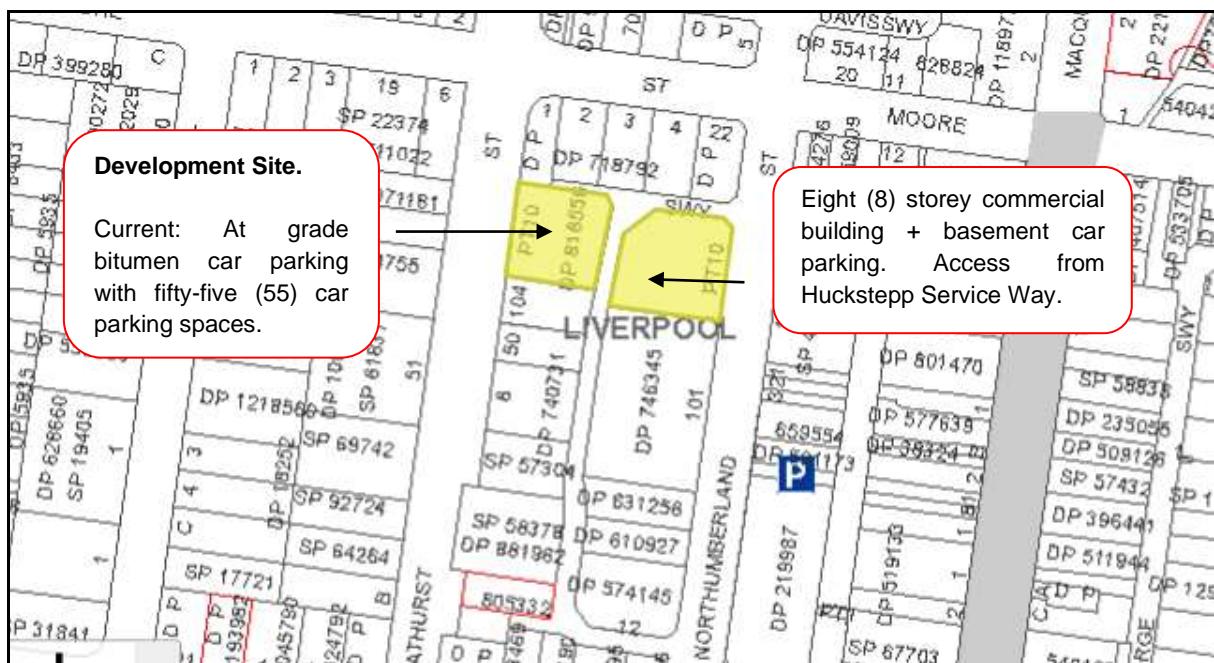


Figure 2. Locality map of 64 Bathurst St + 203-209 Northumberland St, Liverpool
(Source: Council G/S Mapping)

1.4. The issues

With the provision of additional information the proposed development has presented a design that is generally compliant with the relevant development standards and applicable planning controls. The specific issues pertaining to the proposal are:

- Is the site one allotment or two allotments;
- The site at the time of lodgement was zoned B3. The applicant has sought the provisions of LLEP 2008, clause 5.3 'Development near zone boundaries';
- Non-compliance with ADG requirements.

1.5. Exhibition of the proposal

The development application was notified between the 8 September 2016 and the 23 September 2016, in accordance with Council's Notification and Advertising Policy, contained in Liverpool Development Control Plan 2008.

The Development Application was renotified from the 29 September 2016 to 14 October 2016. Accordingly, there were eleven (11) submissions received in relation to the proposal.

1.6. Conclusion

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act (EP&AA) 1979. Based on the assessment of the application it is recommended that the application be approved.

2. SITE DESCRIPTION AND LOCALITY

2.1. The site

The subject site, is identified as Part Lot 10, DP 816556, 64 Bathurst Street and 203-209 Northumberland Street, Liverpool NSW 2170. The physical site, fronting Bathurst Street to the west, is identified to be the development area 'the site' and has a total site area of 1,331.0m², the remaining portion of the site fronting Northumberland Street to the east has a total site area of 1,593.0m². The overall consolidated site area equates to 2,924.0m².

The site is located on the eastern side of Bathurst Street, between Moore Street to the north and Memorial Avenue to the south.

The development site has a frontage of 36.56 metres to Bathurst Street, a northern side boundary of 35.135 metres, a southern side boundary of 34.94 metres and a 33.7 metre boundary to Huckstepp Service Way.

The site currently contains the following:

Address	Use
64 Bathurst Street, Liverpool (i.e. development site)	At grade bitumen car parking with fifty-five (55) car parking spaces.
203-209 Northumberland Street, Liverpool	Eight (8) storey commercial building with basement car parking and access from Huckstepp Service Way.



Figure 3. Aerial view 64 Bathurst St + 203-209 Northumberland St, Liverpool
(Source: Council GIS Mapping)



Figure 4. Aerial view 64 Bathurst St + 203-209 Northumberland St, Liverpool
(Source: Council GIS Mapping)

The site at the time of lodgement was zoned B3 Commercial Core pursuant to Liverpool Local Environmental Plan 2008. The zoning of the development site has subsequently changed since the lodgement of this application and is now zoned B4-Mixed Use pursuant to the Liverpool Local Environmental Plan 2008.

The proposed mixed-use development has incorporated the following uses;

commercial premises means any of the following—

- (a) *business premises*,
- (b) *office premises*,
- (c) *retail premises*.

A *commercial premises* is *permissible with consent in a B3 Zone*.

The remaining element of the development has been defined as shop top housing. Shop top housing is defined as follows;

One or more dwellings located above ground floor retail premises or business premises.

Shop top housing is prohibited within the B3 Commercial Core. In order to address permissibility, the applicant is relying on the provisions of Clause 5.3 of the Liverpool Local Environmental Plan (LLEP) 2008 which relates to development near zone boundaries.

Clause 5.3 of the LLEP 2008 states the following;

Clause 5.3 Development near zone boundaries

- (1) *The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.*

Comment: As seen from figure 6 below, the zoning to the immediate west of the development site is a B4-Mixed Use zone. To enable the *Shop top Housing* element of the development the applicant has sought to benefit from this clause as *Shop top Housing* is a development permissible within the B4 zone and if the applicant can satisfactorily demonstrate on merit they satisfy this Clause, then the shop top housing element of the development can be carried out on the B3 zone.

- (2) *This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 10 metres from any zone boundary shared with Zone IN3 Heavy Industrial and 25 metres from any other zone boundary.*

Comment: The relevant distance that applies to this development pursuant to this clause is 25m. Based on the architectural plans submitted with the proposal the residential tower element remains within the 25m limit of the B4 zone as seen in the figure below.

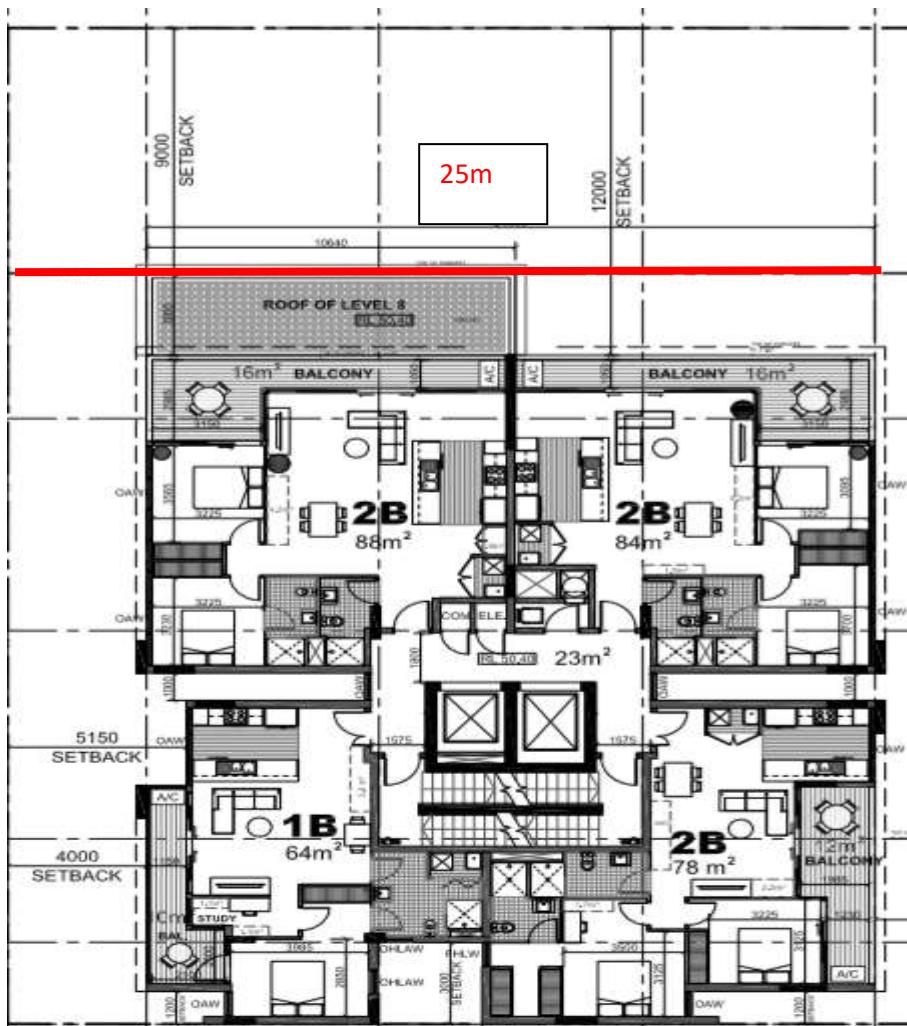


Figure 5. Figure indicating 25m distance from site boundary.

(3) *This clause does not apply to:*

- land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or*
- land within the coastal zone, or*
- land proposed to be developed for the purpose of sex services or restricted premises.*

Comment: Subclause 3 does not apply to this proposal.

(4) *Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:*

- the development is not inconsistent with the objectives for development in both zones, and*

b. the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

Comment: The critical element of this clause requires that the application demonstrate that they are not inconsistent with both zones and that the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

The objectives of both the B3 and B4 zones are as follows under the LLEP 2008;

Zone B3 Commercial Core

1 Objectives of zone

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To strengthen the role of Liverpool city centre as the regional business, retail and cultural centre of south western Sydney.*
- *To ensure that, for key land in the Liverpool city centre, opportunities for retail, business and office uses exist in the longer term.*
- *To facilitate a high standard of urban design and exceptional public amenity.*

Zone B4 Mixed Use

1 Objectives of zone

- *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.*

In response to addressing that the development satisfies subclause 4 the applicant has outlined the following in summary;

- 1) *The proposed development would allow a transition across Bathurst Street in the form of a mixed-use development (comprising retail uses at ground level, with mixed use (commercial, and residential units) above.*

- 2) *The development provides opportunity for additional population residing within the city centre in a location that is directly accessible with good pedestrian linkages to key facilities and services, including Macquarie Mall, the City "Eat Street" and Bigge Park.*
- 3) *The development will provide a substantial contribution toward the revitalisation of the city centre through:*
 - » *Delivery of a high-quality development in a central location with a range of housing options (one, two- and three-bedroom apartments)*
 - » *Provision of commercial/retail tenancies will provide ongoing employment and promote Liverpool's role as a strategic and regional centre*
 - » *Increase the vibrancy of the city centre through the introduction of additional population who will make use the city centre within and outside standard business hours, including evenings and weekends.*

A review of the proposed development indicates that it will enable a development that caters for a variety of business, retail and office premises, it encourages appropriate employment opportunities and facilitates a high standard of urban design. The proposal also enables a mixture of compatible uses and enables the provision for residential accommodation in the Liverpool City Centre.

To further support their use of Clause 5.3 and the permissibility question the application was accompanied by legal advice prepared by Mills Oakley, dated 4 July 2016. In summary the advice states;

Summary advice

In our opinion:

- *The development proposed in the development application is permissible by virtue of the operation of clause 5.3 of the LEP. Clause 5.3 essentially enables the zone boundary of the adjoining B4 Mixed Use zone to be extended by 25 metres onto the land the subject of the development application.*
- *Having reviewed the comprehensive town planning documentation in support of the development application, we are of the opinion that it is readily open to the Council to be satisfied that the proposed development meets the objectives of both zones and is a desirable development in the context of and within the meaning of clause 5.3 of the LEP.*

The entirety of the legal advice pertaining to this matter is attached to this report.

(5) This clause does not prescribe a development standard that may be varied under this Plan.

Comment: Noted and application is not seeking a variation of this clause

Conclusion: Having regard to the information detailed above and the accompanying legal advice, the development is considered to satisfy Clause 5.3 and does apply to this proposal. The application has adequately demonstrated that it is not inconsistent with both zones and presents a development that has merit and worthy of support in this instance.



