

SYDNEY WESTERN CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

SSWPP No	2017SSW010
DA Number	DA-1257/2016
Local Government Area	Liverpool City Council
Proposed Development	<p>Concept development application pursuant to section 4.22 of the Environmental Planning & Assessment Act for a future mixed use development including commercial, business/retail and residential floor space, child care centre and parking.</p> <p>This application is for a concept approval only and seeks approval for site layout, location of future buildings, vehicular access from Macquarie Street, maximum building envelopes including setbacks and height, maximum gross floor area (GFA) across the site and location and maximum number of car spaces.</p> <p>Liverpool City Council is the assessment authority and the Sydney Western City Planning Panel has the function of determining the application</p>
Street Address	Lot 1 DP 1040368, Lot 1 DP 1215551, Lot 1 DP 1208552 149 Terminus Street, Liverpool NSW 2170, 151 Terminus Street, Liverpool NSW 2170, 360 Macquarie Street, Liverpool NSW 2170.
Owner	Cannavo Capital Pty Ltd and Cannavo Capital 2 Pty Ltd
Date of DA Lodgement	21 December 2016
Applicant	Gat and Associates
Number of Submissions	NIL
Regional Development Criteria pursuant to Clause 2 of Schedule 7 of the SEPP (State and Regional Development) 2011.	The future proposal has a capital investment value of over \$30 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • <i>List all of the relevant environmental planning instruments: Section 4.15(1)(a)(i)</i> • <i>State Environmental Planning Policy No.55 – Remediation of Land.</i> • <i>Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.</i>

	<ul style="list-style-type: none"> • <i>Liverpool Local Environmental Plan 2008.</i> • <i>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: Section 4.15(1)(a)(ii)</i> • <i>List any relevant development control plan: Section 4.15(1)(a)(iii)</i> <ul style="list-style-type: none"> • <i>Liverpool Development Control Plan 2008.</i> <ul style="list-style-type: none"> • <i>Part 1: General Controls for All Development.</i> • <i>Part 4 – Development in the Liverpool City Centre.</i> • <i>List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: Section 4.15(1)(a)(iiia)</i> <ul style="list-style-type: none"> • <i>No planning agreement relates to the site or proposed development.</i> • <i>List any relevant regulations: 4.15(1)(a)(iv)</i> • <i>Consideration of the provisions of the Building Code of Australia.</i>
List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none"> 1) Approved building envelope plans 2) Unit mix and parking rate plan 3) Master Plan Clarification 4) Master Plan Report 5) DEP minutes 6) Conditions of Consent 7) RMS Comments 8) Transport Strategy for the Liverpool City Centre (prepared as part of Amendment 52)
Recommendation	Approval
Report by	George Nehme
Report date	14 June 2019

<p>Summary of Section 4.15 matters</p> <p>Have all recommendations in relation to relevant Section 4.15 matters been summarised in the Executive Summary of the assessment report?</p>	Yes
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<p>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></p>	Yes
<p>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?</p>	Yes
<p>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></p>	N/A
<p>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></p>	Yes

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

Pursuant to Part 4, Clause 21 of the State Environmental Planning Policy (State and Regional Development) 2011, the Sydney Western City Planning Panel is the determining body as the Capital Investment Value of the future development is over \$30 million, pursuant to Clause 2 of Schedule 7 of the SEPP (State and Regional Development) 2011.

1.1 The proposal

Development consent is sought for a:

Concept development application pursuant to section 4.22 of the Environmental Planning & Assessment Act for a future mixed use development including commercial, business/retail and residential floor space, child care centre and parking.

This application is for a concept approval only and seeks approval for site layout, location of future buildings, vehicular access from Macquarie Street, maximum building envelopes including setbacks and height, maximum gross floor area (GFA) across the site and location and maximum number of car spaces.

Note: This application was lodged concurrently with a planning proposal for portions of the Liverpool City Centre, known as Amendment 52. Amendment 52 affected a large portion of the city centre, including this development site. Amendment 52 introduced development standards into the Liverpool Local Environmental Plan (LLEP) 2008, including Clauses 6.4A and Clause 7.5A. An assessment of the proposal against the adopted provisions of Amendment 52 are detailed further in this report.

Amendment 52 was adopted in September 2018, as such this application can now proceed to determination.



Figure 1: Building Perspectives

1.2 The site

The subject site is identified as Lot 1 DP1208552, 360 Macquarie Street, Lot 1 DP 1040368, 149 Terminus Street and Lot 1 DP 1215551, 151 Terminus Street Liverpool. The site is an irregular shaped allotment with a total site area of 3,358m². The subject site has three identifiable frontages. The site has a frontage to Macquarie Street of approximately 110m, a second frontage to Terminus Street of approximately 116m and a frontage at the intersection of Terminus and Macquarie Street of approximately 8m. The subject site is zoned B4 Mixed Use, pursuant to the Liverpool Local Environmental Plan (LLEP) 2008. An aerial photograph of the subject site is provided below.



Figure 2: Aerial Photo

The subject site currently contains several commercial/retail buildings that are single storey in height.

The development site is located within the Liverpool City Centre. The site is located approximately 550 south-west of Liverpool Station and approximately 230m east of the Hume Highway. A contextual map is provided below in figure 2.

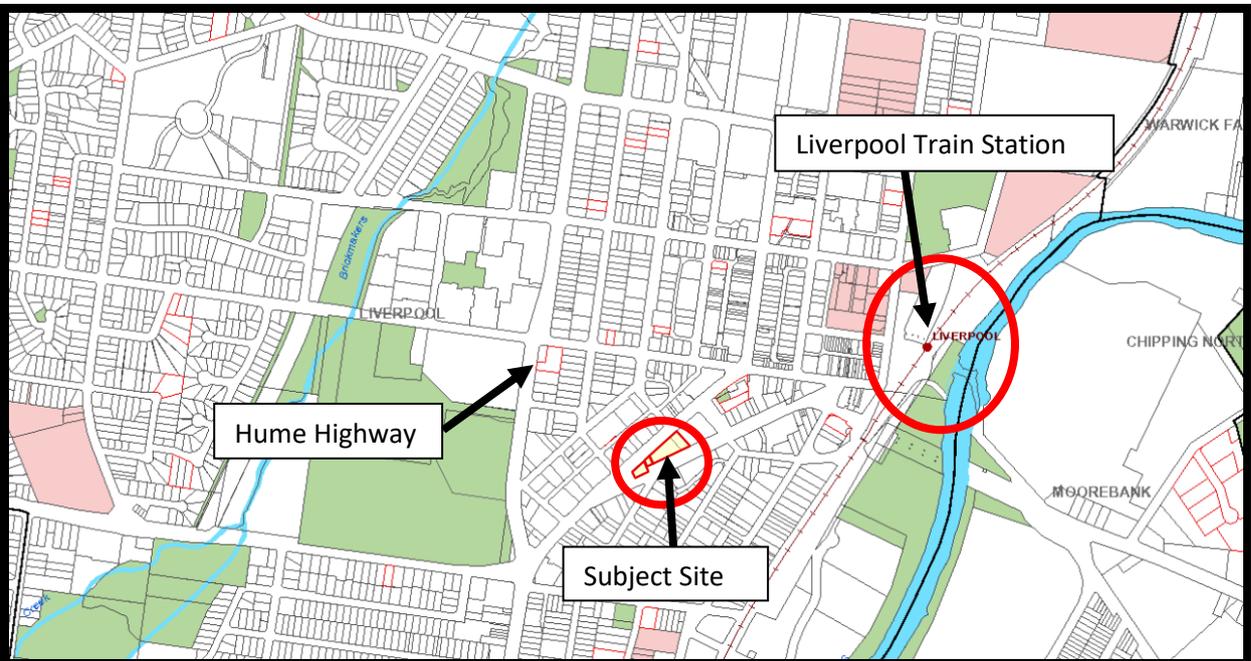


Figure 2: Context Map

1.3 The issues

It is considered that the planning concerns have been adequately addressed with the amended proposal. The remaining issue pertains to comments provided by the Roads and Maritime Services (RMS). The comments raised by the RMS and the response to these concerns are detailed in the report below.

1.4 Exhibition of the proposal

The development application was placed on public exhibition from 8 March 2017 to 23 March 2017, in accordance with Liverpool Development Control Plan 2008 (LDCP 2008). No submissions have been received during the exhibition period.

1.5 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 Lot 1 DP1208552, 360 Macquarie Street, Lot 1 DP 1040368, 149 Terminus Street and Lot 1 DP 1215551, 151 Terminus Street Liverpool. The site is an irregular shaped allotment with a total site area of 3,358m². The subject site has three identifiable frontages. The site has a frontage to Macquarie Street of approximately 110m, a second frontage to Terminus Street of approximately 116m and a frontage at the intersection of Terminus and Macquarie Street of approximately 8m. The subject site is zoned B4 Mixed Use, pursuant to the Liverpool Local Environmental Plan (LLEP) 2008.

2.1 The locality

The surrounding locality is predominately characterised by a mixture of low to medium scale retail/commercial/residential development and several high-density mixed-use developments. West of the subject site across Macquarie Street are a variety of low scale commercial/retail premises. Located east of the subject site across Terminus Street are several commercial retail premises along with several mixed-use development ranging from 4 to 5 storeys in height. South-east of the development site at the intersection of Charles and Terminus Street is a heritage item.

2.2 Site affectations

The subject site has number of constraints, which are listed below:

2.2.1 Heritage

The subject building is within the vicinity of a number of identified heritage items, with the main items identified below:

- Lyndeer House and Stables, 2 Charles Street, Liverpool. Identified under Schedule 5 of the LLEP 2008 as item No. 78. Item shown in figure 4.
- Memorial School of Arts, 306 Macquarie Street, Liverpool. Identified under Schedule 5 of the LLEP 2008 as item No. 99.
- Liverpool Fire Station, 70-78 Terminus Street, Liverpool. Identified under Schedule 5 of the LLEP 2008 as item No. 109.



Figure 3: Heritage Item No.78

Item No.99 and 109 are located approximately 237m and 185m away from the subject site. The closest heritage item is item No.78, located directly south-east of the development site. Council's Heritage Officer has reviewed the proposal and considered the proposal acceptable subject to conditions.

2.2.2 Road Acquisition

A portion of the development site at the southernmost corner is identified for road acquisition.

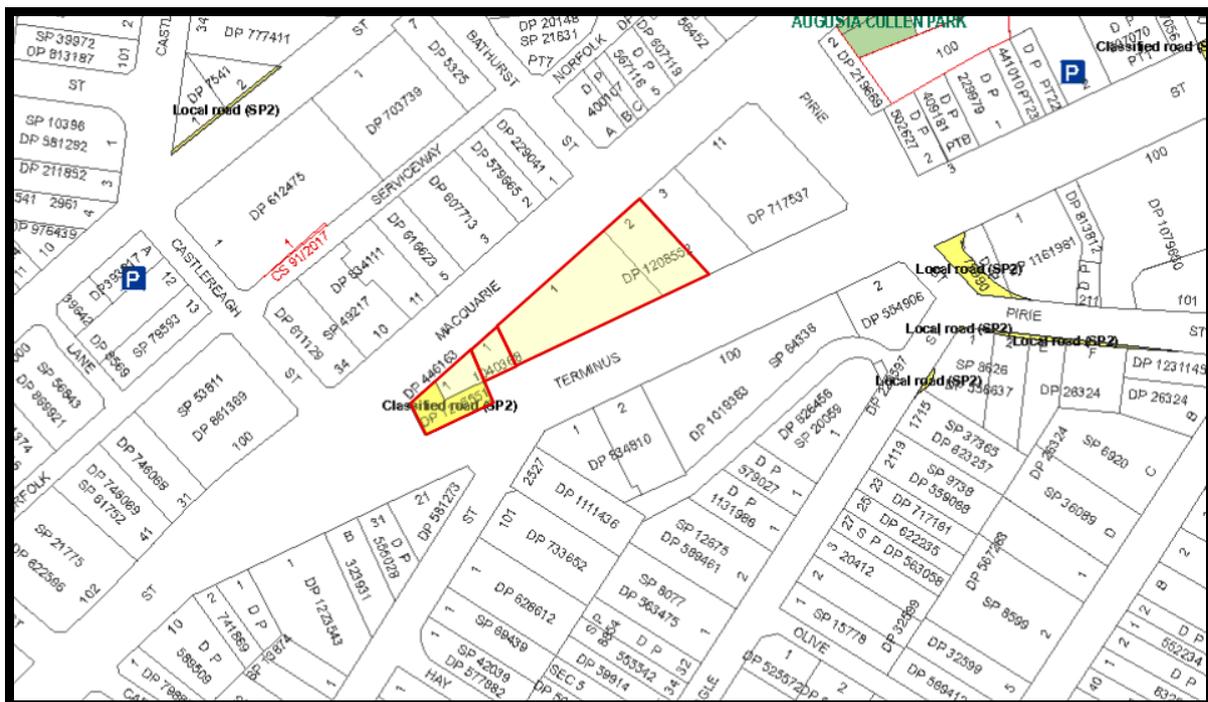


Figure 4: Road Acquisition

2.2.3 Classified Road

The subject site is located on a classified road, being Terminus Street. Vehicular access off Terminus Street is prohibited for this development.