R4 - High Density Residential ➔

B4 - Mixed Use ➔

B3 - Commercial Core ➔

Figure 6. Zoning Map of 64 Bathurst St, Liverpool (Source: Council ePlanning Mapping)



Figure 7. Streetscape view of 64 Bathurst Street, Liverpool



Figure 8. Streetscape view of 64 Bathurst Street, Liverpool



Figure 9. Streetscape view of 64 Bathurst Street from Huckstepp Service Way



Figure 10. Streetscape view of 64 Bathurst Street from Huckstepp Service Way



Figure 11. Southern view of Huckstepp Service Way



Figure 12. Streetscape view of 203-209 Northumberland St, Liverpool

2.2. The Locality

The site is located at the south western corner of the Liverpool City Centre. The city centre is home to one of Sydney's major medical precincts based around Liverpool Hospital which services Sydney's south west. The city centre plays a major retail and commercial role in the local area. It is also home to the Liverpool TAFE, the Liverpool Courthouse and Sydney Western University. Liverpool city centre can be accessed by public transport through

Liverpool train station or one of many bus routes that stop at the Liverpool bus interchange. Development surrounding the subject site consists of the following:

Orientation	Existing Development
North	Two (2) storey commercial buildings.
South	Vacant site with adjacent two (2) storey commercial buildings;
East	Eight (8) storey commercial building;
West	Four (4) storey residential flat buildings.

The development site currently has an at grade bitumen car park with fifty-five (55) car parking spaces. The predominant height of any buildings in the immediate locality range from two (2) storey to four (4) storey structures, with exception of an eight (8) storey commercial building on 203-209 Northumberland Street, Liverpool. Bathurst Street is a two (2) way street, whilst Huckstepp Service Way and Northumberland Street are one way streets.

2.3 Site affectations

The subject site is not affected by any constraints that would affect the proposed development. However, interpretation between Council and the applicant on the permissibility of the proposal was questioned. The applicant and Council provided the following legal advice, which has been paraphrased and summarised below:

Road Noise

The development site is located in close proximity to Copeland Street/Hume Highway which is identified as a Classified Road. Therefore, the applicant is to address the relevant Clause of the State Environmental Planning Policy (Infrastructure) 2007.

3. BACKGROUND

3.1. Related Applications

a) Pre-DA Meeting(s)

There was no Pre-Development Application Meeting scheduled or held with Council for the proposed development.

b) DA Lodgement

The Development Application was lodged with Council on 18 August 2016. At the time of lodgement, the application sought consent for a 26-storey mixed use development comprising of a four-storey podium, 20 serviced apartment and 96 residential apartments. Through a number of design changes and amendments to the proposal and subsequent changes of ownership the final design put forth for determination is;

Construction of a twenty-one (21) storey mixed-use development with five (5) levels of basement for parking, storage and plant. Four (4) retail tenancies on the ground floor facing

Bathurst Street, four (4) storey podium comprising two (2) commercial tenancies with a courtyard, a mezzanine and communal open space for residents and a seventeen (17) storey tower with 66 residential units.

3.2. Design Excellence Panel Meeting

The proposal was presented to Council's Design Excellence Panel on 4 occasions, with the final time being 17 May 2018. The comments from the final DEP meeting on 18 May 2018 are summarised as follows;

Panel Comments	Response
The Panel thanks the proponent for bringing the scheme back to the Panel for its consideration. The presentation helped the Panel to better understand the evolution of the scheme.	Noted
The Panel appreciates that the scheme has responded to some of the Panel's previous issues including the provision of greater setback to the northern boundary above the podium level and that the laneway has been relocated to the northern boundary of the site.	Noted
The presentation and rendering presented at the meeting illustrate a significant improvement from the previous scheme.	Noted
The proposed 12m setback from the northern boundary above the podium level is supported by the Panel as it complies with the ADG building separation requirements.	Noted
The previous DEP minutes identified a maximum 8m blank wall to the southern boundary as illustrated by drawings submitted to the DEP at the meeting which showed one length of building on the southern boundary. It was assumed in this meeting that this wall would have no openings. The extent of the building now proposed on the southern boundary substantially exceeds this figure. The notes from previous meetings regarding the amount of building to the boundary must be applied without impinging on the rights of the neighbouring site to build along the boundary, or to result in inadequate light and air to the apartments within the proposal should that occur. Therefore, it is likely that the amount of building to be placed on the boundary will be limited to one instance of 8 metres unless apartments can be replanned to achieve a reasonable amenity with a neighbouring (commercial) building in place	<p>The applicant has provided the following response;</p> <p><i>The proposal has been updated to provide solid blank walls of no more than 8m along the southern boundary. A component of the upper level southern façade (Levels 16-21) on the western side will be partly opaque glazing panels (to the balconies) and solid wall panels. This ensure the requirement for 8m is met while also ensuring reasonable levels of external and internal visual privacy can be achieved. Balconies and units on the lower levels (Levels 5-15) and upper levels of the eastern portion of the building have been stepped to achieve the requirement for a maximum of 8m of solid wall. South facing highlight windows are provided to non-habitable rooms including water closets. They will be opaque glazing panels to achieve adequate daylight access and visual privacy of the residents. Our BCA</i></p>

<p>at the boundary.</p>	<p><i>consultant has confirmed that the use of opaque glazing panels no closer than 3m from the site boundary complies with the BCA. Refer to accompanying Façade Study.</i></p> <p>Comment: The development undertook a revision of the southern elevation to incorporate the proposed recommendations of previous DEP meetings, namely limiting the length of walls to a minimum 8m and orientating units along the elevation to incorporate appropriate solar access and cross ventilation. The development incorporated BCA and NCC reports that demonstrated compliance with the relevant standards. It is also considered that the applicant has demonstrated that the adjoining sites are not unduly impacted and can be developed in a manner commensurate of the controls that apply to the site. The proposed development has incorporated a design that enables the suitable redevelopment of the adjoining sites to the north with the provision of an increased and compliant setback to the northern boundary. It is on this basis that it is considered that the applicant has addressed this matter and is now consistent with the vision of the DEP.</p>
<p>The amended scheme proposes glass curtain walls along the southern boundary and windows to habitable rooms setback 3m from the southern boundary. Habitual rooms setback only 3 metres from the boundary does not comply with the requirements of the ADG in terms of building separation. The scheme would prejudice the residential development potential of the southern adjoining sites if/when they are redeveloped in that it forces the southern adjoining sites to provide all the required ADG building separation. The proposal must be amended to comply with ADG separation requirements. The proponent stated that they understand that any glazing on the boundary could be lost by the redevelopment of the neighbouring site and therefore the apartment layouts must not rely on these facades for compliance with the ventilation, solar access or other ADG requirements.</p>	<p>The applicant noted in their response the following;</p> <p><i>As above</i></p> <p>Comment: As above it is considered that the applicant has adequately addressed the panels concerns in this instance and has put forth a scheme that is worthy of support in this instance.</p>
<p>The applicant presented drawings showing that the southern adjoining sites, if they were</p>	<p>The applicant has provided the following response;</p>

<p>re-developed, would only be capable of accommodating smaller buildings as they would be entitled to much lower FSR than the subject site. The Panel does not accept this argument, as the scheme would require the southern adjoining sites to absorb all the required ADG spatial separation between buildings. Neither the Panel nor the proponents can know what future lot amalgamation might be undertaken.</p>	<p><i>Noted.</i></p> <p><i>It is noted that a detailed Urban Design Analysis of the future development potential of the adjoining sites to the south has been undertaken by E8 Urban and Mosca Pserras Architect (former architects) and was addressed as part of our submission to the Panel in July 2018. This documentation also demonstrated the constraints of the adjoining site as well as the client's efforts to buy these properties.</i></p> <p>Comment: A review of the applicant's analysis provided is considered satisfactory and the requirement or suggestion of a zero-lot design along the southern boundary is consistent with previous advice that was considered acceptable to the DEP. It is considered that the applicant has adequately demonstrated that it does not inhibit the redevelopment of the neighbour to the south and proposes a built form that is consistent with the ADG and envisaged built forms in the ADG within a dense urban environment. Attached to this report is also written correspondence from the adjoining owner advising they do not wish to amalgamate, which was provided to align with previous DEP advice that advised support for the zero lot boundary along the southern elevation would be supported if it was demonstrated that adjoining neighbour does not want to amalgamate.</p>
<p>The relocation of the laneway to the northern boundary of the site is supported in principle by the Panel. However, the laneway has not been designed as an orderly extension of Buttman and Huckstepp lanes. Rather, it has been designed as an outdoor dining area for the development and is only accessible to pedestrians. While it is accepted that the design of the laneway provides direct pedestrian access between Northumberland Street and Bathurst Street via Huckstepp lane, it does not facilitate an orderly development of the northern portion of the block bounded by Northumberland Street, Bathurst Street, Moore Street and Memorial Avenue. As indicated in the Panel's previous minutes, the Panel</p>	<p>The applicant has noted the following;</p> <p><i>The laneway design has been amended to cater for vehicle access rather than a pedestrianised laneway. You (Council) have advised that the revised design is satisfactory as per your email of 27 July 2018. Refer to accompanying Laneway Design as sent to you on 6 July 2018.</i></p> <p>Comment: The revised design has been reviewed by Council along with the proposed laneway vision and it is considered it now accords with the envisioned purpose of the DEP.</p>

<p>recommends that the proposed laneway be amended to facilitate an orderly extension of Huckstepp lane and Buttman lane such that should the northern adjoining sites be redeveloped in the future, they would be able to utilize Huckstepp lane for access and services.</p>	
<p>The number of 3-bedroom apartments should be increased to a minimum of 10% of the total apartments proposed</p>	<p>The applicant has provided the following response;</p> <p><i>Due to agreed tower setbacks, we are proposing 6 x 3 bedroom apartment units representing 9.1% of the total apartment units proposed. You have advised that that this will be sufficient as per our discussion on the 30 August 2018 (confirmed by email).</i></p> <p>Comment: The provision of 9.1% 3-bedroom units instead of 10% is considered acceptable, particularly when the proposal caters for a larger number of 1 bedroom units than required.</p>
<p>The communal open space on level 4 should be supported by suitable landscaping design details. The Panel recommends the engagement of landscape architect to design the space as a meaningful and functional space that would contribute to the overall amenity of residents.</p>	<p>The applicant has provided the following response;</p> <p><i>A Landscape Plan will be submitted with the revised documentation DA documentation.</i></p> <p>Comment: The landscape design has been submitted and reviewed by Council and considered acceptable.</p>
General	
<p>Note: All SEPP 65 apartment buildings must be designed by an architect and their registration number is to be on all drawings. The architect is to attend the DEP presentations.</p>	<p>The applicant has provided the following response;</p> <p><i>Eric Pui Tong Leung, Senior Architect - BArch (RAIA Reg: 8713, CPPM 41038) is the registered architect for the project. Eric attended the DEP presentation and his details will be provided on all plans.</i></p>
Quality of Construction and Material Selection	
<p>Consideration must be given by the applicant to the quality of materials and finishes. All apartment buildings are to be made of robust, low maintenance materials and be detailed to avoid staining weathering and failure of applied finishes. Render is discouraged</p>	<p>The applicant has provided the following response;</p> <p><i>Noted. Robust, low maintenance materials will be utilised. A schedule of external material and finishes will be submitted with the revised documentation DA documentation.</i></p>
Floor-to floor height	
<p>The panel recommends a minimum 3050 to</p>	<p>The applicant has provided the following</p>

3100mm floor-to-floor height for the residential component of the development so as to comfortably achieve the minimum 2700mm floor-to ceiling height as required by the ADG	<p>response;</p> <p><i>The design proposes Floor-to-floor height of 3100mm for the residential component to achieve the minimum 2700mm floor-to ceiling height as required by the ADG.</i></p>
<p>Sectional Drawings</p> <p>Sectional drawings at a scale of 1:20 of wall section through with all materials, brickwork, edging details to be submitted.</p>	<p><i>Sectional drawings will be submitted with the revised documentation DA documentation.</i></p>
<p>Close</p> <p>Not all the issues raised in the previous DEP Minutes have been satisfactorily addressed by the amended proposal which has generated additional matters of concern. The site is highly constrained and not all the issues raised can be resolved by the Panel in terms of providing an orderly development for the site. In the event that amended plans are submitted to Council to address the concerns of the Design Excellence Panel the amended plans should be considered by Council and if it is shown that all matters are addressed to the satisfaction of the Liverpool City Council planners then the project is not required to return to the Design Excellence Panel. Should the proponents wish to submit an alternative proposal not in accordance with the recommendations of this letter the DEP would ask that the proposal return to the Design Excellence Panel.</p>	<p>The applicant has provided the following response;</p> <p><i>The proposal has been amended to address the DEP concerns.</i></p> <p>Comment: The revised proposal addresses the matters raised by the DEP and incorporates design elements that were previously considered acceptable through previous DEP meetings. It is on this basis the proposal in its current form is considered acceptable and is worthy of support in this instance.</p>

3.3. JRPP Briefing

A briefing meeting was held with the Sydney West Joint Regional Planning Panel (JRPP) on 1 December 2016 in respect to the proposal. The Panel discussed matters related to the following:

- The surrounding built and planned context;
- 25m zone extension limit;
- Sites used for calculation of FSR;
- Status/use and ownership of dividing laneway;
- Treatment of laneway crossing for pedestrian connecting to existing pedestrian laneway to Northumberland;
- Treatment of internal laneway;
- Weight to be given to draft LEP amendment;
- Provisions and opportunity site status of the land;

- Definition of Floor Space Ratio;
- Legal advice – one site or two sites;
- Status of the road;
- Height limit in the area;
- Significant variations;
- 25m setbacks, permissibility;
- Traffic movement;
- DCP compliance;
- ADG compliance - setbacks;
- Overshadowing;
- Service apartments; and
- Separate access/parking for commercial and apartments.