3. BACKGROUND

3.1 History of application

a) Lodgement of Development Application – Amendment 52

The subject application was lodged concurrently with a planning proposal for the Liverpool City Centre known as Amendment 52. Amendment 52 sought to introduce certain Clauses within the Liverpool Local Environmental Plan (LEP) 2008, specifically Clauses 6.4A “Arrangements for designated State public infrastructure in intensive urban development areas” and Clause 7.5A “Additional provisions relating to certain land at Liverpool city centre”.

Amendment 52 was adopted in September 2018 and now forms part of the LEP 2008. The subject application has been proposed in accordance with the standards adopted under the amendment and will be discussed in detail further in this report.

3.3 Design Excellence Panel Briefing

The proposal was presented to Council's Design Excellence Panel on 3 occasions. The concept was presented once prior to the DA lodgement on 19 November 2015 as part of the pre-da Design Excellence Panel. The application was presented twice as part of the DA lodgement on 13 April 2017 and 20 July 2017.

The comments from the final DEP meeting on 20 July 2017 are summarised as follows;

PRESENTATION

DEP PANEL COMMENTS

For clarity purposes, the specific comments made by the DEP with regards to the application are outlined in the table below, along with Council's response in the corresponding column.

Panel Comments	Council Response
The Panel considers the proposal satisfies the issue of transition at street level in respect to the treatment of the interface between the public and private domain.	Noted
The report contains a diagram showing articulation of the ground floor. It is essential that this diagram is included in the DA documentation.	Noted
The design of the vertical "slots" in the facades above the podium is considered sufficient to modulate the length of the building and reduce its perceived scale.	Noted
The Panel does not support habitable rooms facing these slots between the buildings. Having habitable rooms opening onto the slots would not contribute to the amenity of the apartments.	Noted. As this is a concept application with the detailed building design to be identified through subsequent application, it is considered sufficient to include a condition of consent as part of the application to ensure habitable room openings onto the slots are avoided.
The architectural language of the building should trim the slots with solid and well-defined element(s).	Noted. This is a reasonable comment and would be a key consideration once the application for the detailed built form is lodged.
The Panel appreciates the openness of the applicant to discuss the issues with Council in moving forward with the scheme.	Noted
The Panel is satisfied that the issues raised in its previous minutes have been satisfactorily addressed by the amended scheme.	Noted
General	
Note: All SEPP 65 apartment buildings	Noted and provided

must be designed by an architect and his/her registration number is to be on all drawings. The architect is to attend the DEP presentations.	
Quality of construction and Material Selection	
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.	Noted. As this is a concept application that essentially sets out building envelopes the detailed materiality of the development would be considered with future applications.
Floor-to-floor height	
The Panel recommends a minimum 3050 to 3100mm floor-to-floor height so as to comfortably achieve the minimum 2700mm floor-to-ceiling height as required by the ADG.	The concept plans approved as part of the proposal stipulate that residential section of the building envelope (i.e. Level 7 to 26) will cater for a floor-floor height of 3.1m.
Conclusion	
<p>The proposal is acceptable subject to the incorporation of the above advice given from the Panel and will not need to be seen by the Panel again.</p> <p>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</p>	Noted

Based on the above comments from the Design Excellence Panel, it is deemed the concept proposal put forth is considered acceptable at this stage. It is important to note as this application is for a concept proposal only that sets out building envelopes for future detailed proposals to be submitted, future detailed development applications will be presented to the Panel to determine if acceptable.

3.4 SWCPP Briefing

A SWCPP briefing meeting was held on 11 December 2017. At the meeting the panel requested that Council address the following matters;

- *Three heritage items in vicinity*

Comment: Details and assessment in relation to the three heritage items in the vicinity of the site will be discussed further in this report.

- *Part of site has been identified for road acquisition*

Comment: Noted

- *Cl. 7.5B of Draft Liverpool LEP - Amendment 52 – Opportunity Sites*

Comment: The “Opportunity Sites” provision identified as Clause 7.5B at the time of the briefing is now Clause 7.5A under the adopted LLEP 2008. The proposals compliance against this Clause is discussed in detail further in this report.

- *VPA required for public benefit to be satisfied, as a requirement of opportunity site.*

Comment: The early versions of the Amendment 52 proposal had incorporated clauses which required effectively the agreement of a VPA between Council and the applicant prior to determination for the attainment of public benefit as a consequence of the additional FSR and height entitlement of Clause 7.5A.

With the adoption of the amendment this Clause has now been removed. The requirements for public benefit have now been incorporated into Clause 7.5A and sets a minimum percentage of certain types of uses that will need to be incorporated into a concept proposal prior to determination. The mandated percentages of uses are intended to serve as the envisaged public benefit as a direct correlation to the additional FSR and height that a development site is entitled to under Clause 7.5A. The percentages of uses provided in the concept and an assessment against Clause 7.5A are detailed further in this report.

- *FSR/Height in terms of opportunity sites*

Comment: The additional FSR/Height entitlements for this site as set out by the adoption of Amendment 52 and more specifically Clause 7.5A are detailed further in this report. In summary based on the provisions of Clause 7.5A the development site can achieve a maximum GFA of 10:1 or 33,569sqm and no height limit.

- *Built form concept considered satisfactory by the Design Excellence Panel (DEP) – proposal has been reviewed on three occasions*

Comment: Noted

- *Setback non-compliance*

Comment: The setback non-compliance and reasons for support are detailed further in this report.

- *Above ground parking displacing commerce*

Comment: As will be evident further in the report the adoption of Amendment 52, sets out a minimum percentage of business/retail required for development sites that

seek to utilise the additional FSR and Height provided by Clause 7.5A. The subject proposal has demonstrated that it will accommodate the minimum requirements under Clause 7.5A notwithstanding the provision of above-ground parking.

4. DETAILS OF THE PROPOSAL

Development consent is sought for a:

Concept development application pursuant to section 4.22 of the Environmental Planning & Assessment Act for a future mixed use development including commercial, business/retail and residential floor space, child care centre and parking.

This application is for a concept approval only and seeks approval for site layout, location of future buildings, vehicular access from Macquarie Street, maximum building envelopes including setbacks and height, maximum gross floor area (GFA) across the site and location and maximum number of car spaces.

The concept plan will cater for the following;

- a) A 27-storey mixed use development comprising of the following uses;
 - i) A maximum Residential Gross Floor Area (GFA) of 26,540sqm between levels 7 to 26
 - ii) A maximum retail/business GFA of 6,060sqm between ground level and level 5.
 - iii) A child care centre with a maximum GFA of 719sqm on level 6.
 - iv) A gym on level 3 with a maximum GFA of 250sqm
 - v) 5 Levels of basement to cater for 240 spaces (48 spaces on each level) and an additional 2 levels of above ground parking to cater for 80 car spaces (40 spaces on each level)
 - vi) An overall maximum GFA of 33,569sqm.

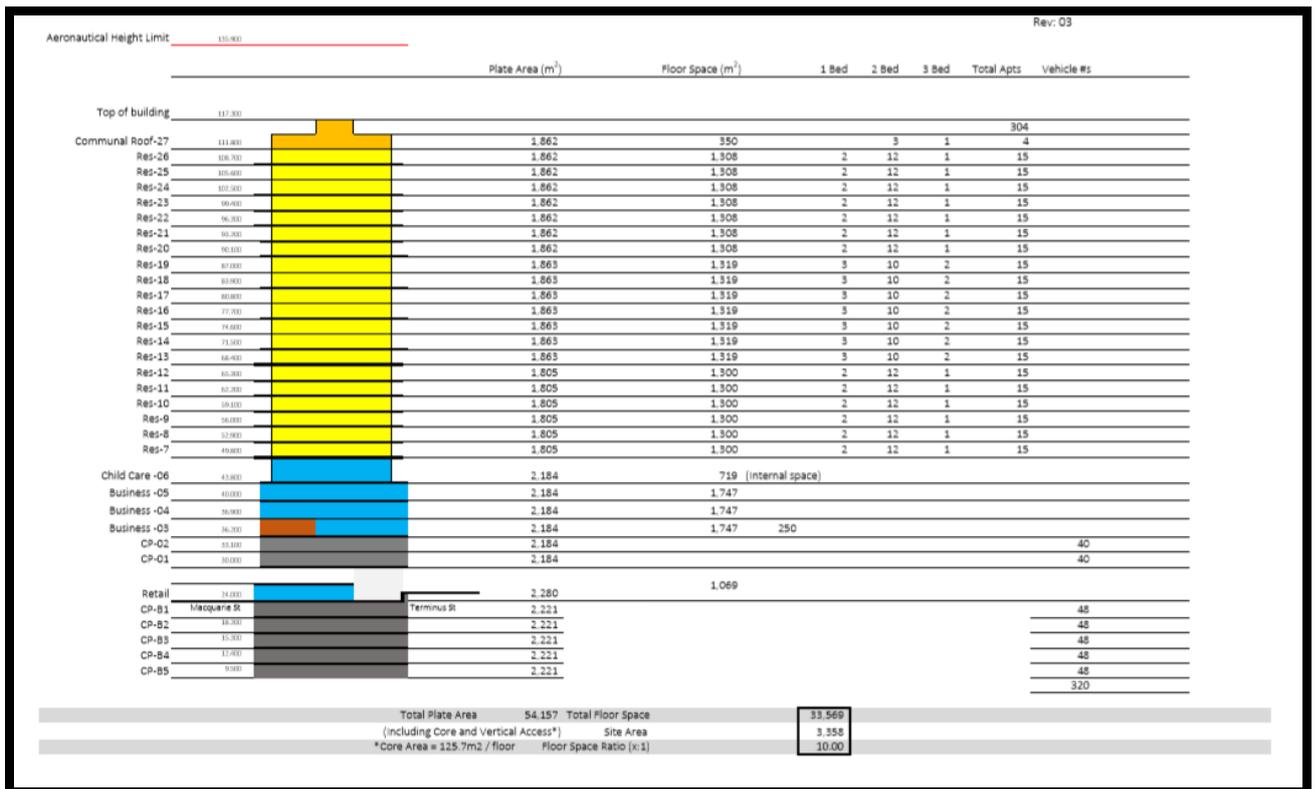


Figure 5: Diagram indicating maximum heights/parking etc

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 Flat 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;

Development Control Plans

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

5.2 Zoning

Under the current LEP the subject site is zoned B4 Mixed Use.

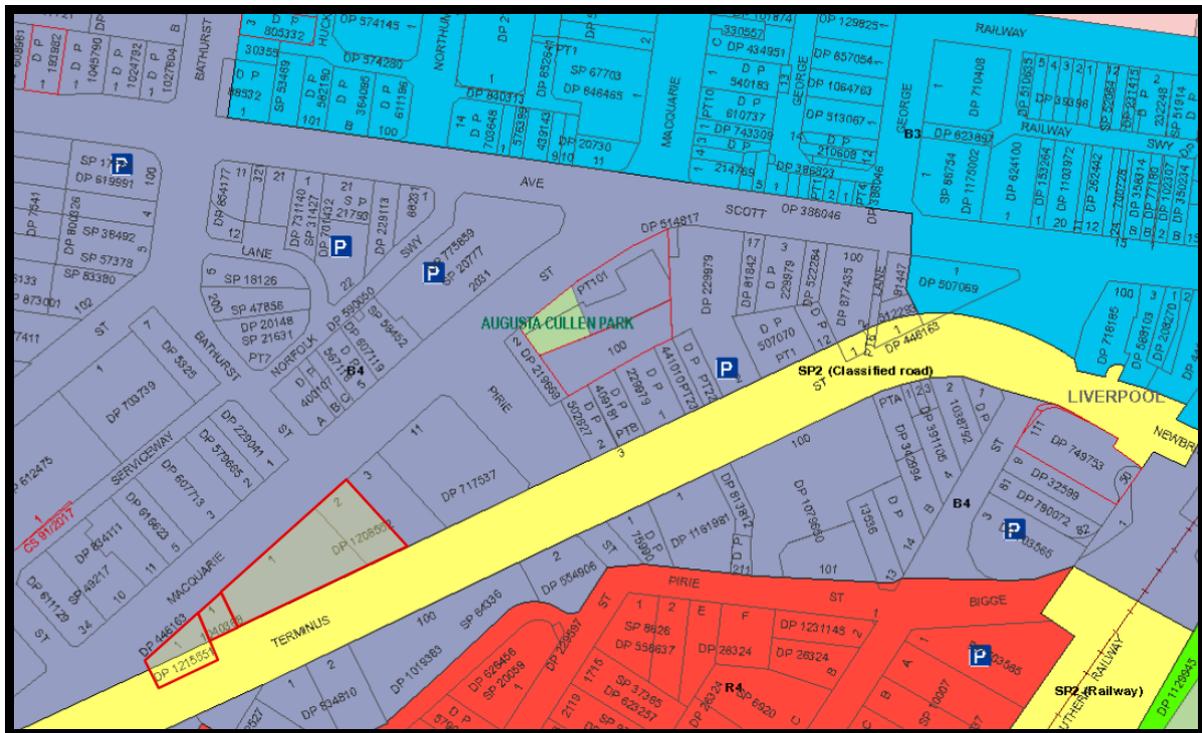


Figure 6: zoning map

5.3 Permissibility

The concept application would be incorporate a number of uses all of which are permissible within the B4 Mixed Use zoning. These uses include;

Residential flat building

Means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing;

Retail premises

means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following;

- (a) (Repealed)
- (b) cellar door premises,
- (c) food and drink premises,

- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (m) specialised retail premises,
- (n) timber yards,
- (o) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

Business premises

means a building or place at or on which:

- (a) *an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or*
- (b) *a service is provided directly to members of the public on a regular basis,*

and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

Centre-based child care facility

means:

- (a) *a building or place used for the education and care of children that provides any one or more of the following:*
 - (i) *long day care,*
 - (ii) *occasional child care,*
 - (iii) *out-of-school-hours care (including vacation care),*

- (iv) preschool care, or
- (b) an approved family day care venue (within the meaning of the *Children (Education and Care Services) National Law (NSW)*),

Note. An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the *Children (Education and Care Services) National Law (NSW)*) is provided.

but does not include:

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the *Children (Education and Care Services) National Law (NSW)*), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

Recreation facility (indoor)

means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

6. ASSESSMENT

As the application has been submitted pursuant to Clause 4.22 of the Environmental Planning and Assessment (EP & A) Act 1979, an assessment against the relevant provisions of 4.22 is provided below;

Clause 4.22 of the EP & A Act 1979 states;

4.22 Concept development applications

- (1) *For the purposes of this Act, a **concept development application** is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.*

Comment: The subject application is considered to be a concept development application that sets out concept proposals for the development of the site and this application enables the lodgement of subsequent development applications for detailed proposals at a later date.

- (2) *In the case of a staged development, the application may set out detailed proposals for the first stage of development.*

Comment: The application is for the concept only and does not involve additional stages as part of this application.

- (3) *A development application is not to be treated as a concept development application unless the applicant requests it to be treated as a concept development application.*

Comment: The applicant has requested the development application be treated as a concept application.

- (4) *If consent is granted on the determination of a concept development application, the consent does not authorise the carrying out of development on any part of the site concerned unless:*

- (a) *consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or*
- (b) *the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.*

The terms of a consent granted on the determination of a concept development application are to reflect the operation of this subsection.

Comment: It is noted that the granting of consent for a concept development application does not authorise the carrying out of development unless otherwise specified by 4(a)(b) above. As previously noted, the application is for a concept application only and does not propose additional stages for future development. Having regard to this clause a condition of consent will be imposed stipulating as such.

- (5) *The consent authority, when considering under section 4.15 the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications*

Comment: Noted. An assessment of the likely impacts of the concept proposal to the extent it is deemed appropriate against section 4.15 is provided below.

The concept development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 4.15 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

(a) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; and the Apartment Design Guide

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 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.

Note: It is important to note as stipulated in Clause 4.22 (4) of the EP & A Act 1979, an assessment against SEPP65 has been undertaken to the extent deemed appropriate for the concept development application proposed. It is envisaged that a further assessment against SEPP65 will be required once subsequent development applications are submitted for the detailed built form.

Design Quality Principle	Comment
Principle One – Context and Neighbourhood Character	
<p>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.</p> <p>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.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The proposed concept application is considered to respond to its context. The concept has been designed to respond to the key natural features of the site including site location, layout and shape. The concept application has provided a proposal that aligns with the desired future character of the Liverpool CBD, particularly when having reference to Amendment 52.</p>

Design Quality Principle	Comment
Design Principle 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>	<p>It is considered that the proposed development achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. The proposed concept aligns with the FSR and heights allowed under Clause 7.5A of the LLEP 2008</p> <p>The proposed development achieves an appropriate built form for the site and is generally consistent with the applicable standards under the Apartment Design Guide (ADG). The proposed development has been reviewed by Council's Design Excellence Panel (DEP) on three occasions and is considered to be satisfactory.</p> <p>The development provides an appropriate building envelope form that enhances the streetscape and provides a direct response to the site characteristics including the irregular shape of the development site.</p> <p>A further assessment of the built form and scale of the development would be undertaken once subsequent development applications are submitted.</p>
Design Principle 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>	<p>It is considered that the proposed concept plan has been designed to cater for the maximum envisaged densities as stipulated by the LLEP 2008, i.e. FSR, Height, setbacks etc. The proposal has been designed to cater for the required parking when subsequent development applications are proposed. The proposed concept has also been designed to enable the achievement of appropriate employment generating activities and appropriate and compliant commercial activity within the Liverpool CBD as required by Clause 7.5A.</p>
Design Principle 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 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</p>	<p>The achievement of appropriate natural ventilation, sunlight, amenity etc would be considered more appropriate to assess once detailed development applications are provided at a later date.</p>

Design Quality Principle	Comment
recharge and vegetation	
Design Principle 5 – Landscape	
<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 useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long-term management.</p>	<p>An assessment of a detailed landscape design is considered more appropriate at a later date with the submission of future detailed applications for the site.</p>
Design Principle 6 – Amenity	
<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>	<p>An assessment of amenity specifically relating appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy etc. is considered more appropriate at a later date with the submission of future detailed applications for the site.</p>
Design Principle 7 – Safety	

Design Quality Principle	Comment
<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 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>	<p>An assessment of safety is considered more appropriate at a later date with the submission of future detailed applications for the site.</p>
Design Principle 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>	<p>A detailed assessment of housing diversity is considered more appropriate at a later date with the submission of future detailed applications for the site.</p> <p>However, the concept proposal put forth for consideration has demonstrated that the building envelopes proposed with the concept application is able to cater for an appropriate apartment mix including 1, 2- and 3-bedroom apartments and the provision of suitably located communal open space.</p>
Design Principle 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 or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>An assessment of aesthetics is considered more appropriate at a later date with the submission of future detailed applications for the site.</p>

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 development against the relevant provisions of the ADG.

Provisions	Comment
2E Building depth	
Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. This will ensure that apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation	The concept proposal has been designed to enable the achievement of appropriate building depths with future development applications.
2F Building separation	
Minimum separation distances for buildings are: Five to eight storeys (approximately 25m): <ul style="list-style-type: none"> - 18m between habitable rooms/balconies - 12m between habitable and non-habitable rooms - 9m between non-habitable rooms 	The concept proposal has been designed to enable the achievement of the appropriate building separation with future development applications for level 7.
Nine storeys and above (over 25m): <ul style="list-style-type: none"> - 18m between habitable rooms/balconies - 12m between habitable and non-habitable rooms - 9m between non-habitable rooms 	The concept proposal has been designed to enable the achievement of the appropriate building separation with future development applications for levels 8 and above that contain the residential elements of the development.
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	The concept proposal has been proposed in light of the existing site constraints i.e. the irregular shape of the development site and the bulk and scale proposed takes into account the desired future character of the area. Further assessment will be considered more appropriate once subsequent applications have been submitted.
3B Orientation	
Building types and layouts respond to the streetscape and site while optimising solar access within the development Overshadowing of neighbouring properties is minimised during mid-winter	The concept proposal put forth demonstrates that appropriate solar access to adjoining sites and to future development applications can be achieved.
3D Communal and public open space	
Communal open space has a minimum area equal to 25% of the site	The concept proposal nominates level 27 as the COS area and based on the dimensions and location proposed the COS area is able to

Provisions	Comment												
<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>accommodate the requirements of the ADG.</p>												
3E Deep soil zones													
<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="193 779 767 1003"> <thead> <tr> <th>Site Area</th> <th>Minimum Dimensions</th> <th>Deep Soil Zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m²</td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m² to 1500m²</td> <td>3m</td> </tr> <tr> <td>Greater than 1500m²</td> <td>6m</td> </tr> <tr> <td>Greater than 1500m² with significant tree cover</td> <td>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 tree cover	6m	<p>Given the location and site within the Liverpool CBD and the irregular and narrow shape of the site, it is unlikely the requirement for deep soil can be achieved on this site. The ADG acknowledges that in certain locations the attainment of appropriate deep soil for planting is not possible. In those instances, a proposal must incorporate acceptable stormwater management and alternate forms of planting such as on structures is to be provided.</p> <p>The details of podium planting and appropriate species of planting are more appropriately considered at a detailed development application stage.</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 tree cover	6m												
3F Visual Privacy													
<p>Minimum separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="193 1301 767 1525"> <thead> <tr> <th>Building Height</th> <th>Habitable Rooms and Balconies</th> <th>Non Habitable Rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>12m to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table>	Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	Up to 12m (4 storeys)	6m	3m	12m to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>The concept proposal provides a building envelope that demonstrates appropriate separation distances can be achieved.</p>
Building Height	Habitable Rooms and Balconies	Non Habitable Rooms											
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													
<p>Building entries and pedestrian access connects to and addresses the public domain</p> <p>Access, entries and pathways are accessible and easy to identify</p> <p>Large sites provide pedestrian links for access to streets and connection to destinations</p>	<p>The concept proposal has provided an appropriate building envelope in consultation with the Design Excellence Panel to enable an appropriately designed and articulated building entry. Details of the design of the building entry would be more appropriately considered at future development stage.</p>												
3H Vehicle Access													