Supplementary plans, reports and documentation was submitted to Council addressing the concerns of the panel. Based on the amended plans provided, it is considered that the proposal provides for a development that addresses the concerns raised by Council and the Panel and is worthy of support.

4. DETAILS OF THE PROPOSAL

The application proposes the construction of a twenty-one (21) storey mixed-use development with five (5) levels of basement for parking, storage and plant. Four (4) retail tenancies on the ground floor facing Bathurst Street, four (4) storey podium comprising two (2) commercial tenancies with a courtyard, a mezzanine and communal open space for residents and a seventeen (17) storey tower with 66 residential units.

Basement Level 5

- » 78 storage units (6m³) for residential and 2 loading bays
- » Plant rooms and car park mechanical exhaust
- » Residential lobby, 2 x lifts and fire stairs

Basement Level 4

- » 26 residential car spaces
- » 1 motorcycle space
- » 8 bicycle spaces
- » Plant rooms
- » Residential lobby, 2 x lifts and fire stairs

Basement Level 3

- » 26 residential car spaces
- » 1 motorcycle space
- » 8 bicycle spaces
- » Plant rooms
- » Residential lobby, 2 x lifts and fire stairs

Basement Level 2

- » 15 residential car spaces (including 7 disabled spaces and 8 visitor spaces)
- » Car wash bay
- » 1 motorcycle space
- » 14 bicycle spaces
- » Plant rooms
- » Sprinkler pump room
- » Residential lobby, 2 x lifts and fire stair

Basement Level 1

- » 18 commercial car spaces (including 1 disabled spaces and 2 visitor spaces)
- » 1 motorcycle space
- » 14 bicycle spaces
- » Plant rooms
- » Sprinkler storage chamber and hydrant sprinkler storage chamber
- » Residential and commercial lobbies, 3 x lifts and fire stairs
- » Rainwater tank 12m²
- » Void

Podium Ground

- » Loading dock
- » 4 retail tenancies and Fire Control Centre with frontage to Bathurst Street
- » Commercial and residential waste rooms
- » Bathroom facilities – 2 x water closets (WC) and 1 x disabled WC
- » Residential including 2 x lifts and commercial lobbies including a lift
- » Fire stairs and egress corridors
- » Substation kiosk
- » Switch room and hot water plant
- » Car park entry/exit

Podium Level 1 (Mezzanine)

- » Commercial tenancy 221m²
- » Bathroom facilities – 2 x unisex disabled WC
- » Fire stairs and lifts with commercial lift accessing this floor only
- » Void

Podium Level 2

- » Commercial tenancy 967m²
- » Bathroom facilities – 1 x unisex disabled toilet WC and 1 x women's and male WC
- » Fire stairs and lifts with commercial lift accessing this floor only
- » Services room.

Level 3

- » Commercial tenancy 859m²
- » Communal open space 127m²
- » Bathroom facilities – 1 x unisex disabled toilet WC and 1 x women's and male WC
- » Fire stairs and lifts with commercial lift accessing this floor only
- » Services room.

Level 4 Podium

- » Communal open space 884m²
- » Void to lower communal open space
- » Meeting room
- » Bathroom facilities – 1 x unisex disabled toilet WC and 1 x unisex WC
- » Fire stairs and lifts
- » Services room.

Tower Levels 5-8

- » 2 x 2 Bedroom units
- » 1 x 3 Bedroom
- » 1 x 1 Bedroom unit
- » Waste, electrical and communications rooms
- » Lobby, fire stairs and lifts.

Tower Level 9

- » 3 x 2 Bedroom units
- » 1 x 1 Bedroom unit
- » Waste, electrical and communications rooms
- » Lobby, fire stairs and lifts

Tower Levels 10-15

- » 3 x 2 Bedroom units
- » 1 x 1 Bedroom unit
- » Waste, electrical and communications rooms
- » Lobby, fire stairs and lifts

Tower Level 16

- » 3 x 2 Bedroom units
- » 1 x 1 Bedroom unit
- » Waste, electrical and communications rooms
- » Lobby, fire stairs and lifts

Tower Levels 17-19

- » 3 x 2 Bedroom units
- » 1 x 1 Bedroom unit
- » Waste, electrical and communications rooms
- » Lobby, fire stairs and lifts

Tower Levels 20-21

- » 3 x 2 Bedroom units
- » 1 x 3 Bedroom unit
- » Waste, electrical and communications rooms
- » Lobby, fire stairs and lifts

Roof

- » Plant including lift overrun.

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;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment; and
- Liverpool Local Environmental Plan 2008.

Draft Environmental Planning Instruments

- Draft Liverpool Local Environmental Plan No.52

Development Control Plans

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

Contributions Plans

Liverpool Contributions Plan 2018 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 7.12 of the EPA & Act.

5.2. Zoning

The site was zoned B3 Commercial Core pursuant to the Liverpool Local Environmental Plan (LLEP) 2008 at time of lodgement. As discussed previously in this report, the proposed development is not a permitted use with consent in the B3 Commercial Core zone. In order to address permissibility the applicant is relying on the provisions of Clause 5.3 of the LLEP 2008 which relates to development near zone boundaries.

Objectives: B3 - Commercial Core Zone

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To strengthen the role of Liverpool city centre as the regional business, retail and cultural centre of south western Sydney.*
- *To ensure that, for key land in the Liverpool city centre, opportunities for retail, business and office uses exist in the longer term.*
- *To facilitate a high standard of urban design and exceptional public amenity.*

Objectives: B4 - Mixed Use Zone

- *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.*

It is considered that the proposal satisfies the objectives of B3 and B4 zone by providing a range of retail, business, office, entertainment, community and other suitable uses that will serve the needs of the local and wider community; encourage appropriate employment opportunities in accessible locations; maximise public transport patronage and encourage walking and cycling; strengthen the role of Liverpool city centre as the regional business, retail and cultural centre of south western Sydney; retail, business and office uses will exist for the long term and facilitate a high standard of urban design and exceptional public amenity.

In addition the development will provide a mixture of compatible land uses; integrate suitable business, office, residential, retail and other development; allow for residential and other accommodation in the Liverpool city centre, while maintaining active retail, business or other non-residential uses at street level; and facilitate a high standard of urban design, convenient urban living and exceptional public amenity.

6. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration as prescribed by Section 79C of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000 as follows:

6.1. Section 4.15(1)(a)(1) – Any Environmental Planning Instrument

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

The proposal has been evaluated against the provisions of SEPP 65 which aims to improve the design quality of residential apartment development. SEPP 65 does not contain numerical standards, but requires Council to consider the development against 9 key design quality principles; and against the guidelines of the associated Apartment Design Guidelines (ADG). The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP 65.

Following is a table summarising the nine design quality principles outlined in SEPP 65, and compliance with such.

Design Quality Principle	Comment
Principle 1 – Context and Neighbourhood Character	
Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.	<ul style="list-style-type: none">○ The proposal is for a mixed-use development incorporating commercial and residential uses. Located within the city centre precinct, the proposed development will bring services and amenity to the local community. The development incorporates active commercial street frontage that will contribute to a diverse range of uses for the community thus generating a point of interest. The development will assist to invigorate the existing area and generate increased pedestrian activity along Northumberland and Bathurst Street.○ A conceptual approach dealt with the variety of scales within the surrounding context. The intention was to transition in scale incrementally in stepped forms from the fine grain contextual street edge of Bathurst Street to the larger scale mixed use developments boarding along Northumberland Street.○ Certain architectural elements are repeated throughout to unify the development as a whole across various scales. Use of material finishes and façade patterning along the street wall, has been repeated in the tower form, using a larger scale to help define the base of the building while unifying the tower.○ The mass of the tower apartment form, has been articulated in parts to help break down

	<p>the appearance of the built mass and relate back to the street wall.</p> <ul style="list-style-type: none"> ○ The development is intended not to replicate, but to compliment and positively contribute to its future surrounding context.
2. Built form and scale	<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p> <ul style="list-style-type: none"> ○ Street wall heights of the development have been carefully considered and relate to human scale and directly address the street frontage with the residential tower setback further from the street wall alignment facade. ○ Architectural features such as stepped forms and material patterning will create patterns of light and shadow to enhance the facade and reduce the perceived bulk of the building mass. ○ Scale of built form reduces along the southern and northern boundary to be consistent with future context and to contribute to the character of the area. ○ The built form is configured to create a pedestrian link from Bathurst Street through to Northumberland Street. Treatment of both the East and Western Facades are sympathetic in scale and create visual points of interest to assist in future laneway activation and enhance the amenity of the streetscape.
3. Density	<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p> <ul style="list-style-type: none"> ○ This application proposes a density of FSR 5.2:1 for this site, in accordance with densities set out in the Liverpool Local Environmental Plan 2008. ○ The proposed density will benefit the public by enabling the proposed building to better respond to the future character of the CBD. The yield will allow for a high-quality design outcome and demonstrate investment in the precinct. In this location, a well-designed mixed use development will attract greater investment to the area. Additionally it will aid in the identification of the building as a local landmark. ○ High densities are also considered to be sustainable within this area as they are supported by the site's proximity to: Employment, Liverpool CBD, Transport and Public Open Space. ○ The unit mix contributes to housing and social diversity and is consistent with the vision for development in this area.
4. Sustainability	<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing</p> <ul style="list-style-type: none"> ○ The development is designed to respond to the requirements of BASIX and the SEPP 65 Apartment Design Guide. ○ Apartment layouts are optimally designed for a passive response to solar design principles and cross ventilation as outlined in the Apartment Design Guide.

<p>reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation</p>	<ul style="list-style-type: none"> ○ All corner and cross through apartments are naturally ventilated.
<p>5. Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, and respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<ul style="list-style-type: none"> ○ A series of passive and active landscape spaces have been created within the common open spaces. Visual and physical links provide a harmonious common open space with view corridors and vistas. ○ The communal open space will incorporate a pool, barbecue facilities and a quiet space to retreat. There is a total of 884m² of landscaped communal open space which is distributed located on the top of the podium on level 4. The COS provides a mix of active and passive landscape spaces for residents.
<p>6. Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<ul style="list-style-type: none"> ○ The development provides the following mix of units: <ul style="list-style-type: none"> ➢ 1 Bedroom Unit x 15 (being 23%) ➢ 2 Bedroom Unit x 45 (being 68%) ➢ 3 Bedroom Unit x 6 (being 9%) ○ Apartments comply with storage requirements within units. ○ Communal open space will provide passive and active recreational opportunities. Raised garden beds and benches for seating; grassed, paved and planted surfaces; shaded, sunny and feature-lit areas will be provided. ○ All apartments within the residential component of the development will have good sunlight and solar access, natural ventilation and have suitable visual and acoustic privacy. This is consistent with the provisions contained under the ADG. ○ Interior corridors have access to daylight and natural ventilation, with views out of the building to improve both amenity and sustainability.
<p>7. Safety</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive</p>	<ul style="list-style-type: none"> ○ The address to the street has been carefully designed to ensure safe access to and egress from the building by ensuring direct sight lines to the residential lobby from the street.

<p>surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<ul style="list-style-type: none"> ○ The thresholds between public, communal and private areas are clearly defined to ensure a sense of ownership between the public and private domains. ○ Commercial frontages will provide lighting to the area at night, passive surveillance of the street and opportunity for night-time activation. ○ The development has a clearly defined pedestrian link connecting Bathurst and Northumberland Streets. This will enhance future laneway activation and passive surveillance of the development as a whole. ○ Access to the building and its different uses will be coordinated with a security key system. ○ Secure parking for residents and commercial tenants is located within the basement and upper levels with clear and direct lift access. The entrance to the parking area is minimised to maximise street activation and surveillance.
8. Housing diversity and social interaction	
<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<ul style="list-style-type: none"> ○ The proposed development provides housing choice. The communal open spaces, retail uses and public interface will encourage social interaction amongst residents and the community. ○ The ground floor address and the interface of the buildings has been carefully designed to enhance street activation and frontage. ○ The proposed development will create opportunities for families in the surrounding suburbs to move into the area when their family needs change. ○ The provision of 15 ○ one-bedroom apartments in the development will provide for a more affordable entry point into the housing market. ○ 10% of units are designed to be adaptable to the needs of people with disabilities and to facilitate intergenerational changes and changing lifestyles. ○ Variety in sizing, aspect and outlook within apartment types will result in some price differentiation. ○ Dedicated residential communal open spaces are provided on various levels to support the communal life of the building. These spaces have direct access from the lift lobby.
9. Aesthetics	
<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing</p>	<ul style="list-style-type: none"> ○ The intent of the aesthetics are: <ul style="list-style-type: none"> ○ to further develop and articulate the massing strategy for the site through the application of varying architectural languages ○ to respond to contextual opportunities and constraints including orientation, internal

or future local context, particularly desirable elements and repetitions of the streetscape.	<p>planning configuration, views to and from the site and to maximize residential amenity</p> <ul style="list-style-type: none"> ○ to de-formalise the usual rigid and repetitive façades in multi-unit residential development through articulation and patterning of feature horizontal and vertical components and elements ○ to use materials and a colour palette that appropriately reflects the desired character of the proposed development and to breakdown the mass of the building yet maintain a limited palette for cohesion over the whole.
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Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential apartment development to be designed in accordance with the ADG. The following table provides an assessment of the applicant's against the relevant provisions of the ADG.