Provisions	Comment
<p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</p>	<p>In consultation with the RMS, vehicular access will be provided off Macquarie Street only and will be prohibited off Terminus Street. A condition of consent will be imposed to reflect this.</p>
<p>3J Bicycle and Car Parking</p>	
<p>For development in the following locations:</p> <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 within 800m of the Liverpool station. As such the RMS parking rates have been applied to this development. Based on the RMS guide the proposed development and the GFA's proposed in the concept plans the development would require a minimum of 304 car spaces. The proposed concept plan has been designed to cater for 320 car spaces which exceeds the RMS requirement. The concept plan has also been designed to cater for 1 car was bay, a minimum of 128 residential bicycle spaces, 72 visitor bicycle spaces and 17 motorbike spaces.</p>
<p>Parking and facilities are provided for other modes of transport</p>	
<p>Car park design and access is safe and secure</p>	
<p>Visual and environmental impacts of underground car parking are minimised</p>	
<p>Visual and environmental impacts of on-grade car parking are minimised</p>	
<p>Visual and environmental impacts of above ground enclosed car parking are minimised</p>	
<p>4A Solar and Daylight Access</p>	
<p>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>	<p>The concept proposal has demonstrated that the minimum solar access requirements can be achieved, however it is considered a more detailed assessment would be appropriate once a detailed building design application is lodged at a later date.</p>
<p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>The concept proposal has demonstrated that the minimum solar access requirements can be achieved, however it is considered a more detailed assessment would be appropriate once a detailed building design application is lodged at a later date.</p>
<p>4B Natural Ventilation</p>	
<p>All habitable rooms are naturally ventilated</p>	<p>The concept proposal has demonstrated that the minimum natural ventilation requirements can be achieved, however it is considered a more detailed assessment would be appropriate once a detailed building design application is lodged at a later date.</p>
<p>The layout and design of single aspect apartments maximises natural ventilation</p>	
<p>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>	

Provisions	Comment												
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	The assessment of depths of cross over apartments would be considered more appropriate at a future DA stage.												
4C Ceiling Heights													
<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="193 443 767 719"> <tr> <td colspan="2">Minimum ceiling height</td> </tr> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed use areas</td> <td>3.3m from ground and first floor to promote future flexibility of use</td> </tr> </table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	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	The concept design proposed demonstrates a minimum 3.1m floor to floor can be achieved, which will enable a minimum 2.7m floor to ceiling to be achieved. A condition of consent will be imposed stipulating that this is achieved through subsequent development applications.
Minimum ceiling height													
Habitable rooms	2.7m												
Non-habitable	2.4m												
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area												
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												
Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms													
Ceiling heights contribute to the flexibility of building use over the life of the building													
4D Apartment Size and Layout													
<p>Apartments are required to have the following minimum internal areas:</p> <table border="1" data-bbox="193 981 767 1111"> <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> <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>	Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	The assessment of apartment size and layouts would be considered more appropriate at a future DA stage.		
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	Considered more appropriate at a future DA stage.												
Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Considered more appropriate at a future DA stage.												
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Considered more appropriate at a future DA stage.												
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	Considered more appropriate at a future DA stage.												
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Considered more appropriate at a future DA stage.												
<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> - 3.6m for studio and 1 bedroom apartments - 4m for 2 and 3 bedroom apartments 	Considered more appropriate at a future DA stage.												
4E Private Open Space and Balconies													
All apartments are required to have primary balconies as follows:	Considered more appropriate at a future DA stage.												

Provisions			Comment															
<table border="1"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>1 bedroom</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3 bedroom</td> <td>12m²</td> <td>2.4</td> </tr> </tbody> </table> <p>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	
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																		
<p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>Where design criteria 1 above is not achieved, no more than 12 apartments should be provided off a circulation core on a single level</p>			Considered more appropriate at a future DA stage.															
4G Storage																		
<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1"> <thead> <tr> <th>Dwelling Type</th> <th>Storage Size Volume</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m³</td> </tr> <tr> <td>1 bedroom</td> <td>6m³</td> </tr> <tr> <td>2 bedroom</td> <td>8m³</td> </tr> <tr> <td>3 bedroom</td> <td>10m³</td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>			Dwelling Type	Storage Size Volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3 bedroom	10m ³	Considered more appropriate at a future DA stage.					
Dwelling Type	Storage Size Volume																	
Studio	4m ³																	
1 bedroom	6m ³																	
2 bedroom	8m ³																	
3 bedroom	10m ³																	
4H Acoustic Privacy																		
Noise transfer is minimised through the siting of buildings and building layout			Considered more appropriate at a future DA stage.															
Noise impacts are mitigated within apartments through layout and acoustic treatments																		
4K Apartment Mix																		
A range of apartment types and sizes is provided to cater for different household types now and into the future			The concept proposal provides a residential GFA that is able to provide an appropriate apartment mix, including 15% x 1 bedroom, 75 % x 2 bedroom and 9% x 3 bedroom, however this would be considered further at a future DA for the built form.															
The apartment mix is distributed to suitable locations within the building																		
4L Ground Floor Apartments																		
Street frontage activity is maximised where ground floor apartments are located			N/A															
Design of ground floor apartments delivers amenity and safety for residents																		
4M Facades																		
Building facades provide visual interest along the street while respecting the character of the local area			The proposed concept application has provided appropriate building envelopes with															

Provisions	Comment
Building functions are expressed by the facade	extensive articulation that will enable the achievement of an appropriately designed facades and encourage street activation and enhance the character of the locality, however detailed consideration of building facades would be considered more appropriate at a future DA stage.
4N Roof Design	
Roof treatments are integrated into the building design and positively respond to the street	Considered more appropriate at a future DA stage.
Opportunities to use roof space for residential accommodation and open space are maximised	
Roof design incorporates sustainability features	
4O Landscape Design	
Landscape design is viable and sustainable	Considered more appropriate at a future DA stage.
Landscape design contributes to the streetscape and amenity	
4P Planting on Structures	
Appropriate soil profiles are provided	Considered more appropriate at a future DA stage.
Plant growth is optimised with appropriate selection and maintenance	
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	Considered more appropriate at a future DA stage.
A variety of apartments with adaptable designs are provided	
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 and sense of place	Not applicable
Adapted buildings provide residential amenity while not precluding future adaptive reuse	
4S Mixed Use	
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	The proposed concept application has provided appropriate building envelopes with extensive articulation that will enable the achievement of an appropriately designed facades and encourage street activation and enhance the character of the locality, however detailed consideration of building frontages and integration of the residential elements of the building through the design would be considered more appropriate at a future DA stage.
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	
4T Awnings and Signage	

Provisions	Comment
Awnings are well located and complement and integrate with the building design	Considered more appropriate at a future DA stage.
Signage responds to the context and desired streetscape character	
4U Energy Efficiency	
Development incorporates passive environmental design	Considered more appropriate at a future DA stage.
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	
Adequate natural ventilation minimises the need for mechanical ventilation	
4V Water Management and Conservation	
Potable water use is minimised	Considered more appropriate at a future DA stage.
Urban stormwater is treated on site before being discharged to receiving waters	
Flood management systems are integrated into site design	
4W Waste Management	
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Considered more appropriate at a future DA stage.
Domestic waste is minimized by providing safe and convenient source separation and recycling	
4X Building Maintenance	
Building design detail provides protection from weathering	Considered more appropriate at a future DA stage.
Systems and access enable ease of maintenance	
Material selection reduces ongoing maintenance costs	

(a) 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.

Comment: The applicant provided a Combined Stage 1 and 2 Contamination Assessment, prepared by Alliance Geotechnical, reference 2252/ER-1-1 (Rev 2), dated 7 June 2016. The report concluded the following;

“Based on the analytical results of the soil samples collected, the recommended additional work and with consideration of the limitation outlined in Section 11, impacted soils across the site generally appear to be localised. The site is considered to be able to be made suitable for the proposed land use”.

Notwithstanding the assessment can be made suitable for the future land use, the report provided certain recommendations, when considered would be appropriate to impose as conditions of consent to ensure that when applications for future built form is lodged the recommendations of the report submitted are undertaken, these include the following;

It is recommended that any soils removed from the site are appropriately classified under the NSW EPA Waste Classification Guidelines 2014 (NSW EPA 2014).

AG recommend additional assessment be undertaken following removal of the site structures consisting of the following:

- 1. Assessment of the former Mobil service station area:
 - a. identification of the location of the former USTs including whether they remain Insitu;*
 - b. assessment of potential impacts surrounding the former USTs;*
 - c. c. assessment of potential impacts in the location of the former bowser and associated pipework;*
 - d. identification of the location of below ground former waste oil tanks (if any);*
 - e. assessment of potential impacts in the vicinity of the below ground waste oil tanks (if any)**
- 2. Assessment of potential impact in the vicinity of the UPSS associated with the former BP located on the southwest corner of the site following tank removal.*
- 3. Assessment of potential impacts beneath the current Midas Car Service Centre following demolition including:
 - a. identification of the location of below ground waste oil tanks (if any);*
 - b. assessment of the soil material surrounding the waste oil tank (if any);*
 - c. assessment of potential impacts (if any) of any below slab staining; and*
 - d. assessment of potential impacts (if any) surrounding sewer drainage lines.**
- 4. Delineation of the lateral extent of hydrocarbon impact surrounding BH4.*
- 5. Assessment of potential impacts (if any) associated with unexpected finds following removal of the site structures.*

6. *Following completion of the further assessment outlined in points 1 to 5, development of a remedial action plan will be required.*

It is considered based on the assessment provided and the imposition of the conditions detailing the recommendations above, the proposal would satisfactorily address SEPP 55 and will be made suitable for the proposed use.

(b) State Environmental Planning Policy (Infrastructure) 2007

The subject site has a frontage to Terminus Street. Terminus Street is a Classified Road and as such the proposal must be considered under the relevant provisions of the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP). Specifically, the following clauses have been considered during the assessment of the proposal.

101 Development with frontage to classified road

(1) *The objectives of this clause are:*

- (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

(2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

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

Comment: The concept development application has been considered against the relevant provisions of Clause 101, to the extent deemed appropriate for a concept development application. It is important that the submitted concept plans demonstrate suitable vehicular access to the site will be provided off a road other than a classified road if possible. The submitted concept plan demonstrated that vehicular access will be provided off Macquarie Street and not Terminus Street. As such a condition of consent will be imposed stipulating that vehicular access to any future development lodged must be off Macquarie Street and no vehicular access is permitted off Terminus Street.

As the concept plan provides maximum GFAs for residential, retail, business etc. and the final details are not known at this stage and the consequential traffic generation/parking impact and acoustic impacts of a final detailed design it is considered appropriate to give further due consideration to the potential impacts under Clause 101 at a future development application stage.

It is also important to note as indicated previously in this report the proposed concept plan has demonstrated compliance with the required RMS parking rates based on the maximum GFA's proposed in the concept plan.

102 Impact of road noise or vibration on non-road development

- (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 the RTA) 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.*
- (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 Director-General for the purposes of this clause and published in the Gazette.*
- (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.*
- (4) *In this clause, **freeway**, **tollway** and **transitway** have the same meanings as they have in the [Roads Act 1993](#).*

Comment: In response to the above clause, it is generally accepted that a development that involves one of the uses stipulated in Clause 102(1) would require the submission of an acoustic report to satisfactorily address the minimum acoustic requirements stipulated in the proceeding sub-clauses under Clause 102. It is considered appropriate in this instance that the requirement to address Clause 102, be deferred to the subsequent built form applications as they will provide more details as to the materiality of future buildings that will be utilised to satisfy Clause 102. It is not known at the concept stage. Therefore, a condition of consent will be imposed on the concept application stipulating the submission of an acoustic report that addresses the technical requirements of Clause 102 of the SEPP.