Provisions	Comment
2E Building depth	<p>Non-Compliance</p> <p>Building depth for the residential tower is generally 20m. However, building has been designed to take advantage of northern orientation and units are appropriately cross-ventilated and achieve the required solar access and unit depths.</p>
2F Building separation	<p>Minimum separation distances for buildings are:</p> <p><u>Up to four storeys (approximately 12m):</u></p> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms <p><u>North</u></p> <p>A minimum 3.15m to boundary and 6m to centre of laneway from podium level which complies.</p> <p><u>East</u></p> <p>A separation in excess of between 6m to 9m is</p>

Provisions	Comment
	<p>provided at the podium level to the eastern building existing which complies.</p> <p><u>South</u></p> <p>A nil southern boundary setback along the southern boundary is provided which does not comply (Refer to discussion below)</p>
<p><u>Five to eight storeys (approximately 25m):</u></p> <ul style="list-style-type: none"> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms 	<p><u>North</u></p> <p>A setback to the northern boundary varies from 9 to 12m for levels 5 to 8 which complies.</p> <p><u>East</u></p> <p>A setback of 10m is provided to the eastern boundary which complies.</p> <p><u>South</u></p> <p>A setback of between 0 and 1.2m is provided along the southern boundary which does not comply (Refer to discussion below).</p>
<p><u>Nine storeys and above (over 25m):</u></p> <ul style="list-style-type: none"> • 24m between habitable rooms/balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms 	<p><u>North</u></p> <p>A setback to the northern boundary of 12m is provided from the ninth storey and above which complies.</p> <p><u>East</u></p> <p>A setback of 10m is provided to the eastern boundary which results in a slight non-compliance to the east. However as there is a well-established 8 storey commercial building to the east at 203-209 Northumberland which is unlikely to be developed to a greater height in the coming future there is no determinantal impact with the reduced building separation.</p> <p><u>South</u></p> <p>A setback of between 0 and 1.2m is provided along the southern boundary which does not comply (Refer to discussion below).</p>

Provisions	Comment
3A Site analysis	
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	<p>Complies</p> <p>The proposed building has been designed to accommodate the location of the site at the intersection of a street and a laneway. The building design accommodates a predominately square design to align with the shape of the site. The tower portion is appropriately located to accommodate development across the laneway to the north and provides a nil setback along the southern boundary to enable a suitable development along the adjoining site. The tower element contains 4 units per level which takes advantage of the site orientation and enables appropriate cross ventilation and solar access.</p> <p>The proposed development bulk and scale is consistent with the current and intended desired future character of the surrounding locality, particularly when taking into account the scale of development permissible within the zone.</p>
3B Orientation	
Building types and layouts respond to the streetscape and site while optimising solar access within the development.	<p>Complies</p> <p>The building has been designed to accommodate the location of the site at the intersection of a street and laneway. The residential tower has been well designed with only 4 units per level to take advantage of the orientation of the site and enable adequate cross ventilation and solar access to each unit.</p> <p>The proposed unit layouts minimises southern facing apartments and allows for unit orientations that provides for suitable solar access to the majority of units in accordance with the provisions of the ADG.</p>
3D Communal and public open space	

Provisions	Comment												
<p>Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p> <p>Communal open space is designed to maximise safety</p> <p>Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood</p>	<p>Complies</p> <p>A total 731m² of communal open space is required. The proposed development provides a total communal open space area of 884m² on the level 5 podium.</p> <p>The communal open space receives solar access from 12pm to 3pm for a minimum of 2 hours.</p>												
3E Deep soil zones													
<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="177 1006 781 1567"> <thead> <tr> <th data-bbox="177 1006 441 1163">Site Area</th><th data-bbox="441 1006 632 1163">Minimum Dimensions</th><th data-bbox="632 1006 781 1163">Deep Soil Zone (% of site area)</th></tr> </thead> <tbody> <tr> <td data-bbox="177 1163 441 1237">Less than 650m²</td><td data-bbox="441 1163 632 1237">-</td><td data-bbox="632 1163 781 1237" rowspan="4">7%</td></tr> <tr> <td data-bbox="177 1237 441 1289">650m² to 1500m²</td><td data-bbox="441 1237 632 1289">3m</td></tr> <tr> <td data-bbox="177 1289 441 1394">Greater than 1500m²</td><td data-bbox="441 1289 632 1394">6m</td></tr> <tr> <td data-bbox="177 1394 441 1567">Greater than 1500m² with significant cover</td><td data-bbox="441 1394 632 1567">6m</td></tr> </tbody> </table>	Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)	Less than 650m ²	-	7%	650m ² to 1500m ²	3m	Greater than 1500m ²	6m	Greater than 1500m ² with significant cover	6m	<p>Satisfactory</p> <p>Due to the zoning, the requirement for the provision of commercial on the ground floor, the location of the site within the City Centre and the densities permissible the ability to provide deep soil zones is limited.</p> <p>However, the ADG stipulates that where the ability to provide compliant deep soil zones is not achievable the proposal must demonstrate acceptable stormwater management is achieved and alternatives forms of planting provided such as on structure.</p> <p>It is considered that despite the limited ability to provide appropriate deep soil zones the development has adequately demonstrated appropriate stormwater management methods.</p> <p>The proposed development has also provided for the ability of suitable plantings on podiums.</p>
Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)											
Less than 650m ²	-	7%											
650m ² to 1500m ²	3m												
Greater than 1500m ²	6m												
Greater than 1500m ² with significant cover	6m												
3F Visual Privacy													
<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="177 1911 765 2010"> <thead> <tr> <th data-bbox="177 1911 362 2010">Building Height</th><th data-bbox="362 1911 632 2010">Habitable Rooms and</th><th data-bbox="632 1911 765 2010">Non Habitable</th></tr> </thead> </table>	Building Height	Habitable Rooms and	Non Habitable	<p>Non-compliance</p> <p>As indicated in section 2F above the proposed development provides a generally compliant building separation along the northern and</p>									
Building Height	Habitable Rooms and	Non Habitable											

Provisions			Comment
	Balconies	Rooms	eastern elevation. However, the development provides for a predominately continuous nil setback along the southern boundary, which does not comply. This is discussed further in the variation section under this table.
Up to 12m (4 storeys)	6m	3m	
12m to 25m (5-8 storeys)	9m	4.5m	
Over 25m (9+ storeys)	12m	6m	
3G Pedestrian Access and Entries			
Building entries and pedestrian access connects to and addresses the public domain		Complies	
Access, entries and pathways are accessible and easy to identify		Pedestrian access is provided off two frontages taking advantage of the site location. Pedestrian access is provided to the residential lobby and commercial lobby off Bathurst Street with pedestrian access to retail tenancy 1 also provided of the northern laneway.	
Large sites provide pedestrian links for access to streets and connection to destinations		Entries are visible from the street and are easily identifiable.	
3H Vehicle Access			
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes		Complies	
		The vehicle access point is located to achieve safety and minimise conflict. Vehicular access is provided predominately off Huckstepp Serviceway	
3J Bicycle and Car Parking			
For development in the following locations:		Complies	
<ul style="list-style-type: none"> - on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or - on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street</p>		<p>The subject site is located within 800m of Liverpool station and therefore the RMS guide applies. For the residential element of the development the RMS guide requires 55 spaces to be provided. The proposal provides 73 spaces which include 63 residential spaces and 10 visitor spaces. This exceeds the RMS requirement.</p> <p>Bicycle and car parking is provided in accordance with the requirements of the LDCP 2008 and in fact provides an additional</p>	

Provisions	Comment								
Parking and facilities are provided for other modes of transport	2 spaces above what is required.								
Car park design and access is safe and secure									
Visual and environmental impacts of underground car parking are minimised									
Visual and environmental impacts of on-grade car parking are minimised									
Visual and environmental impacts of above ground enclosed car parking are minimised									
4A Solar and Daylight Access									
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	<p>Complies</p> <p>49 of 66 units (75%) receive in excess of 2 hours. 25% of units receive less than 2 hours of solar access with all units receiving at least 1 hour of solar access.</p>								
4B Natural Ventilation									
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	<p>Complies</p> <p>All Apartments are naturally cross ventilated.</p>								
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line									
4C Ceiling Heights									
Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	<p>Complies</p> <p>A minimum 3.6m ceiling heights are provided to the commercial and retail floors while all other floors have a ceiling height of 2.7m.</p>								
<table border="1" data-bbox="176 1641 763 1965"> <tr> <td colspan="2" data-bbox="176 1641 473 1720">Minimum ceiling height</td></tr> <tr> <td data-bbox="176 1720 366 1821">Habitable rooms</td><td data-bbox="366 1720 763 1821">2.7m</td></tr> <tr> <td data-bbox="176 1821 366 1922">Non-habitable</td><td data-bbox="366 1821 763 1922">2.4m</td></tr> <tr> <td data-bbox="176 1922 366 1965">For 2 storey</td><td data-bbox="366 1922 763 1965">2.7m for main living area</td></tr> </table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey	2.7m for main living area	
Minimum ceiling height									
Habitable rooms	2.7m								
Non-habitable	2.4m								
For 2 storey	2.7m for main living area								

Provisions		Comment										
apartments	floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	<p>Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms</p> <p>Ceiling heights contribute to the flexibility of building use over the life of the building</p>										
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope											
If located in mixed use areas	3.3m from ground and first floor to promote future flexibility of use											
4D Apartment Size and Layout												
Apartments are required to have the following minimum internal areas:		<p>Complies</p> <p>Apartment sizes comply with the minimum requirement.</p>										
<table border="1"> <thead> <tr> <th>Apartment Type</th> <th>Minimum Internal Area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table>	Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each</p>	<p>Complies</p> <p>Habitable rooms are provided with windows of sufficient glass areas.</p>
Apartment Type	Minimum Internal Area											
Studio	35m ²											
1 bedroom	50m ²											
2 bedroom	70m ²											
3 bedroom	90m ²											
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms												
Habitable room depths are limited to a maximum of 2.5 x the ceiling height		<p>Complies</p> <p>Habitable rooms are generally limited to 2.5m x the ceiling height.</p>										
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window		<p>Complies</p> <p>Habitable room depth is generally limited to</p>										

Provisions	Comment															
	8m in open plan layouts.															
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	Complies Bedrooms are of sufficient size.															
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Complies Bedrooms have a minimum dimension of 3m.															
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> - 3.6m for studio and 1 bedroom apartments - 4m for 2 and 3 bedroom apartments 	Complies Sufficient widths are provided to living rooms/dining rooms.															
4E Private Open Space and Balconies																
All apartments are required to have primary balconies as follows: <table border="1" data-bbox="177 878 763 1343"> <thead> <tr> <th data-bbox="177 878 346 983">Dwelling Type</th><th data-bbox="346 878 573 983">Minimum Area</th><th data-bbox="573 878 763 983">Minimum Depth</th></tr> </thead> <tbody> <tr> <td data-bbox="177 983 346 1035">Studio</td><td data-bbox="346 983 573 1035">4m²</td><td data-bbox="573 983 763 1035">-</td></tr> <tr> <td data-bbox="177 1035 346 1140">1 bedroom</td><td data-bbox="346 1035 573 1140">8m²</td><td data-bbox="573 1035 763 1140">2m</td></tr> <tr> <td data-bbox="177 1140 346 1224">2 bedroom</td><td data-bbox="346 1140 573 1224">10m²</td><td data-bbox="573 1140 763 1224">2m</td></tr> <tr> <td data-bbox="177 1224 346 1343">3 bedroom</td><td data-bbox="346 1224 573 1343">12m²</td><td data-bbox="573 1224 763 1343">2.4</td></tr> </tbody> </table> <p data-bbox="177 1365 838 1439">The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio	4m ²	-	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3 bedroom	12m ²	2.4	Complies The development provides for sufficient balcony size and depths.
Dwelling Type	Minimum Area	Minimum Depth														
Studio	4m ²	-														
1 bedroom	8m ²	2m														
2 bedroom	10m ²	2m														
3 bedroom	12m ²	2.4														
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m	N/A															
4F Common Circulation and Spaces																
The maximum number of apartments off a circulation core on a single level is eight	Complies The maximum number of units off a circulation core is 4.															
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	Complies 3 Lifts proposed in development for the residential units providing access to different section of the buildings and allowing for the maximum number of units sharing a single lift															

Provisions	Comment										
	to be less than 40.										
4G Storage											
<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="187 473 763 826"> <thead> <tr> <th data-bbox="187 473 382 557">Dwelling Type</th><th data-bbox="382 473 763 557">Storage Size Volume</th></tr> </thead> <tbody> <tr> <td data-bbox="187 557 382 617">Studio</td><td data-bbox="382 557 763 617">4m³</td></tr> <tr> <td data-bbox="187 617 382 678">1 bedroom</td><td data-bbox="382 617 763 678">6m³</td></tr> <tr> <td data-bbox="187 678 382 738">2 bedroom</td><td data-bbox="382 678 763 738">8m³</td></tr> <tr> <td data-bbox="187 738 382 826">3 bedroom</td><td data-bbox="382 738 763 826">10m³</td></tr> </tbody> </table>	Dwelling Type	Storage Size Volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3 bedroom	10m ³	<p>Complies</p> <p>Sufficient storage space is provided within each unit and within the storage room on level 2. At least 50% is provided within the units.</p>
Dwelling Type	Storage Size Volume										
Studio	4m ³										
1 bedroom	6m ³										
2 bedroom	8m ³										
3 bedroom	10m ³										
At least 50% of the required storage is to be located within the apartment.											
4H Acoustic Privacy											
<p>Noise transfer is minimised through the siting of buildings and building layout</p>	<p>Complies</p>										
<p>Noise impacts are mitigated within apartments through layout and acoustic treatments</p>	<p>The development is in accordance with the objectives.</p>										
4K Apartment Mix											
<p>A range of apartment types and sizes is provided to cater for different household types now and into the future</p>	<p>Complies</p> <p>A range of apartment types are provided and located throughout the building. Apartment mix is provided by the following;</p>										
<p>The apartment mix is distributed to suitable locations within the building</p>	<ul style="list-style-type: none"> ➤ 1 Bedroom Unit x 15 (being 23%) ➤ 2 Bedroom Unit x 45 (being 68%) ➤ 3 Bedroom Unit x 6 (being 9%) 										
4L Ground Floor Apartments											
<p>Street frontage activity is maximised where ground floor apartments are located</p>	N/A										
<p>Design of ground floor apartments delivers amenity and safety for residents</p>											
4M Facades											
<p>Building facades provide visual interest along the street while respecting the character of the local area</p>	<p>Complies</p> <p>The overall design including building façade</p>										

Provisions	Comment
Building functions are expressed by the facade	provides an element of visual interest, provides for a composition of varied building elements, and allows for a clear differentiation between the podium and tower elements of the development. It incorporates well composed vertical and horizontal elements.
4N Roof Design	
Roof treatments are integrated into the building design and positively respond to the street	Complies
Opportunities to use roof space for residential accommodation and open space are maximized.	The proposed roof is well integrated into the building design.
Roof design incorporates sustainability features	
4O Landscape Design	
Landscape design is viable and sustainable	Complies
Landscape design contributes to the streetscape and amenity	The development is in accordance with these objectives.
4P Planting on Structures	
Appropriate soil profiles are provided	Complies
Plant growth is optimised with appropriate selection and maintenance	The development is in accordance with these objectives.
Planting on structures contributes to the quality and amenity of communal and public open spaces	
4Q Universal Design	
Universal design features are included in apartment design to promote flexible housing for all community members	Complies
A variety of apartments with adaptable designs are provided	The development is in accordance with these objectives.
Apartment layouts are flexible and accommodate a range of lifestyle needs	
4R Adaptive Reuse	
New additions to existing buildings are contemporary and complementary and enhance an area's identity	Not Applicable

Provisions	Comment
and sense of place	The DA is for the development of a new building and not the adaptive reuse of an existing building.
4S Mixed Use	
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Complies
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	The proposed development is located within the Liverpool City Centre in an area zoned for mixed use development. The development takes advantage of its unique location and provides a development that addresses all frontages. The development limits the amount of blank walls proposed and incorporates a large amount of articulation. Entries to the residential portion of the development is separated from the commercial entries, however still well integrated within the building design.
4T Awnings and Signage	
Awnings are well located and complement and integrate with the building design	Complies Awnings are provided to entries for wet weather protection.
Signage responds to the context and desired streetscape character	Complies Building address signage is integrated into the building design.
4U Energy Efficiency	
Development incorporates passive environmental design	Complies
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	The development is in accordance with these objectives.
Adequate natural ventilation minimises the need for mechanical ventilation	

Provisions	Comment
4V Water Management and Conservation	
Potable water use is minimised	<p>Complies</p> <p>Potable water use is minimised and water efficient devices will be provided in accordance with the requirements of the BASIX certificate.</p>
Urban stormwater is treated on site before being discharged to receiving waters	<p>Complies</p> <p>This aspect has been reviewed by Council's Land Development Engineers who have raised no issues subject to conditions.</p>
Flood management systems are integrated into site design	<p>N/A</p>
4W Waste Management	
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	<p>Complies</p> <p>Waste storage facilities are provided for both the residential and commercial elements of the development on the ground floor and is well screened from the public street. It is well separated from the residential portion of the development and will have minimal impact on the residents. It is also suitably located for the commercial tenancies and is easily accessible. Garbage shoots are also provided for the residential portion of the development to allow for the easy disposal of garbage from the upper levels.</p>
Domestic waste is minimized by providing safe and convenient source separation and recycling	
4X Building Maintenance	
Building design detail provides protection from weathering	<p>Complies</p> <p>The development is in accordance with these objectives</p>
Systems and access enable ease of maintenance	
Material selection reduces ongoing maintenance costs	

Variation to 2F – Building Separation

As indicated in the table above the proposed development does not provide for the adequate building separation along the southern boundary. The setback to the boundary ranges from 0 to 1.2m at all levels as shown in figures below;

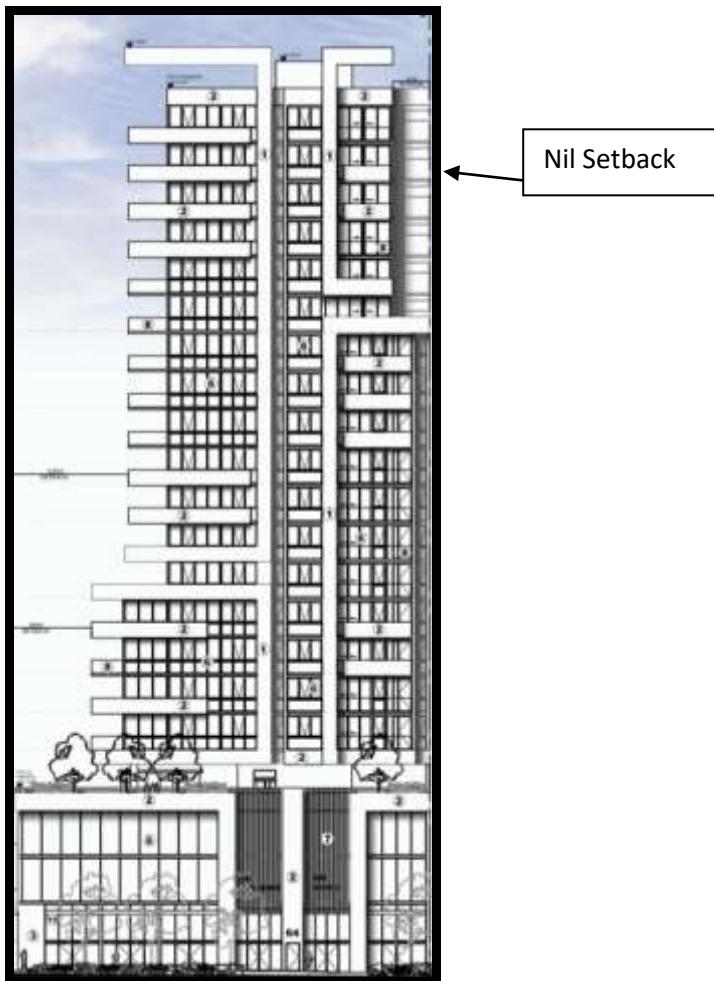


Figure 13: Elevation showing nil southern boundary



Figure 14: Typical Floor plan showing nil southern boundary

Nil Setback

The variation to the building separation requirement is supported in this instance for the following reasons;

- 1) The design of the building to provide for a zero setback along the southern boundary was developed in consultation with Council's DEP to achieve an appropriate design outcome within the CBD environment, particularly during the meetings undertaken on 20 July 2017 and 28 September 2017.
- 2) The proposed nil setback has been incorporated into the design to enable a

development of a similar nature on the adjoining southern site.

- 3) The proposed building design has incorporated all the appropriate design elements to achieve an appropriately designed zero setback long the southern boundary in consultation with the DEP, primarily:
 - Provision of 3x3m vertical slots in the centre of the façade.
 - Solid blank walls of no more than 8m long, which is achieved through the provision of a 1.2m setback to create a staggered effect for units.
- 4) South facing highlight windows are provided to non-habitable rooms including water-closets. They will be opaque glazing panels to achieve adequate daylight access and visual privacy of the residents.
- 5) All units along the southern boundary have been designed with appropriate cross ventilation and orientation to enable appropriate solar access and natural light into their units.
- 6) Despite the non-compliance with the building separation the proposed development remains well within the height and FSR limit required for this site.
- 7) It was considered more prudent in this instance to provide a compliant building separation to the northern portion of the development site to enable the existing sites to the north fronting Moore Street a better development opportunity given the restricted depth of the sites in that location.
- 8) Given the dense urban environment the ADG contemplates zero lot configuration in high density zones.
- 9) The applicant has also provided an urban design analysis that the proposed zero lot setback does not inhibit the development potential of the adjoining sites.
- 10) The proposed southern façade has been designed appropriately to provide a visually appealing presentation to the public domain.

Having regard to the above the proposed non-compliance is considered acceptable on merit in thin instance.

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.

A Preliminary Environmental Site Investigation has been undertaken by Environmental Consulting Services, dated December 2018. The purpose of this assessment was to evaluate the potential for contamination resulting from past Site activities and draw

conclusions regarding the suitability of the site for the proposed development. The scope of work undertaken to meet this objective included the review readily available records relating to the history of the site and a site inspection.

The key findings of the report were as follows:

- » The history of the site indicates that the land appears to have been used for car parking and residential purposes in the recent past. There is no indication of industrial activities on the site or neighbouring properties that could result in land contamination
- » There is the potential for minor fill resulting from the demolition of the former houses to be encountered beneath the existing pavements. However, the proposed development will require excavation for a five-level basement. Such excavation will remove any remnant demolition material
- » The use of the site for car parking is not considered to be a source of consistent, ongoing contamination. There is the potential for minor leaks from vehicles which are likely to be washed into stormwater drains around the site. Notwithstanding the very low likelihood for contamination from car parking, excavation for the basement will remove surface material to approximately 8m depth, across the Site.

Based on the above, the report concluded that the site is considered suitable for the proposed development. There is no indication of activities that could result in contamination that requires remediation. Excavation for the proposed basement will remove the existing site pavement and surface soils to approximately 8m depth. The excavated material should be classified and disposed of in accordance with EPA regulations and guidelines.



Figure 15. Aerial view of the site 1943 (Source: Spatial Information Exchange)

The report was referred to Council's Health Officer who concluded the following:

The assessment appears to be in general accordance with NEPM (Assessment of Site Contamination) Measures 1999 as amended 2013, the Guidelines for Consultants Reporting on Contaminated Sites produced by OEH dated 2011 and other relevant Australian Standards and Policies.

As such, the application can be conditioned accordingly.

Pursuant to Clause 7 of SEPP 55, Council is also required to undertake a merit assessment of the proposed development. The following table summarises the matters for consideration in determining development application (Clause 7).

Clause 7 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	The preliminary assessment provided by the applicant has identified the site is suitable for the proposed use.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	The preliminary assessment provided by the applicant has identified the site is suitable for the proposed use.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The preliminary assessment provided by the applicant has identified the site is suitable for the proposed use.

Based on the above Council is satisfied that in accordance with clause 7 of SEPP 55, the site will be suitable for the proposed development.

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

The application is supported by a BASIX, ABSA and Nathers Certification 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

Due to the proximity of the development site to the Hume Highway/Copeland Street located west of the subject site, clause 102 of the Infrastructure SEPP must be considered. Clause 102 of the Infrastructure SEPP states the following;

- (1) *This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the*

traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration:

- (a) a building for residential use,*
- (b) a place of public worship,*
- (c) a hospital,*
- (d) an educational establishment or child care centre.*

Comment: The subject site is located approximately 209m east of the Hume Highway. Due to the height of the building there will be a direct line of sight from the proposed building to the Hume Highway. Due to the fact there is a direct line of sight from the proposed building to the Hume Highway which has an annual daily traffic volume more than 40,000 and the speed limit of the Hume Highway is between 60km/hr and 70km/hr, the Interim Guideline For Development Near Rail Corridors and Busy Roads warrants an acoustic report be prepared to address the relevant provisions of clause 102(3) of the Infrastructure SEPP.