(c) 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 principle 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
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application
(a) the aims, objectives and planning principles of this plan	Considered more appropriate at a future DA stage.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas	Considered more appropriate at a future DA stage.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries	Considered more appropriate at a future DA stage.
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)	Considered more appropriate at a future DA stage.
(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)	Considered more appropriate at a future DA stage.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice	All relevant State Government Agencies were notified of the proposal and all relevant State Government Policies, manuals and guidelines were considered as part of the proposal.
(g) whether there are any feasible alternatives	The site is located in an area nominated

to the development or other proposal concerned	for mixed use development and provides for a development that is consistent with the objectives of the applicable zoning and is consistent with the desired future character of the surrounding locality.
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Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The site is not affected by acid sulphate soils.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The site is not affected by flooding.
(4) Industrial discharges	Not applicable. The site has been used for commercial purposes previously.
(5) Land degradation	Considered more appropriate at a future DA stage.
(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	Considered more appropriate at a future DA stage.
(10) Urban development areas	The site is not identified as being located within the South West Growth Centre within the Metropolitan Strategy. The site is not identified as being an Urban Release Area under LLEP 2008.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	Considered more appropriate at a future DA stage.
(13) Wetlands	Not applicable.

It is considered that the concept proposal appropriately satisfies the provisions of the GMREP No.2 to the extent considered appropriate in this instance. Further consideration of the proposal will be given once subsequent applications have been submitted for detailed

building plans.

(d) Liverpool Local Environmental Plan 2008

The concept application would be incorporate a number of uses all of which are permissible within the B4 Mixed Use zoning. These uses have been detailed previously in this report.

Zone Objectives

The objectives of the B4 zone are as follows:

- *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.*

The proposed concept application is considered consistent with the objectives of the B4 zone in that it will facilitate a mixture of compatible land uses, provides for appropriate building envelopes that have been suitably located to cater for suitable business, residential, retail and other uses. It enables the provision of future residential accommodation in the Liverpool City Centre while enabling the provision of active retail, business and other non-residential uses at street level. The concept application has also been presented to Council's Design Excellence Panel on numerous occasions and is considered an appropriate concept application that can facilitate a high standard of urban design.

Principal Development Standards

The following principal development standards are applicable to the proposal. The principle development standards have been considered against this concept proposal to the extent deemed appropriate in this instance.

Clause	Provision	Comment
Clause 2.7 Demolition Requires Development Consent	The demolition of a building or work may be carried out only with development consent.	N/A

Clause 4.3 of Height of Buildings	Maximum height of 28m	N/A The application is being proposed pursuant to Clause 7.5A, which enables the removal of a maximum height limit on a site subject to the satisfaction of clause 7.5A. Clause 7.5A assessment is provided further in this report.
Clause 4.4 Floor Space Ratio	Maximum FSR of 3:1	N/A The application is being proposed pursuant to Clause 7.5A, which enables an additional FSR on a site up to a maximum of 10:1, subject to the satisfaction of clause 7.5A. Clause 7.5A assessment is provided further in this report.
Clause 5.10 Heritage Conservation	Development proposed within the vicinity of a heritage item must be accompanied by a heritage management document to assess the impact of the heritage significance of the heritage item.	Refer to discussion below regarding Clause 5.10
6.4A Arrangements for designated State public infrastructure in intensive urban development areas		Refer to discussion below regarding Clause 6.4A
7.1 Objectives for Development in Liverpool City Centre	Proposed developments must be consistent with the objectives	Complies Refer to discussion below
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	N/A This clause does not encompass the subject site.

	specified in Column 1 of the Table to this clause projecting above the height specified opposite that land in Column 2 of the Table	
7.3 Car Parking in the Liverpool City Centre	<ul style="list-style-type: none"> • At least one car parking space is provided for every 200m² of new ground floor GFA; • At least one car parking space is provided for every 100m² of new retail premises GFA; and • At least one car parking space is provided for every 150m² of new GFA to be used for any other purpose. 	<p>N/A</p> <p>As indicated previously in this report, the concept application was proposed in accordance with the RMS parking rates. The proposal demonstrates compliance with the applicable RMS rates.</p>
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 	<p>Complies</p> <p>The proposed concept plans has demonstrated it could accommodate a building envelope that would achieve the required building separation under the LLEP 2008.</p>

	- 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	
Clause 7.5 Design Excellence in Liverpool City Centre & Key Site Controls	<p>Must Comply with Clause 7.5(3) with regards to exhibiting design excellence and</p> <p>The subject site is identified as a key site under Clause 7.5(4) of the LLEP 2008. Clause 7.5(4) requires development with a CIV over \$10million identified as a key site to participate in an architectural design competition.</p>	Refer to Discussions below
Clause 7.14 Minimum Building Street Frontage	A minimum building street frontage of 24m is applicable.	Complies The site has multiple frontages that exceed 24m
7.5A Additional provisions relating to certain land at Liverpool city centre		Complies – Refer to discussion below
7.16 Ground floor development in Zones B1, B2 and B4	Development Consent is not to be granted unless it is demonstrated that the ground floor will not be used for residential accommodation	Complies Proposed concept does not provide any residential accommodation on ground floor.
Clause 7.17 Airspace Operations	Provisions to protect airspace around airports	Complies The application was reviewed by Sydney Airport authority who provided conditions of

		consent.
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(i) Other Relevant LLEP 2008 Clauses

In addition to the above development standards, the application has also been considered in regards to other relevant standards of the LLEP 2008. The key clauses applicable to the application are discussed in further detail below.

• Clause 5.10 Heritage Conservation

The subject building is within the vicinity of a number of identified heritage items, with the main items identified below:

- Lyndeer House and Stables, 2 Charles Street, Liverpool. Identified under Schedule 5 of the LLEP 2008 as item No. 78. Item shown in figure 4.
- Memorial School of Arts, 306 Macquarie Street, Liverpool. Identified under Schedule 5 of the LLEP 2008 as item No. 99.
- Liverpool Fire Station, 70-78 Terminus Street, Liverpool. Identified under Schedule 5 of the LLEP 2008 as item No. 109.

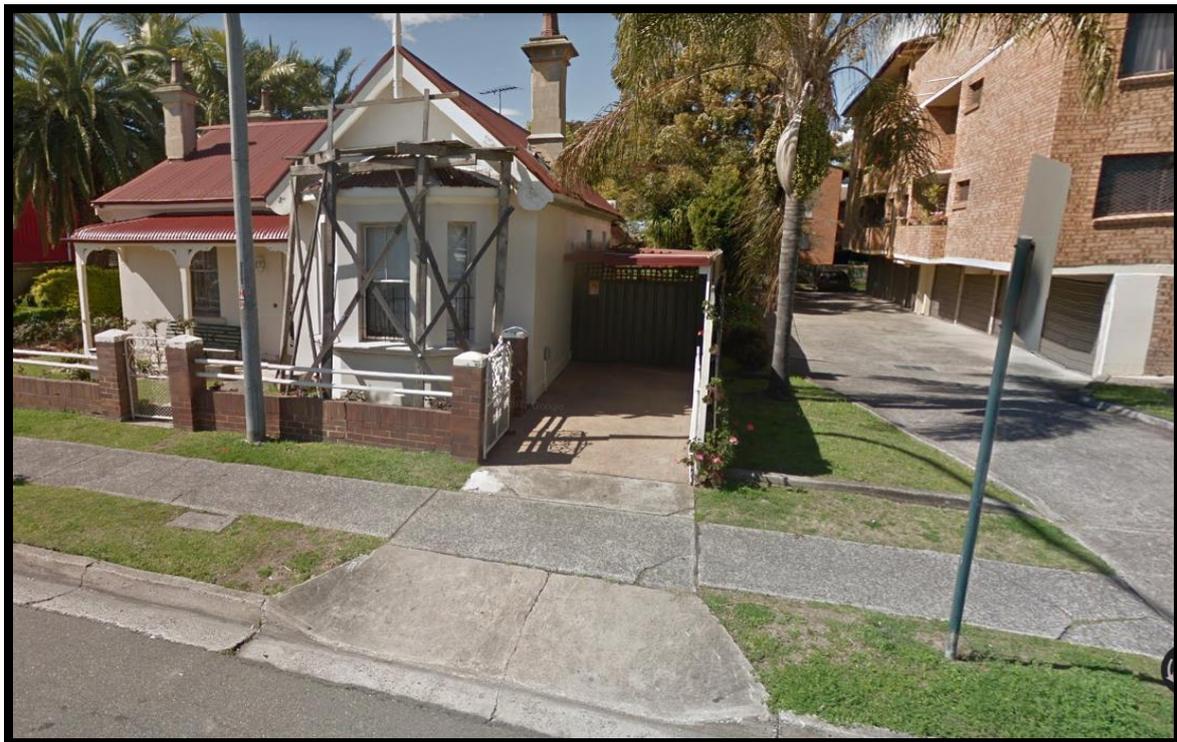


Figure 7: Heritage Item No.78

Item No.99 and 109 are located approximately 237m and 185m away from the subject site. The closest heritage item is item No.78, located directly south-east of the development site.

Council's Heritage Officer has reviewed the proposal and made the following comments/recommendations

The proposed development will not have any physical impact on the identified heritage items with the potential form of impact being visual.

The assessment report concludes that the proposed development is well away from the subject heritage items so as to limit potential overshadowing and will not block views to and from the items to the public sphere.

In addition, the proposed development is not located in a position whereby its locality behind the heritage item would be of sufficient no as to overwhelm or dominant the landscape directly associated with the heritage item.

As such the proposal is considered to be acceptable and no conditions are recommended.

Historic Archaeology

A preliminary archaeological assessment was undertaken by the applicant's heritage consultant that considered the known physical and historical information of the site to determine the archaeological potential and the likely level of significance of any potential finds.

The assessment follows the standard form for a statement of heritage impact and logical process to the assessment and consideration of the relevant aspects of the site, history and proposal.

The report summarises that the likelihood of finding any archaeological relics on the subject site is low, with any relics have a low level of significance, primarily due to the in depths understanding of the early residential life of the area and the limited potential for new information to be gained from the site.

In principle, I agree with the findings of the report, however feel that a condition should be included on the consent that initiates a stop work process if any potential relics are uncovered while excavation works are being undertaken.

Proposed Condition.

1. Archaeological discovery during excavation

- (a) Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.*
- (b) If the discovery is on Council land, through the provision of infrastructure or other associated building works, Council's Heritage Officer must be notified.*
- (c) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the Occupational Certificate.*

Based on the findings above, it is considered the proposal satisfactorily addresses Clause 5.10 and is worthy of support in this instance. It is considered the proposed condition for archaeological findings be imposed as part of future development applications that involve development.

Clause 6.4A Arrangements for designated State public infrastructure in intensive urban development areas

Clause 6.4A states;

(1) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the development of land wholly or partly for residential purposes, to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.

(2) Despite all other provisions of this Plan, development consent must not be granted for development for the purposes of residential accommodation (whether as part of a mixed use development or otherwise) in an intensive urban development area that results in an increase in the number of dwellings in that area, unless the Secretary has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to the land on which the development is to be carried out.

(3) This clause does not apply to a development application to carry out development on land in an intensive urban development area if all or any part of the land to which the application applies is a special contributions area (as defined by section 7.1 of the Act).

(4) In this Part:

intensive urban development area means the area of land identified as “Area 7”, “Area 8”, “Area 9”, “Area 10” or “Area 11” on the [Floor Space Ratio Map](#).

Comment: As part of the adoption of Amendment 52, Council undertook a traffic study to understand the potential impacts of the envisaged residential up lift created. The traffic report was prepared by GTA Consultants and is attached to this report. The conclusions of the report found that to cater for the envisaged-up lift, upgrades to key intersections in and around the CBD will be required, these recommendations are found on page 96 of the attached traffic study.

Consequently, to the above Clause 6.4A was introduced, which stipulates “satisfactory arrangements” are to be made for the provision of designated state infrastructure before the development of land wholly or partly for residential purposes.

As this proposal is a concept proposal at this stage and does not involve or give consent to the construction of a building involving residential accommodation under this concept approval, it is considered appropriate in this instance to impose a condition of consent requiring Clause 6.4A has been addressed prior to the lodgement of a future development application involving residential accommodation.