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

Comment: Council has considered the relevant provisions of the Interim Guideline for Development Near Rail Corridors and Busy Roads and the NSW EPA's Industrial Noise Policy.

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

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

Comment: An Acoustic Report prepared by Acoustic Logic, reference ref. 20170647.1/2405A/R5/YK, Revision 5, dated 10 July 2019. The acoustic report was provided to assess potential noise impacts associated with the proposed development.

Acoustic Assessment (Doc ref. 20170647.1/2405A/R5/YK, Revision 5) prepared by Acoustic Logic Consultancy Pty Ltd dated 10 July 2019

Acoustic Logic gave consideration to the NSW EPA's Industrial Noise Policy and NSW Department of Planning guideline titled 'Development Near Rail Corridors and Busy Roads'. This guideline supports specific rail and road provisions of the State Environmental Planning Policy (Infrastructure) 2007.

Noise mitigation measures comprising specific glazing and building construction requirements were proposed to achieve the internal design noise levels.

Council's Environmental Health Section assessed the submitted acoustic report and were satisfied with the conclusions and recommendations of the report, subject to the imposition of conditions requiring the recommendations of the acoustic report being implemented.

Given the above it is considered that the proposed development has demonstrated compliance with clause 102 of the Infrastructure SEPP.

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 Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments)	The proposed development does not impact on any plans of management approved by the Minister.
(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 considered acceptable 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's 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 Council's stormwater network.
(13) Wetlands	N/A

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

Liverpool Local Environmental Plan 2008

As stated previously, the proposed development is a mixed-use development comprising of a commercial premise use and shop-top-housing use. As indicated previously in this report a commercial premise is permitted with consent, while “shop-top-housing” is prohibited. The applicant is seeking the use of Clause 5.3 of the LLEP 2008 to enable the use of the shop-top-housing element within their development.

Principal Development Standards (Part 4 LLEP)

The following principal development standards are applicable to the proposal:

CLAUSE	REQUIRED	PROPOSED	COMPLIES
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 is proposed	N/A
Clause 4.3 Height of Buildings	100m	76m	Yes

CLAUSE	REQUIRED	PROPOSED	COMPLIES
Clause 4.4 Floor Space Ratio	<p>8:1</p> <p>(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. As the site area is greater than 2,500sqm, the maximum permitted FSR is 8:1, which equates to 23,392m².</p>	<p>5.2:1 or 15,410m². It is important to note that the proposal incorporates the existing GFA of the commercial building located at 203-209 Northumberland Street. The applicant provided legal advice for the benefit of Council which identifies the site as one site despite the physical separation of the service way.</p>	Yes
Clause 7.1 – Objectives for development in Liverpool City Centre	Proposed developments must be consistent with the objectives	The proposed development is to consistent with the objectives for redevelopment of the city centre (refer to discussion below)	Yes
Clause 7.2 – Sun access in Liverpool City Centre	Development on land to which this clause applies is prohibited if the development results in any part of a building on land specified in Column 1 of the Table to this clause projecting above the height specified opposite that land in Column 2 of the Table	The site is not located within any of the areas identified in Column 1	N/A

CLAUSE	REQUIRED	PROPOSED	COMPLIES
Clause 7.3 – Car parking in Liverpool City Centre	<p>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:</p> <p>(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</p> <p>(b) in respect of any other part of the building:</p> <p>(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</p> <p>(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.</p>	Based on the GFA provided for the retail/commercial tenancies a total of 15 spaces are required for the commercial/retail element of this proposal. The development provides 17.	Yes
Clause 7.4 – Building separation in Liverpool City Centre	<p>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:</p> <ul style="list-style-type: none"> • 12 metres for parts of buildings between 25 and 45 metres above ground level (finished) on land in Zone B3 Commercial Core or B4 Mixed Use, and • 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 	<p>The existing buildings to the north and east between the heights of 25-45m are provide with a minimum 12m building separation. No building exists to the south of the site as such no building separation applies.</p> <p>No buildings adjoining the site exceed 45m in height.</p>	Yes

Discussion regarding the site being considered 1 site or 2

As indicated previously in this report the site subject of this proposal is identified by address as 64 Bathurst Street Liverpool & 203-209 Northumberland Street Liverpool and is indicated in the aerial figure below.



Figure 16 – Aerial Photo indicating both sites

Notwithstanding the physical separation of the 2 sites the sites are legally defined as Pt Lot 10 DP 816556. The application was accompanied by advice from Addisons (attached) dated 3 August 2015, which stated "*although separated by Huckstepp Serviceway, the parcels of land known as 64 Bathurst Street & 203-209 Northumberland Street comprise one Torrens title lot*". For the benefit of the assessment the advice also attached the deposited plan which is indicated below.

Figure 17 – DP of both sites

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 alignment which is consistent with the shape and location of the allotment. The proposal provides for a building envelope that takes advantage of the site location. The proposed development is consistent with the desired future character of the street, particularly when having regard to the proposed buildings under construction surrounding the site and the maximum height and FSR permissible. 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.
- The proposed development provides for a building envelope that enables the achievement of appropriate solar access requirements pursuant to SEPP65, ADG, LLEP2008 and LDCP 2008 for adjoining buildings. The proposal allows for the provision of a minimum 2 hours of solar access between 9am and 3pm at the solstice in accordance with the ADG.
- The development does not create pedestrian and traffic conflicts on the Hume Highway.
- The development provides a high-quality presentation to the public domain.
- The development will have no direct impact on the physical area surrounding the Liverpool Railway Station.
- The development will have no direct impact on the river foreshore. The impact of the development of the adjoining heritage item has been considered and is deemed to be acceptable.
- The development will have no direct physical relationship with the Georges River foreshore.

Clause 7.5 – Design Excellence in Liverpool City Centre

Clause 7.5 of the LLEP 2008 prescribes that development consent must not be granted to development within the Liverpool City Centre, unless the consent authority considers that the development exhibits design excellence. The objective of this clause is to deliver the highest standard of architectural and urban design within the city centre. The Clause sets out the matters that must be considered by Council.

The matters set out in the Clause have been carefully considered in consultation with the expert independent DEP. The application has been amended to improve the design quality in line with provisions of the LLEP 2008 and the comments provided by the DEP.

The Panel noted the significant bulk of the building and recommended measures that may be incorporated into the design of the building to reduce the bulk and scale.

The development is considered to be appropriate for the site, does not overshadow any areas of public open space, and is generally consistent with the relevant provisions of the DCP 2008 which relate to building design, siting and streetscape impacts.

In conclusion, the overall development satisfies the LLEP 2008 design excellence provisions and demonstrates design excellence.

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

6.2 Section 4.15(1)(a)(ii) - Any Draft Environmental Planning Instrument

The following draft Environmental Planning Instruments applies to the site

a) Draft LLEP 2008 Amendment 52 – Liverpool City Centre

The subject site is within the area of the City Centre that is subject to an amendment to the LLEP 2008, known as LLEP Amendment No.52 at the time of lodgement. Amendment 52 introduced several new provisions for certain sites within the CBD. The primary amendment involves the introduction of an “opportunity site” provision that enables sites with multiple frontages, in excess of 1500m² to propose a development with an FSR of up to a maximum 10:1 with no applicable height limit.

A development application that proposes the additional FSR and height is subject to Council approval of a staged development application being a master plan and the requirement to provide a public benefit.

The subject site is not lodged pursuant to Amendment 52; however, the site has the characteristics required to qualify for an opportunity site under the amendment. The proposed development is not inconsistent with the provisions of amendment 52 and is compliant with the development standards of the LLEP 2008 which applied at the time of lodgement. It is also important to note that the subject site has been rezoned from B3 to B4 during the assessment of the application. As such it would be important to identify that the matter concerning permissibility identified in this report would no longer be of concern if application applied the current zoning.

6.3 Section 4.15(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	PROVISION	COMMENT
2. TREE PRESERVATION	Controls relating to the preservation of trees	There are no ground covers, shrubs and or trees affected by the proposed development.
3. LANDSCAPING	Controls relating to landscaping and the incorporation of existing trees.	A Landscape Plan has been prepared for the site. Where possible, trees have been proposed and incorporated into the landscape design.

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
4. BUSHLAND AND FAUNA HABITAT PRESERVATION	Controls relating to bushland and fauna habitat preservation	The site does not contain bushland neither is the site located adjacent to bushland.
5. BUSHFIRE RISK	Controls relating to development on bushfire prone land	The site is not identified on Council's bushfire prone land maps as being bushfire prone.
6. WATER CYCLE MANAGEMENT	Stormwater runoff shall be connected to Council's drainage system by gravity means. A stormwater drainage concept plan is to be submitted.	Stormwater plans have been submitted and approved by Council's Engineering Department.
7. DEVELOPMENT NEAR CREEKS AND RIVERS	If any works are proposed near a water course, the Water Management Act 2000 may apply, and you may be required to seek controlled activity approval from the NSW Office of Water.	The development site is not near a creek or river.
8. EROSION AND SEDIMENT CONTROL	Erosion and sediment control plan to be submitted.	An erosion and sediment control plan has been submitted and approved by Council's Engineering Department.
9. FLOODING RISK	Provisions relating to development on flood prone land.	The site is not identified as flood affected.
10. CONTAMINATION LAND RISK	Provisions relating to development on contaminated land.	An assessment of the proposal has been undertaken against the relevant provisions of SEPP 55 and provided elsewhere in this report. It is recommended that further contamination investigations are required as a condition of consent.
11. SALINITY RISK	Provisions relating to development on saline land.	The site is identified as having moderate salinity potential.
12. ACID SULFATE SOILS RISK	Provisions relating to development on acid sulphate soils	The site is not identified as containing acid sulfate soils
13. WEEDS	Provisions relating to sites containing noxious weeds.	A condition of consent has been imposed requiring the removal of any noxious weeds which may be present on the site.
14. DEMOLITION OF EXISTING DEVELOPMENT	Provisions relating to demolition works	The existing car park 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.
15. ON-SITE SEWERAGE DISPOSAL	Provisions relating to OSMS.	The proposal does not propose any such facilities.

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
16. ABORIGINAL ARCHAEOLOGY	An initial investigation must be carried out to determine if the proposed development or activity occurs on land potentially containing an item of aboriginal archaeology.	There is no known indigenous or non-indigenous heritage or archaeological presence on the site.
17. HERITAGE AND ARCHAEOLOGICAL SITES	Provisions relating to heritage sites.	The site is not identified as containing a heritage or archaeological site.
18. NOTIFICATION OF APPLICATIONS	Provisions relating to the notification of applications.	The proposed application was notified. Submissions were received against the proposed development and have been discussed elsewhere in this report.
19. USED CLOTHING BINS	Provisions relating to used clothing bins.	The proposed application does not seek approval for any used clothing bin provisions.
20. CAR PARKING & ACCESS	<p>Residential Development Car Parking Requirements:</p> <ul style="list-style-type: none"> • 1 space per two studio apartments; • 1 space per one bedroom or two-bedroom apartments • 1.5 spaces per three or more bedroom units • 1 space per 10 units or part thereof, for visitors • 1 space per 40 units for service vehicle (including revivalist vans and car washing bays), up to a maximum of 4 spaces per building). 	Application has utilised the RMS guide as it is located within 800m of Liverpool Station as permitted by the ADG. The proposal exceeds the required parking rates of the RMS guide despite not applying the DCP rates.
21. SUBDIVISION OF LAND AND BUILDINGS	Provisions relating to the subdivision of land.	The DA does not propose the subdivision of land.
22. WATER CONSERVATION	New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	A BASIX certificate has been provided.

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
23. ENERGY CONSERVATION	New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	A BASIX certificate has been provided.
25. WASTE DISPOSAL AND RE-USE FACILITIES	Provisions relating to waste management during construction and on-going waste.	A waste management plan has been provided and is considered satisfactory.
26. OUTDOOR ADVERTISING	Provisions relating to signage.	No advertising structures are proposed as part of the subject application.
27 SOCIAL IMPACT ASSESSMENT	A social impact comment shall be submitted for residential flat buildings greater than 20 units.	A comprehensive Social Impact Comment has been provided which concludes that the proposal will generate positive social outcomes by increasing the supply and diversity of housing in the Liverpool area.

LDCP 2008 Part 4: Liverpool City Centre

Development Control	Provision	Comment
Section 2 Controls for Building Form		
Building Form	Street building alignment and street setbacks applicable to the site is a 0m setback to Bathurst Street and Huckstepp Service way	<p>Complies</p> <p>The development provides for a minimum 0m setback Bathurst Street and Huckstepp Service way</p>
	The external facades of buildings are to be aligned with the streets that they front.	<p>Complies</p> <p>The external facades align with the streets that they front.</p>
	Minor projections into front building lines and setbacks for sun shading devices, entry awnings and cornices are permissible.	<p>Not Applicable</p> <p>No projections proposed.</p>
Street Frontage Height	A street frontage height (SFH) of 16-26m (4 to 6 storeys) is required to Bathurst Street	<p>Complies</p> <p>The proposed development has a street frontage height of 4 storeys.</p>

Development Control	Provision	Comment
Building Depth and Bulk	Maximum floor plate size of 700m ² (GFA) and building depth of 24m (excluding balconies) is required above SFH for residential uses.	Complies The proposal generally complies with this requirement.
Boundary Setbacks and Building Depth and Bulk	<p><u>Front Setback</u></p> <p><u>Commercial Uses</u></p> <p>The commercial/retail uses on the podium levels comply with the SFH setback requirement of 0m from Bathurst Street and Huckstepp Service way.</p> <p><u>Residential uses</u></p> <ul style="list-style-type: none"> • Between 12 – 25m = 6m • Between 25-45m = 6m • Over 45m = 6m 	Complies <u>Commercial Uses</u> The commercial uses comply with this setback requirement as detailed above in the table Non-compliance Proposed residential element meets or exceeds this requirement. Except for the southern boundary setback which is proposed to be Nil. As discussed previously in this report this is consistent with the discussions and design changes developed in collaboration with the DEP.
Mixed Use Buildings	<p>The ground floor component of a mixed-use building is to be used for a permitted non-residential use.</p> <p>Ground floor of all mixed-use buildings is to have a minimum floor to ceiling height of 3.6m. Above ground level are to have a floor to ceiling height of 3.3m</p>	Complies The ground floor component of the development is reserved for commercial uses in accordance with the requirements of the LLEP 2008. The ground floor commercial and first floor commercial have a floor to ceiling height in excess of 3.6m
	Provide flexible building layouts which allow variable tenancies or uses on the first floor of a building above the ground floor in the Mixed Use zone	Complies Flexible building layouts are provided.

Development Control	Provision	Comment
	Separate commercial service requirements, such as loading docks, from residential access, servicing needs and primary outlook.	<p>Complies</p> <p>A loading dock at grade is provided for the commercial tenancies and service bays are provided within the basement for residential use.</p>
Deep Soil Zones	Where non-residential development results in full site coverage and there is no capacity for water infiltration, the deep soil component must be provided must be provided on structure, in accordance with the provisions of section 2.5 "planting on structures". In such cases, compensatory stormwater management measures must be integrated within the development to minimise stormwater run-off.	<p>Complies</p> <p>Refer to "planting on structure" assessment below</p>

Development Control	Provision	Comment
Landscape Design	<p>Landscaped areas are to be irrigated with recycled water.</p> <p>Landscape species are to be selected in accordance with Council's schedule of Preferred Landscape Species.</p> <p>Remnant vegetation must be maintained throughout the site wherever practicable.</p> <p>A long-term landscape concept plan must be provided for all landscaped areas, in particular the deep soil landscape zone. The plan must outline how landscaped areas are to be maintained for the life of the development.</p> <p>Any new public spaces are to be designed so that at least 50% of the open space provided has a minimum of 3 hours of sunlight between 10am and 3pm on 21st June (Winter Solstice).</p>	<p>Complies</p> <p>This aspect has been reviewed by Council's Landscape Officer and the DEP who have raised no issues with the landscaping design.</p>
Planting on Structures	<p>Areas with planting on structures are to be irrigated with recycled water.</p> <p>Design for optimum conditions for plant growth by:</p> <ul style="list-style-type: none"> - providing soil depth, soil volume and soil area appropriate to the size of the plants to be established, - providing appropriate soil conditions and irrigation methods, and providing appropriate drainage. - Design planters to 	<p>Complies</p> <p>The landscape plan has been reviewed by Council's Landscape Officer, who has raised no issues in regards to this aspect. The landscape plan provided has not been updated to reflect the new building design, as such a condition of consent will be imposed requiring an updated landscape plan be provided to coincide with the latest architectural plans for Council endorsement prior to the issue of a Construction Certificate.</p>

Development Control	Provision	Comment
	<p>support the appropriate soil depth and plant selection by ensuring planter proportions accommodate the largest volume of soil possible and soil depths to ensure tree growth, and providing square or rectangular planting areas rather than narrow linear areas.</p> <p>Increase minimum soil depths in accordance with:</p> <ul style="list-style-type: none"> - the mix of plants in a planter for example where trees are planted in association with shrubs, groundcovers and grass, - the level of landscape management, particularly the frequency of irrigation, - anchorage requirements of large and medium trees, and soil type and quality. <p>Provide sufficient soil depth and area to allow for plant establishment and growth. The following minimum standards are recommended:</p> <ul style="list-style-type: none"> - Large trees (over 8m high) minimum soil depth 1.3m, minimum soil volume 150m³ - Medium trees (2 – 8m high), minimum soil depth 1m, minimum soil volume 35m³ - Small trees (up to 2m high), minimum soil depth 0.8m, minimum soil volume 9m³ - Shrubs and ground cover, minimum soil depth 0.5m, no minimum soil volume. 	
Amenity		
Pedestrian	Provisions relating to through	Not Applicable

Development Control	Provision	Comment
Permeability	site links.	The site is not identified as a 'through site' requiring a pedestrian link.
Active Street Frontages	Mixed use developments are to provide active street frontages for the non-residential portion of the development on the ground floor	Complies The proposal provides for active street frontages on both Bathurst Street and Huckstepp Service way. The proposal provides for direct off street access to the commercial tenancies from both frontages. It provides for a development that addresses both street frontages which enables the provision of casual and passive surveillance of the street.
Front Fences	Controls relating to front fences	Not Applicable Front fences are not proposed.
Safety and Security	Address 'Safer-by-Design' principles to the design of public and private domain, and in all developments (including the NSW Police 'Safer by Design' crime prevention through environmental design (CPTED) principles).	Complies The proposed development is considered to be satisfactory in relation to the safer by design principles.
	Ensure that the building design allows for passive surveillance of public and communal spaces, access ways, entries and driveways.	Complies The design of the development allows for passive surveillance of access ways and driveways.
	Avoid creating blind corners and dark alcoves that provide concealment opportunities in pathways, stairwells, hallways and car parks.	Complies The development does not create any blind corners or dark alcoves.
	Maximise the number of residential 'front door' entries at ground level.	Complies Multiple entrances are provided for residents.
	Provide entrances which are in visually prominent positions and which are easily identifiable, with visible numbering.	Complies The front entrance is orientated to the street and are easily identifiable.
Awnings	Wet weather protection to be provided to all entrances	Complies Wet weather protection is provided to the

Development Control	Provision	Comment
		entrances.
Vehicle Footpath Crossings	No additional vehicle entry points will be permitted into the parking or service areas of development along those streets identified within the LDCP2008.	Complies Vehicle crossings considered appropriate.
Pedestrian Overpasses and Underpasses	Provisions relating to overpasses and underpasses.	Not Applicable No pedestrian overpasses and underpasses are proposed.
Building Exteriors	Balconies and terraces should be provided, particularly where buildings overlook public spaces.	Complies The proposed development will provide balconies that overlook the street.
	Adjoining buildings (particularly heritage buildings) are to be considered in the design of new buildings in terms of: <ul style="list-style-type: none"> - appropriate alignment and street frontage heights, - setbacks above street frontage heights, - appropriate materials and finishes selection, - facade proportions including horizontal or vertical emphasis, and - the provision of enclosed corners at street intersections. 	N/A
	Articulate façades so that they address the street and add visual interest. Buildings are to be articulated to differentiate between the base (street frontage height), middle and top in design.	Complies The proposed development will have articulated facades.
	Limit sections of opaque or blank walls greater than 4m in length along the ground floor to a maximum of 30% of the building frontage.	N/A

Development Control	Provision	Comment
	Highly reflective finishes and curtain wall glazing are not permitted above ground floor level.	<p>Complies</p> <p>Highly reflective materials will not be used.</p>
	A materials sample board and schedule is required to be submitted with applications for development over \$1million or for that part of any development built to the street edge.	<p>Complies</p> <p>A colour schedule as well as 3D modelling has been provided which gives a clear indication of the colour and types of materials that will be used.</p>
	Roof top structures, such as air conditioning, lift motor rooms, and the like are to be incorporated into the architectural design of the building.	<p>Complies</p> <p>Roof top structures are incorporated within the internal design of the development and will not be visible from public view.</p>
Corner Treatments	Buildings identified in Figures 20 and 21 are to address corner sites through architectural emphasis and use of distinguishing architectural features and materials to adjacent buildings, and an additional storey may be permitted onto the specified street frontage height range (refer to Figure 20 and Figure 6 Street Frontage Heights) below,	<p>Not Applicable</p> <p>The site is not identified in Figures 20 and 21.</p>
	Notwithstanding the above, new corner buildings opposite or adjacent to Heritage Items are to respond to the Heritage Items in terms of height, scale and proportion.	<p>The proposed building responds to the heritage item across</p>
	Notwithstanding the above, new corner buildings opposite or adjacent to public open space are to comply with the sun access controls as set out in LLEP 2008.	<p>Not Applicable</p> <p>The site is not adjacent to public open space.</p>
Public Artworks	Provisions relating to public artwork	<p>Not Applicable</p> <p>Public artwork is not proposed.</p>

Development Control	Provision	Comment
Traffic And Access		
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.	<p>Complies</p> <p>The building entry points are clearly visible.</p>
	The design of facilities (including car parking requirements) for disabled persons must comply with the relevant Australian Standards.	<p>Complies</p> <p>The design of the car parking facilities is in accordance with Australian Standards. The application has been reviewed by Councils Traffic and Transport Section who have responded in support, subject to conditions.</p>
	The development must provide at least one main pedestrian entrance with convenient barrier free access in all developments to at least the ground floor.	<p>Complies</p> <p>Barrier free access is provided to the ground floor.</p>
	The development must provide accessible internal access, linking to public streets and building entry points.	<p>Complies</p> <p>Sufficient accessible internal access is provided to the street and building entry points.</p>
	Pedestrian access ways, entry paths and lobbies must use durable materials commensurate with the standard of the adjoining public domain (street) with appropriate slip resistant materials, tactile surfaces and contrasting colours.	<p>Complies</p> <p>Durable materials will be used which include but limited to concrete footpath, paving and tiles.</p>
Vehicular 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, 	<p>Complies</p> <p>The development provides appropriate entry exit points for vehicles.</p>

Development Control	Provision	Comment
	<ul style="list-style-type: none"> - drainage inlet pits and existing street trees, - located a minimum of 10m from the perpendicular of any intersection of any two roads, and 	<p>The driveway is located more than 10m away from the intersection.</p>
	<p>Vehicle access is to be integrated into the building design so as to be visually recessive.</p>	<p>Complies</p> <p>The vehicle access is appropriately located.</p>
	<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>Complies</p> <p>Vehicles are able to enter and leave in a forward direction.</p>
	<p>Design of driveway crossings must be in accordance with Council's standard Vehicle Entrance Designs, with any works within the footpath and road reserve subject to a Section 138 Roads Act approval.</p>	<p>Complies</p> <p>Conditions will be imposed regarding the approval of Section 138 Roads Act certificate and a driveway crossing application.</p>
	<p>Driveway widths must comply with the relevant Australian Standards.</p>	<p>Complies</p> <p>A suitable driveway width is provided which is in accordance with AS.</p>
	<p>Car space dimensions must comply with Australian Standard 2890.1.</p>	<p>Complies</p> <p>Car space dimensions are in accordance with AS.</p>
	<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</p> <p>The driveway grades, vehicular ramp width/grades are in accordance with relevant AS.</p>
	<p>Access ways to underground parking should be sited to minimise noise impacts on adjacent habitable rooms, particularly bedrooms.</p>	<p>Complies</p> <p>Access way to basement appropriately located</p>

Development Control	Provision	Comment
On Site Parking	Car Parking Requirements	<p>Complies</p> <p>As discussed previously in DCP Part 1 assessment the proposed parking numbers comply</p>
Controls for Residential Development		
Housing Choice Mix	<p>To achieve a mix of living styles, sizes and layouts within each residential development, comply with the following mix and size:</p> <ul style="list-style-type: none"> - studio and one bedroom units must not be less than 10% of the total mix of units within each development; - three or more bedroom units must not be less than 10% of the total mix of units within each development, and 	<p>Satisfactory</p> <p>The apartment mix is as follows:</p> <ul style="list-style-type: none"> ➢ 1 Bedroom Unit x 15 (being 23%) ➢ 2 Bedroom Unit x 45 (being 68%) ➢ 3 Bedroom Unit x 6 (being 9%)
	<p>For residential flat buildings and multi-unit housing, 10% of all dwellings (or at least one dwelling – whichever is greater) must be designed to be capable of adaptation for disabled or elderly residents. Dwellings must be designed in accordance with the Australian Adaptable Housing Standard (AS 4299-1995), which includes “pre-adaptation” design details to ensure visibility is achieved.</p>	<p>Complies</p> <p>A minimum of 10% of units are required to be adaptable. A total of 6 adaptable units are proposed which have been designed to be capable of adaptation, when required in accordance with Australian Standards.</p>
	<p>Where possible, adaptable dwellings shall be located on the ground floor, for ease of access. Dwellings located above the ground level of a building may only be provided as adaptable dwellings where lift access is available within the building. The lift access must provide access from the basement to allow access for people with disabilities.</p>	<p>Complies</p> <p>Adaptable units are provided throughout various levels of the buildings. However, this is considered acceptable given that lift access is provided from the basement to the adaptable units on each level.</p>

Development Control	Provision	Comment
	<p>The development application must be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Adaptable Housing Standard (AS 4299-1995).</p>	<p>Complies</p> <p>An access report was submitted which confirms that the adaptable units are capable of being modified, when required by the occupant, to comply with the AS 4299-1995.</p>

Given the assessment above, the proposal is considered to be consistent with the key controls outlined in the LDCP 2008.