Clause 7.1 Objectives for Development in Liverpool City Centre

Clause 7.1 of the LLEP 2008, stipulates the objectives that must be satisfied by any redevelopment in the city centre. The objectives of Clause 7.1 are as follows;

- (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.*

Comment: The proposal is considered to satisfy the objectives of clause 7.1 as it provides a concept development that significantly improves the public domain and improves the quality of public spaces in the city centre. It provides a concept design that will enable an exceptionally designed development in close proximity to a major transport hub, being the Liverpool Train Station and the Liverpool-Parramatta transitway. It provides a development that has given appropriate consideration the existing site constraints and the surrounding local and wider context.

- **Clause 7.5 Design Excellence in Liverpool City Centre**

- **Design Excellence**

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 key Clauses of 7.5 in this instance that will need to be considered when determining whether a proposal exhibits design excellence are Clauses 7.5(2) and (3). Clause 7.5 (2) and (3) state the following;

- (2) Development consent must not be granted to development involving the construction of a new building or external alterations to an existing building in the Liverpool city centre unless the consent authority considers that the development exhibits design excellence.*
- (3) In considering whether development exhibits design excellence, the consent authority must have regard to the following matters:*
 - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved;*
 - (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*

- (c) whether the proposed development detrimentally impacts on view corridors,*
- (d) whether the proposed development detrimentally overshadows Bigge Park, Liverpool Pioneers' Memorial Park, Apex Park, St Luke's Church Grounds and Macquarie Street Mall (between Elizabeth Street and Memorial Avenue),*
- (e) any relevant requirements of applicable development control plans,*
- (f) how the proposed development addresses the following matters:*
 - (i) the suitability of the site for development,*
 - (ii) existing and proposed uses and use mix,*
 - (iii) heritage issues and streetscape constraints,*
 - (iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) bulk, massing and modulation of buildings,*
 - (vi) street frontage heights,*
 - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
 - (viii) the achievement of the principles of ecologically sustainable development,*
 - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,*
 - (x) the impact on, and any proposed improvements to, the public domain.*

To ensure large scale developments of this nature exhibit design excellence, Council has in place a Design Excellence Panel (DEP) that oversees and provides advice to applicants in an effort to present a final proposal that is considered to meet the desired outcome of Clause 7.5 (3).

As discussed previously in this report under section 3.3 the proposal was presented to Council's DEP on 3 occasions. The proposal was presented to Council's Design Excellence Panel on 3 occasions. The concept was presented once prior to the DA lodgement on 19 November 2015 as part of the pre-da Design Excellence Panel. The application was presented twice as part of the DA lodgement on 13 April 2017 and 20 July 2017.

As indicated previously in this report, the concept application was considered to be satisfactory. It is important to note that subsequent applications that involve the detailed built form will be presented to the DEP again for consideration under this clause.

7.5A Additional provisions relating to certain land at Liverpool city centre

(1) This clause applies to land development on land that:

- (a) is identified as "Area 8", "Area 9" or "Area 10" on the [Floor Space Ratio Map](#), and*

(b) has a lot size exceeding 1500m², and

(c) has 2 or more street frontages.

Comment: The subject site is located in “Area 8” on the FSR map as indicated in figure 8 below. The development site is greater than 1500sqm and has 2 or more street frontages. On this basis Clause 7.5A would apply to this site.

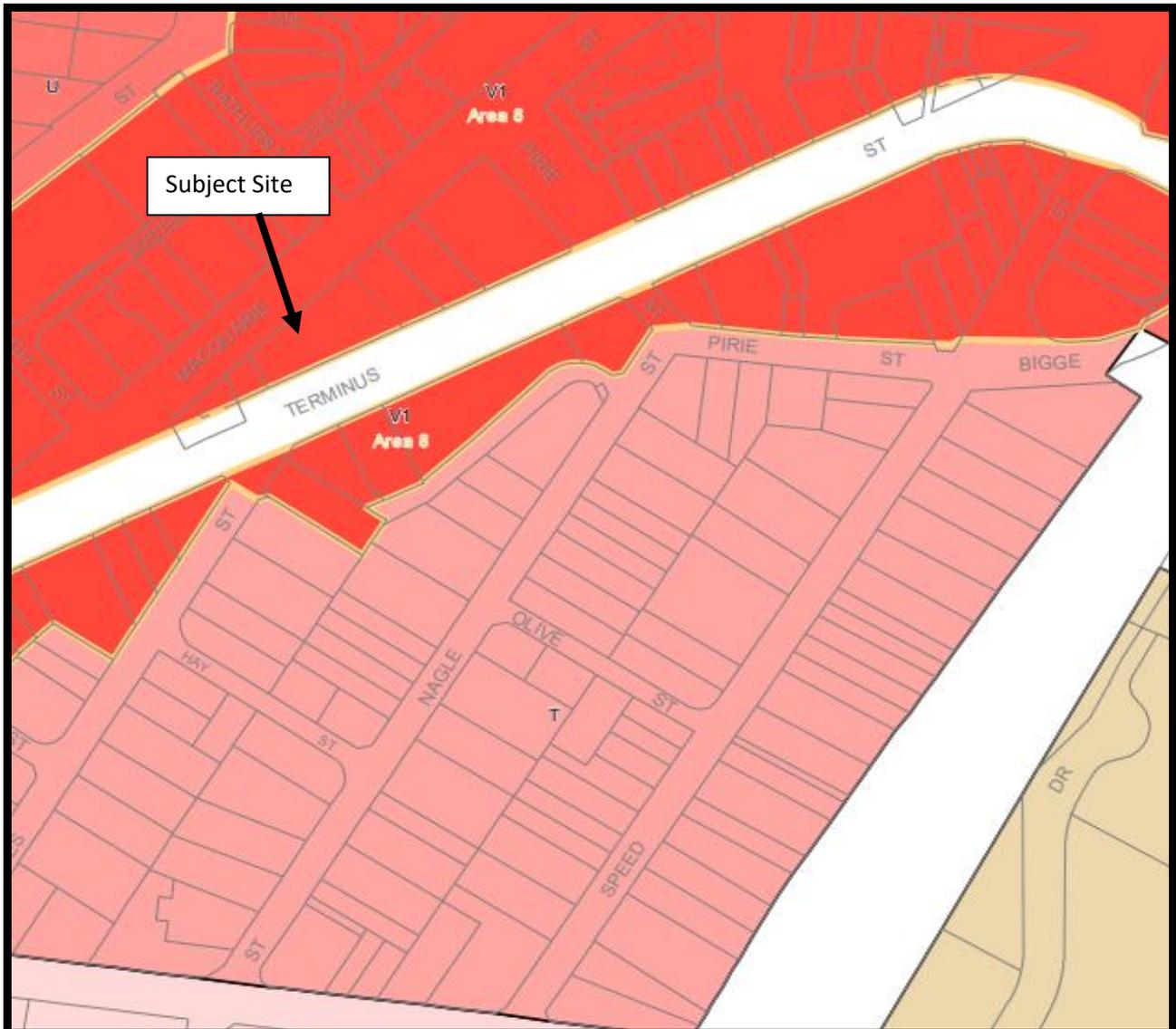


Figure 8: FSR Map indicating site is in Area 8

(2) *Despite clauses 4.3 and 4.4, if at least 20% of the gross floor area of a building is used for the purposes of business premises, centre-based child care facilities, community facilities, educational establishments, entertainment facilities, food and drink premises, functions centres, information and education facilities, medical centres, public administration buildings or retail premises:*

- (a) *the height of the building may exceed the maximum height shown for the land on the [Height of Buildings Map](#), and*
- (b) *the maximum floor space ratio of the building may exceed the maximum floor space ratio shown for the land on the [Floor Space Ratio Map](#) but must not exceed:*
 - (i) *in relation to a building on land identified as “Area 8” or “Area 10” on the map—10:1, or*
 - (ii) *in relation to a building on land identified as “Area 9” on the map—7:1.*

Comment: This clause mandates that for sites that fall within Area 8 provide a minimum 20% of the GFA for the purpose ***business premises, centre-based child care facilities, community facilities, educational establishments, entertainment facilities, food and drink premises, functions centres, information and education facilities, medical centres, public administration buildings or retail premises.***

If it is demonstrated that a development provides for the mandated minimum 20% then a development may obtain an unrestricted height limit and an FSR of up to 10:1 despite the maximum height and FSR development standard indicated by Clauses 4.3 and 4.4 of the LLEP 2008.

The concept proposal has demonstrated that a future development is able to accommodate a minimum 20% of the GFA for numerous uses detailed in the Clause above. The concept plan has provided a building envelope that demonstrates of the maximum 33,569sqm of GFA the proposal can accommodate 6,778sqm for the purpose of retail/business and child care. This equates to 20.1% of the total GFA and satisfies this Clause. A condition of consent will be imposed requiring that any future application provide a minimum 20% of the GFA for the uses listed above.

Therefore, having regard to the above it is considered reasonable in this instance that the concept proposal provides an FSR of 9.99:1 as it has demonstrated that it is consistent with the requirements of this Clause.

- (3) *Development consent must not be granted under this clause unless:*
 - (a) *a development control plan that provides for the matters specified in subclause (4) has been prepared for the land, and*
 - (b) *the site on which the building is located also includes recreation areas, recreation facilities (indoor), community facilities, information and education facilities, through site links or public car parks*

Comment: In the first instance it is important to note that the concept plans includes provision for a gym on level 3 which satisfies Clause 3(b) as a gym is defined as a *recreation facility (indoor)*.

It is evident by subclause 3(a) that a DCP is to be prepared for the site for consent to be granted. However, in this instance it is important in this instance to reference Clause 4.23 of the Environmental Planning and Assessment Act, which states;

4.23 Concept development applications as alternative to DCP required by environmental planning instruments (cf previous s 83C)

- (1) *An environmental planning instrument cannot require the making of a concept development application before development is carried out.*
- (2) *However, if an environmental planning instrument requires the preparation of a development control plan before any particular or kind of development is carried out on any land, that obligation may be satisfied by the making and approval of a concept development application in respect of that land.*

Note. Section 3.44 (5) also authorises the making of a development application where the relevant planning authority refuses to make, or delays making, a development control plan.

- (3) *Any such concept development application is to contain the information required to be included in the development control plan by the environmental planning instrument or the regulations.*

Clause 4.23 above enables the submission of a concept development application in lieu of the development of a site specific DCP. Therefore, it is considered that the submission of a concept application has the same affect as the preparation of a DCP in this instance and satisfies Clause 7.5A(3). Details below demonstrate how the concept proposal meets the relevant requirements of a DCP as required by Clause 7.5A(4) below.

- (4) *The development control plan must include provision for how proposed development is to address the following matters:*
 - (a) *the suitability of the land for development,*
 - (b) *the existing and proposed uses and use mix,*
 - (c) *any heritage issues and streetscape constraints,*
 - (d) *the impact on any conservation area,*
 - (e) *the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (f) *the bulk, massing and modulation of buildings,*
 - (g) *street frontage heights,*
 - (h) *environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,*
 - (i) *the achievement of the principles of ecologically sustainable development,*
 - (j) *encouraging sustainable transport, including increased use of public transport, walking and cycling, road access and the circulation network and car parking provision, including integrated options to reduce car use,*

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

(l) achieving appropriate interface at ground level between buildings and the public domain,

(m) the excellence and integration of landscape design

Comment: While it is acknowledged that a site specific DCP was not prepared for the site as required by Clause (3), it is evident that the concept proposal has given due consideration for all the matters listed in subclause (4). This is evidenced by the Master Plan Report, submitted with the application prepared by PTW. It is also important to note that the submitted concept plan has been presented numerous times to Councils Design Excellence Panel, which have deemed the documentation satisfactory and have endorsed the concept proposed.

Master Plan Report

The Master Plan Report prepared by PTW (Attachment 2), takes into consideration a whole range of matters including but not limited to the following;

- a) Site location not in reference to the city centre and its proximity to a major transport hub but the site location within the greater western Sydney.