6.4 Section 4.15(1)(a)(iiia) - Any Planning Agreement or any Draft Planning Agreement

There are no Planning Agreements that affect the subject site.

6.5 Section 4.15(1)(a)(iv) – The Regulations

The Environmental Planning and Assessment Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia/National Construction Code. Appropriate conditions of consent will be imposed requiring compliance with the BCA.

6.6 Section 4.15(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 4.15(1)(b) – The Likely Impacts of the Development

(a) Natural and Built Environment

The built form is appropriate to the site in terms of alignment and proportion. The proposed residential building has been designed in a manner that is not obtrusive to adjoining properties, and complements the character of the street in terms of architectural style, design and materials.

The proposed development is considered to have an overall positive impact on the surrounding built environment. The proposal has been designed to take into account the unique site location and has provided a mixed-use development that is of an appropriate bulk and scale and consistent with the desired future character of the area.

The proposed development is not considered to have a detrimental impact on the existing natural environment. Overall, it is considered that the proposal is unlikely to generate any unreasonable impacts on the surrounding natural or built environments.

(b) Social Impacts and Economic Impacts

The development is considered to result in a positive social impact by facilitating a feasible and well balanced mixed use development that will consist of commercial and housing within the City Centre in close proximity to services and public transport.

The development will result in a positive economic impact, through the provision of the commercial premises which will provide employment opportunities for the community. Additionally, employment opportunities will also be generated through the construction of the development and the on-going maintenance of the building.

6.8 Section 4.15C(1)(c) – The Suitability of the Site for the Development

The proposed development is in keeping with the objectives of the zone and is compatible with both the existing and envisaged future character of the Liverpool City Centre.

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 4.15(1)(d) – Any submissions made in relation to the Development

(a) Internal Referrals

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

Department	Comments
Building	Supported subject to conditions
Environmental Health	Satisfactory subject to conditions
Land Development Engineering	Satisfactory subject to conditions
Traffic Engineering	No objection on traffic and transport ground subject to conditions of consent.
Heritage	Supported subject to conditions

(b) External Referrals

The following comments have been received from external agencies that have been notified of the proposed development:

Department	Comments
NSW Police	No objections to the application from a crime prevention perspective, subject to the recommendations.

(c) Community Consultation

Pursuant to the notification requirements outlined in the LDCP 2008, the application was notified between the 8 September 2016 and the 23 September 2016, The Development Application was renotified from the 29 September 2016 to 14 October 2016 due to incorrect identification of property address on Council's Development Application tracking system.

Three hundred and eighty (380) letters were posted by Council, notifying owners of the proposed development.

Accordingly, there were approximately eleven (11) submissions received in relation to the proposal, as some letters had the author identified and others did not. There was also one (1) letter with favourable support to the proposal.

The submissions had raised specific concerns with the following matters/issues that have been addressed in comment:

Issues	Comment
• Overshadowing	<p>The proposed solar access impacts are considered acceptable. Adjacent properties are not considered to be unreasonably overshadowed. The Shadow Diagrams at winter solstice (21 June) submitted with the DA demonstrate that adjacent properties will be overshadowed for three-hour intervals. This is not considered significant as the properties will receive three hours or more direct sunlight, achieving compliance with the Design Criteria set out in the ADG. In the case of residential flat buildings facing Bathurst Street these properties will be overshadowed between 9am until 12pm and receive sunlight for the remainder of the day.</p> <p>The proposed development has demonstrated that all adjoining properties will receive a minimum of two hours of solar access between 9am and 3pm at the solstice. This is consistent with the requirements of the Apartment Design Guidelines (ADG) that provides guidance when assessing developments of this scale. It is therefore considered that the proposal will not have a detrimental impact with regards to solar access on adjoining properties.</p>
• Devaluation;	Devaluation is not a 'Heads of Consideration' under the provisions of section 4.15 of the Environmental Planning and Assessment Act (EP&AAct) 1979.
• Height and scale of the building would block the breeze; • It will dwarf the other buildings in Bathurst Street;	<p>The proposal is considered to be well designed, is consistent with desired future character of the area and complies with development controls (height and FSR). The following architectural features contribute to integrating the building with the surrounding area:</p> <ul style="list-style-type: none"> • Podium/tower setback assists in providing a transition from adjacent 3-

<ul style="list-style-type: none"> • West facing balconies - overlook properties; 	<p>4 storey development</p> <ul style="list-style-type: none"> • The mass of the tower apartment form has been articulated in parts to help break down the appearance of the built mass and relate back to the street wall • Certain architectural elements are repeated throughout to unify the development as a whole across various scales • Street wall heights of the development have been carefully considered and relate to human scale. They also directly address the street frontage with the residential tower setback further from the street wall alignment façade • Alternating balcony treatments and material patterning will create patterns of light and shadow to enhance the facade and reduce the perceived bulk of the building mass • Scale of built form reduces along the southern and northern boundary to be consistent with future context and to contribute to the character of the area • Treatment of both the East and Western Facades are sympathetic in scale and create visual points of interest to assist in future laneway activation and enhance the amenity of the streetscape. <p>Notwithstanding that this building will be one of the first of this scale within the immediate locality and can be considered out of character with the current developments, the proposed development has been designed to comply with the current development standards that apply to the site namely a 100m height limit and an FSR of 8:1.</p> <p>It is not considered that the proposed building would unreasonably restrict breezes and wind from reaching surrounding properties. Cooling summer breezes from the north-east will circulate around the building and streets of the Liverpool City Centre as well as through cross ventilated apartments to surrounding areas.</p> <p>The building has been designed to a height of 76m and a FSR of 5.2:1. It can be assumed based on the development standards applicable to this site and the future LEP amendment 52, other sites within the immediate locality are expected to be developed with taller buildings and higher FSR. The proposed development is consistent with the desired future character of the area and is worthy of support in this instance.</p>
<ul style="list-style-type: none"> • Traffic and parking impacts 	<p>A Traffic and Parking Impact Assessment has been undertaken by Transport and Traffic Planning Associates and accompanied the DA. The assessment confirmed that the proposal is fully supportable in terms of its traffic and parking impacts. In particular:</p> <ul style="list-style-type: none"> • Suitable and appropriate parking provision will be made in relation to the needs of the development • The traffic generation of the development will be satisfactorily accommodated on the road system and will be less than that of the existing use on the site • The vehicle access, internal circulation and turning arrangements are satisfactory • There will not be any unacceptable road safety and traffic related

	<p>environmental implications.</p> <p>Further, onsite parking well in excess of Council controls is being proposed.</p>
<ul style="list-style-type: none"> • Bathurst Street - narrow for an arterial road; 	<p>The proposed development has provided a compliant parking arrangement in accordance with the requirements of the Liverpool Development Control Plan 2008.</p> <p>A traffic and parking assessment was provided with the application. The traffic assessment concluded that the traffic generation potential of the site as a consequence of the development proposal is minimal. The report also concluded that proposed development will not have any unacceptable parking or loading implications. The traffic report was reviewed by Council's Traffic Engineering Department and considered acceptable.</p> <p>Appropriate acoustic treatments for the building will be investigated through an Acoustic Assessment to mitigate any impacts to neighbouring properties. Based on Council feedback an Acoustic Assessment is also required to address Section 102 of the Infrastructure SEPP to demonstrate compliance with the internal noise levels stipulated for residential premises.</p>
<ul style="list-style-type: none"> • Loss of privacy; 	<p>The proposed building will not disrupt views to any significant landmarks or areas. A high quality modern and contemporary design is proposed which aims to contribute positively to the surrounding context.</p>
<ul style="list-style-type: none"> • Serviced apartments - occupied by people wanting a "good time" - more likely to generate noise; 	<p>Serviced apartments have been removed from proposal</p>
<ul style="list-style-type: none"> • Summer heat 	<p>The following design features will assist in reflecting sunlight and absorbing less heat:</p> <ul style="list-style-type: none"> • A range of projections and internal blinds will enable shading • Proposed landscaping and use of lighter coloured surfaces on facades of the building. This will also help reduce any heat build-up in the area.
<ul style="list-style-type: none"> • There is nothing 'fine grain' about the proposal. • Incompatible with the low-scale residential development to the west of Bathurst Street; • Provides poor transition. 	<p>Notwithstanding that this building will be one of the first of this scale within the immediate locality and can be considered out of character with the current developments, the future rezoning of the adjacent sites will allow for an even higher height limit and greater FSR.</p>
<ul style="list-style-type: none"> • The DA location is misleading; Re-issue the notice 	<p>The development application was notified between the 8 September 2016 and the 23 September 2016, in accordance with Council's Notification and Advertising Policy, contained in Liverpool Development Control Plan 2008.</p>

with correct details;	<p>The Development Application was renotified from the 29 September 2016 to 14 October 2016 due to incorrect identification of property address on Council's Development Application tracking system.</p>
<ul style="list-style-type: none"> • No aesthetic pleasantness and similitude; • The adjacent Bathurst Street apartment buildings are all boutique style apartments with a consistent height and urban style; 	<p>The development provides numerous benefits for residents and the local community:</p> <ul style="list-style-type: none"> • Additional mix of housing for growing population • Walkways through to Huckstepp Driveway will improve linkages to surrounding areas and encouraging walking and cycling • Communal open space area including toilet facilities, pool, barbecue facilities, outdoor dining and seating and day beds – provide opportunities for recreational pursuits and socialising • Opportunities for new business, services and employment through additional retail, commercial and serviced apartments • Activate street frontages by providing new retail that will provide a place for people to socialise – bringing the city to life • Provide natural surveillance of the public domain thereby improving safety in and around the local area.
<ul style="list-style-type: none"> • Our building currently does not have any special acoustic treatment as it was constructed prior to the zoning and planning changes. Has there been an acoustic assessment made on the impact this building will cause to Bathurst Street residential building due to the echo of the traffic from the structure? 	<p>Appropriate acoustic treatments for the building will be investigated through an Acoustic Assessment to mitigate any impacts to neighbouring properties. Based on Council feedback an Acoustic Assessment is also required to address Section 102 of the Infrastructure SEPP to demonstrate compliance with the internal noise levels stipulated for residential premises.</p> <p>An acoustic assessment of the existing neighbouring buildings is not required, however the building has been designed with Acoustic treatment in mind.</p>

5.10 Section 4.15(1)(e) – The Public Interest

The proposed development is consistent with the desired future character and would represent a high-quality development for Liverpool. The development provides additional housing opportunities within close proximity to employment opportunities and public transport.

Given the assessment undertaken, the advertisement and notification of the proposal with 380 letters posted by Council and only eleven (11) submissions received, representing 2.8% of only the persons notified, the proposal is considered to be in the public interest and therefore is recommended for approval subject to conditions of consent.

7 Liverpool Contributions Plan

Section 7.12 contributions have been levied in accordance with the Liverpool Contributions Plan 2018 – Liverpool City Centre, which is based on 3% of the cost of development.

8 CONCLUSION

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The Development Application seeks development consent for a mixed-use development at 64 Bathurst Street and 203-209 Northumberland Street Liverpool
- The proposal is consistent with the objectives of the B3 – Commercial Core and B4 – Mixed Use zone that are applicable to the site under the LLEP 2008.
- 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 ADG. The scale and built form is consistent with the desired future character of the area that is envisaged under the LLEP 2008 and LDCP 2008.
- The application was referred to a number of external authorities with no objections raised, subject to imposition of conditions.

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

9 ATTACHMENTS

1. Recommended Conditions of Consent
2. Architectural Plans
3. Landscape Plans
4. Statement of Environmental Effects with Laneway Vision
5. Acoustic Report
6. Phase 1 Contamination Assessment
7. Traffic and Parking Assessment
8. Waste Management Plan
9. ADG/SEPP 65 Assessment
10. Combined DEP Minutes
11. Legal Advice for site consideration and Clause 5.3 advice
12. Letter from adjoining owner re consolidation
13. Urban Analysis Drawings

14. Urban Analysis advice