Figure 9: Location context

b) The bulk and massing of the buildings;

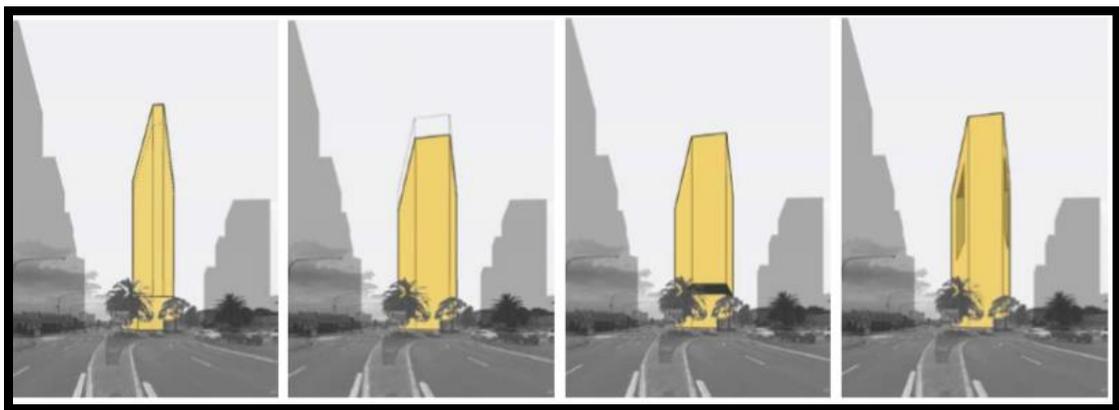


Figure 10: Bulk/Scale

c) The location of the future tower in reference to potential future development.

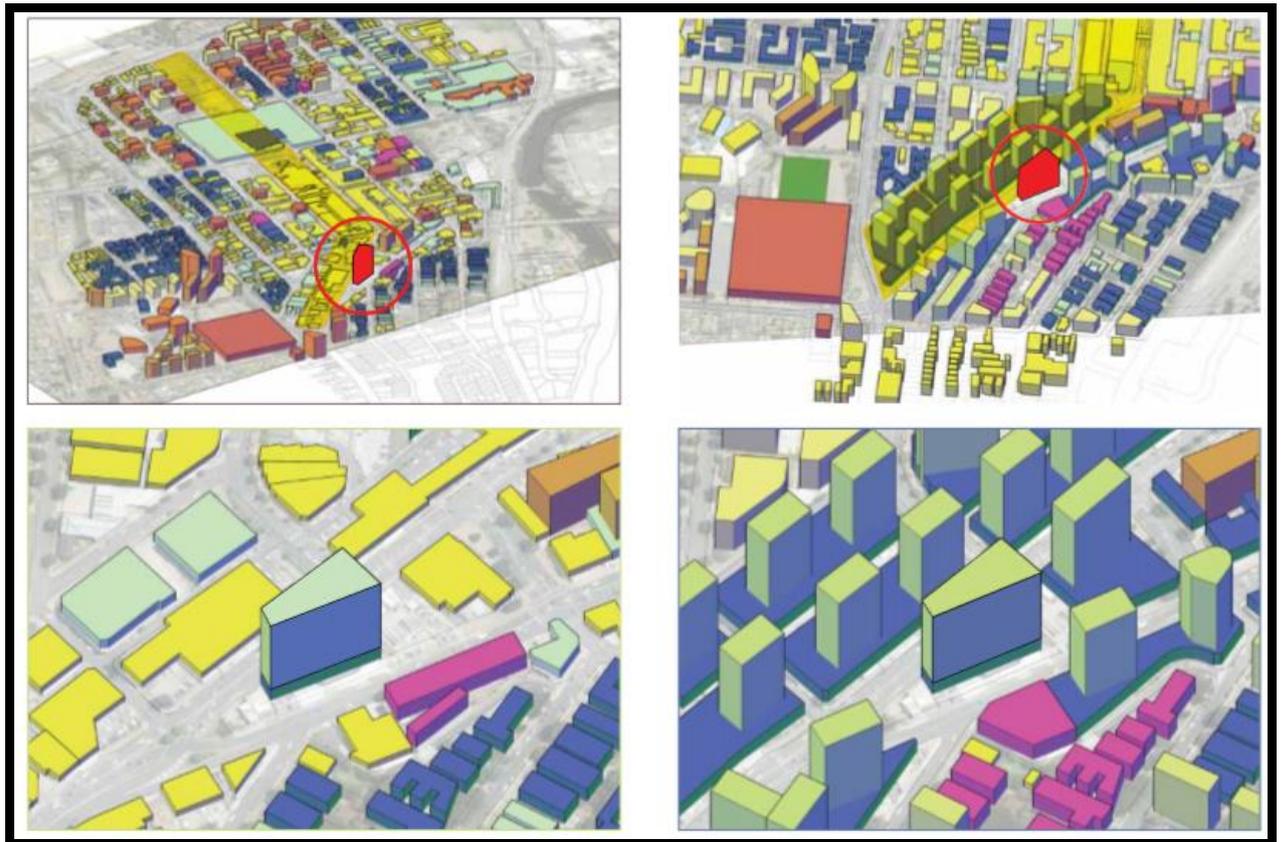


Figure 11: Building in context of wider CBD

d) Solar Access and shadow impact

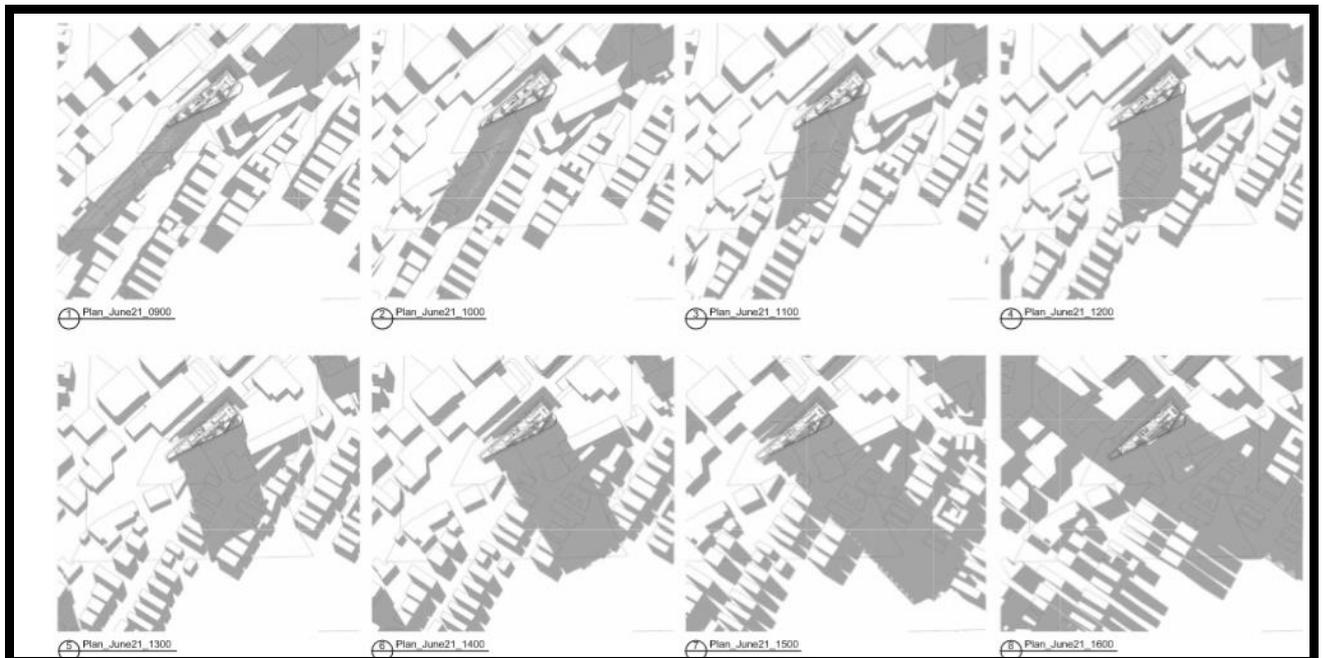


Figure 12: Solar Access Impact

d) The articulation, modulation of the future building and presentation to the public domain.



Figure 13: Articulation/Modulation

The Master Plan Report has been reviewed by Councils DEP and it was considered an appropriate response as to how the final concept put forth was determined. The report meets the intent of subclause 4 even though not considered a site specific DCP. It is a comprehensive document prepared that governed the final design outcome which is not dissimilar to the intent of a DCP.

Conclusion: Based on the information above it is considered the concept development application has satisfactorily addressed Clause 7.5A and is considered worthy of support in this instance.

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

No draft Environmental Planning Instruments applies to the site

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.

LDCP 2008 Part 1: General Controls for All Development

Development Control	Provision	Comment
Section 2. Tree Preservation	Controls relating to the preservation of trees	Not Applicable The site does not contain any vegetation requiring removal.
Section 3. Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	Considered more appropriate at a future DA stage.
Section 4 Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	Not Applicable The development site is not identified as containing any native flora and fauna.
Section 5. Bush Fire Risk	Controls relating to development on bushfire prone land	Not Applicable The development site is not identified as being bushfire prone land.
Section 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.	Considered more appropriate at a future DA stage.
Section 7. Development Near a Watercourse	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.	Not Applicable The development site is not within close proximity to a water course.
Section 8. Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	Considered more appropriate at a future DA stage.

Development Control	Provision	Comment
Section 9. Flooding Risk	Provisions relating to development on flood prone land.	Not Applicable The development site is not identified as flood prone land.
Section 10. Contaminated Land Risk	Provisions relating to development on contaminated land.	Complies As discussed within this report, the subject site is considered to be suitable for the proposed development. Further consideration will be given when applications for buildings are submitted.
Section 11. Salinity Risk	Provisions relating to development on saline land.	Not Applicable The development site is identified as containing a low salinity potential. Therefore, a salinity management response plan is not required.
Section 12. Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	Not Applicable The site is not identified as containing the potential for acid sulphate soils.
Section 13. Weeds	Provisions relating to sites containing noxious weeds.	Not Applicable The site is not identified as containing noxious weeds.
Section 14. Demolition of Existing Development	Provisions relating to demolition works	Considered more appropriate at a future DA stage.
Section 15. On Site Sewage Disposal	Provisions relating to OSMS.	Not Applicable OSMS is not proposed.
Section 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	Satisfactory

Development Control	Provision	Comment
	aboriginal archaeology.	
Section 17. Heritage and Archaeological Sites	Provisions relating to heritage sites.	Complies The proposals impact on the surrounding heritage items are discussed previously in this report.
Section 18. Notification of Applications	Provisions relating to the notification of applications.	Complies The development application was placed on public exhibition from 8 March 2017 to 23 March 2017, in accordance with Liverpool Development Control Plan 2008 (LDCP 2008). No submissions have been received during the exhibition period.
Section 19. Used Clothing Bins	Provisions relating to used clothing bins.	Not Applicable The DA does not propose used clothing bins.
Section 22. and Section 23 Water Conservation and Energy Conservation	New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	Considered more appropriate at a future DA stage.
Section 25. Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Considered more appropriate at a future DA stage.
Section 26 Outdoor Advertising and Signage	Provisions relating to signage.	Not Applicable The DA does not propose any signage.

LDCP 2008 Part 4: Liverpool City Centre: It is important to note that this concept plan sets the maximum parameters for the site in terms of bulk, scale, location and setbacks etc. It is considered that the concept plan is akin to a site specific DCP and consideration of part 4 below will be taken into account where deemed appropriate or relevant.

Controls	Comment	Complies
PART 4 - DEVELOPMENT IN LIVERPOOL CITY CENTRE		
2. Controls for Building Form		
2.1 – Building Form		
Subject Site located within the residential area in accordance with the DCP		
Street Setbacks		
<p>1. Street building alignment and street setbacks are to comply with figure 3. Subject site requires a 0m street setback.</p>	<p>Appropriate street setbacks for the site set by the concept plan documentation provided and supported by Council and DEP</p>	<p>Satisfactory</p>
<p>2. External facades of buildings are to be aligned with the streets that they front.</p>	<p>Appropriate street setbacks for the site set by the concept plan documentation provided and supported by Council and DEP</p>	<p>Satisfactory</p>
<p>3. Notwithstanding the setback controls, where development must be built to the street alignment (as identified in Figure 3), it must also be built to the side boundaries (0m setback) where fronting the street. The minimum height of development built to the side boundary is to comply with the minimum street frontage height requirement.</p>	<p>Appropriate setbacks for the site set by the concept plan documentation provided and supported by Council and DEP</p>	<p>Satisfactory</p>
Street Frontage Heights		

<p>1. Street Frontage height of buildings must comply with the minimum and maximum heights above mean ground level on the street front as shown in figure 5. Subject site requires 16-26m or 4 to 6 storeys</p>	<p>Appropriate street frontage heights for the site set by the concept plan documentation provided and supported by Council and DEP.</p>	<p>Satisfactory</p>
<p>Building Depth and Bulk</p>		
<p>1. The maximum floor plate size and depth of buildings are specified and illustrated in Figure 6 and table 1 above street frontage height (i.e. 1,200sqm and 30m depth)</p>	<p>Appropriate maximum floor plates for the site set by the concept plan documentation provided and supported by Council and DEP.</p>	<p>Satisfactory</p>
<p>Boundary Setback and Building Depth and Bulk</p>		
<p>1. The minimum building setbacks from the front, side and rear property boundaries are specified in table 2.</p> <ul style="list-style-type: none"> ➤ Up to permissible SFH level requires Nil setback to side and rear ➤ From SFH to 45m, a minimum of 6m side and rear setback is required 	<p>Appropriate street setbacks for the site set by the concept plan documentation provided and supported by Council and DEP</p>	<p>Satisfactory</p>
<p>2.2 – Mixed use Buildings</p>		
<p>1. Ground floor component is to be used for non-residential use</p> <p>2. Ground floor – floor to ceiling not to be less than 3.6m</p>	<p>The concept proposal puts forth a design that is consistent with these provisions.</p>	<p>Satisfactory</p>

<p>3. All other levels require 2.7m</p> <p>2.3 – Site Cover & Deep Soil Zones</p> <p>1. Site coverage maximum is 100 %</p> <p>2.4 – Landscape Design</p> <p>2.5 – Planting on Structures</p>	<p>Concept plan envisages site cover of 100%</p> <p>Further consideration of landscape design will be given with subsequent built form applications.</p> <p>Further consideration of landscape design will be given with subsequent built form applications.</p>	<p>Satisfactory</p> <p>Satisfactory</p> <p>Satisfactory</p>
<p>3. Amenity</p> <p>3.1 – Pedestrian Permeability</p> <p>3.2 – Active Street Frontages & Address</p> <p>3.3 – Front Fences</p> <p>3.4 – Safety & Security</p>	<p>N/A</p> <p>Concept plan has been proposed to cater for active street frontages and will be considered in further detail with future applications.</p> <p>N/A</p> <p>Will be considered with subsequent applications.</p>	<p>N/A</p> <p>Satisfactory</p> <p>N/A</p> <p>Satisfactory</p>

3.5 – Awnings	Will be considered further with subsequent applications.	Satisfactory
3.6 – Vehicle Footpath Crossings	Will be considered further with subsequent applications.	Satisfactory
3.7 – Pedestrian Overpass and Underpass	N/A	N/A
3.8 – Building Exteriors	Will be considered further with subsequent applications	Satisfactory
3.9 – Corner Treatments	Concept put forth proposes a design that addresses the intersection appropriately. Further consideration will be given with future development applications	Satisfactory
4. Traffic & Access		
4.1 – Pedestrian Access & Mobility	Proposal considers satisfactory in relation to pedestrian access and mobility.	Yes
4.2 – Vehicular Driveways & Manoeuvring Areas	Vehicular access is considered satisfactory.	Yes

4.3 – On Site Parking	Access is provided at the most practicable point Concept put forth demonstrates compliance with the RMS parking rate requirements	Yes
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5. Environmental Management		
5.1 – Energy Efficiency & Conservation	Considered more appropriate at future DA stage	N/A
5.2 – Water Conservation	Considered more appropriate at future DA stage	N/A
5.3 – Reflectivity	Considered more appropriate at future DA stage	N/A
5.4 – Wind Mitigation	Considered more appropriate at future DA stage	N/A
5.5 – Noise	Considered more appropriate at future DA stage	N/A
5.6 – Waste	Considered more appropriate at future DA stage	N/A
5.7 – Floodplain & Water Cycle Management	Subject site not in a floodplain	N/A
5.8 – Sewage Treatment Plant	N/A	N/A
5.9 – Business where trolleys are required	N/A	N/A
6. Controls for Residential Development		
6.1 – Housing Choice and Mix	Concept plan indicates an appropriate housing mix can be catered for, however further consideration will be given at a future DA stage.	Satisfactory

6.2	– Multi Dwelling Housing	N/A	N/A
7.	Controls for Special Areas		
7.1	– Heritage Items & Conservation Areas	Discussed previously in report	Yes
7.2	Controls for Restricted Premises	N/A	N/A
7.3	Key Sites	NA	N/A
7.4	Design Excellence	Proposed concept has demonstrated design excellence	Yes
7.5	Non Business Uses	N/A	N/A
7.6	Restaurants/Outdoor cafes	N/A	N/A
7.7	Child Care Centres	Further consideration of Child Care Centre will be given as part of future DA.	N/A

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

No planning agreement relates to the site or proposed development.

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. As this is a concept application with no physical built form no conditions requiring compliance with the BCA is deemed necessary at this stage.

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

There are no Coastal Zones applicable to the subject site.

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

(a) Natural and Built Environment

Built Environment

The proposed concept 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 concept design that is of an appropriate bulk and scale and consistent with the desired future character of the area.

Natural Environment

The proposed development is not considered to have a detrimental impact on the existing natural environment. The development proposal is located within a mixed-use zone that is fairly well developed.

(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 a range of potential commercial uses in close proximity to a major transport hub which will generate and encourage employment generating activities for the Liverpool CBD.

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

The land is zoned for commercial development. The proposed development is in keeping with the zones objectives and is compatible with the anticipated future character within the Liverpool City Centre.

There are no significant natural or environmental constraints that would hinder the proposed development. The proposal effectively responds to its surroundings. 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
Engineering	Supported, however no conditions deemed necessary at the concept stage.
Heritage Advisor	Discussed previously in report and conditions of consent included.
Traffic and Transport	<p>As a result of the above, the application shall be deferred until the study is completed and the gazettal of the LLEP Amendment 52.</p> <p>Comment: As discussed previously in this report the traffic study as part of Amendment 52 was undertaken and recommended certain upgrades to key infrastructure surrounding the CBD. Consequently, a condition of consent will be imposed on the consent requiring that prior to the lodgment of a future application that satisfactory arrangements be made pursuant to Clause 6.4A of the LLEP 2008.</p> <p>It is also important to note that the proposed concept has provided a design that can accommodate parking in accordance with the RMS guidelines and has provided a design that provides vehicular access of Macquarie Street.</p> <p>Further consideration of traffic impact will be given once detailed designs and subsequent applications are submitted for consideration.</p>
Landscaping	Supported, subject to conditions.

(b) External Referrals

The following comments have been received from External agencies:

Authority	Comments
Department of Infrastructure, regional Development & Cities	Application supported.

(Airport)	
Design Excellence Panel	Application supported.
RMS	<p>The application was referred on 2 occasions to the RMS for consideration. Both responses are attached to this report. However, in summary the comments from the RMS were.</p> <p><u>First Response from RMS – 24/3/17</u></p> <p><i>It is understood that Council is undertaking a comprehensive traffic and transport study to assess the cumulative impacts of the proposed planning proposal for Liverpool Local Environmental Plan 2008 which to rezone land within the Liverpool City Centre Commercial Core and to amend development standards to land use and built form. It is noted the subject proposal seeks variation to the FSR and LEP height limits (using a clause 4.6 variation) which would result in additional development over and above what is permissible under existing controls.</i></p> <p><i>Roads and Maritime is of the view that Council should not give consideration to supporting such applications until the outcome of the Liverpool City Centre traffic and transport study, proposed changes to the surrounding road network, determination of any required transport mitigation works (including road widening requirements for the Terminus Street corridor) and funding mechanisms are finalised.</i></p> <p><i>Roads and Maritime is not in a position to comment on the subject application until such time that the Liverpool City Centre traffic and transport study is finalised and a clear policy direction regarding an infrastructure plan and associated funding mechanism is endorsed.</i></p> <p>Comment: As discussed previously the traffic study was undertaken and recommended certain upgrades to surrounding infrastructure. Consequently, a condition of consent has been imposed to comply with Clause 6.4A prior to the lodgement of any development application.</p> <p><u>Second Response from RMS – 27/3/19</u></p> <p><i>Roads and Maritime has reviewed the submitted information and does not support the proposed development in its current form. Roads and Maritime provides the following comments</i></p>

	<p><i>for Council's consideration:</i></p> <p><i>1. A cumulative Traffic Impact Study should be provided and the study should include SIDRA network modelling of the ultimate development plus 10-year growth of the following intersections (but not limited to):</i></p> <ul style="list-style-type: none"> <i>i. Castlereagh/Macquarie/Terminus streets</i> <i>ii. Castlereagh/Bathurst streets</i> <i>iii. Terminus/Pirie streets</i> <p><i>2. It is unclear from the submitted information if service access is proposed from Terminus Street. Roads and Maritime advises that current practice is to limit the number of vehicular conflict points along the arterial road network to maintain network efficiency and road safety. This current practice is reflected in Section 6.2.1 of Roads and Maritime current publication of the Guide to Traffic Generating Developments, which states 'access across the boundary with a major road is to be avoided wherever possible'. As the subject site has alternative vehicular access via the local road network, Roads and Maritime would not grant concurrence to any access on Terminus Street.</i></p> <p>Comment: It is considered that the above requirement is onerous at this stage as the proposal is for a concept only. Given the fact the application will have to demonstrate satisfactory arrangement for the potential traffic infrastructure upgrade prior to lodgement of a built form DA pursuant to Clause 6.4A it is considered appropriate that this is provided with a future DA and not with the concept application.</p> <p>It is also important to note that the proposal provides a concept proposal that can accommodate parking in accordance with the RMS guidelines. Moreover the concept plan provides building envelope plans that provide vehicular access of Macquarie Street and not Terminus Street, as such point 2 above has been addressed.</p>
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(c) Community Consultation

The development application was placed on public exhibition from 8 March 2017 to 23 March 2017, in accordance with Liverpool Development Control Plan 2008 (LDCP 2008). No submissions have been received during the exhibition period.

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

The proposed development is consistent with the zoning of the land and would represent a

high-quality development for Liverpool. The development provides additional commercial opportunities within close proximity to public transport.

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

7 SECTION 7.12 CONTRIBUTIONS

Section 7.12 contributions do not apply at this stage as the application is for a concept design only. Section 7.12 Contributions will be levied once subsequent applications for the built form are submitted.

CONCLUSION

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Sections 4.15 and 4.22 of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The concept proposal is consistent with the intended desired future character of the area, particularly when having regard to recent amendments to the LLEP 2008 relating to the CBD.
- The proposal is consistent with the objectives of the B4 – Mixed Use zone that is applicable to the site under the LLEP 2008.
- The proposal has undergone an extensive design review process and has satisfied the applicable objectives and provisions of Liverpool LEP 2008 including the provisions of Clause 7.5 relating to design excellence.

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

8 ATTACHMENTS

- 1) Approved building envelope plans
- 2) Unit mix and parking rate plan
- 3) Master Plan Clarification
- 4) Master Plan Report
- 5) DEP minutes
- 6) Conditions of Consent
- 7) RMS Comments
- 8) Transport Strategy for the Liverpool City Centre (prepared as part of Amendment 52)