

SYDNEY WESTERN CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

SSWPP No	2018SSW020
DA Number	DA-507/2018
Local Government Area	Liverpool City Council
Proposed Development	Construction of a 23 storey commercial building including the conservation and adaptive reuse of the existing heritage listed commercial Hotel, ground floor retail spaces and the demolition of existing structures.
Street Address	277 Bigge Street & 11-23 Scott Street Liverpool
Owner	Topgrange Pty Ltd and Tsop Pty Ltd and Mr E Fassoulas and Ms C Oliveri and Mr N S Sandal and Mrs M K Sandal
Date of DA Lodgement	29 June 2018
Applicant	Mackycorp Pty Ltd
Number of Submissions	NIL
Regional Development Criteria (Schedule 4A of the Act)	The 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> • <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>Draft LLEP 2008 – Amendment 52</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</i>

	<p><i>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)(iia)</i></p> <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) Architectural Plans 2) Urban Design Report 3) Design Excellence Strategy (With Appendices) 4) Statement of Environmental Effects 5) Clause 4.6 Variations (FSR, Car parking and Building Separation) 6) Advice from Mills Oakley re car parking. 7) Letter of Exemption from Government Architects Office 8) DEP Minutes 9) DIP Minutes 10) Heritage consultant comments 11) BCA Report 12) Wind Study 13) Reflectivity Study 14) Waste Management Plan 15) Traffic Impact Assessment 16) City Activation Strategy 17) Landscape Plans 18) Conditions of Consent
Recommendation	Deferred Commencement
Report by	George Nehme
Report date	15 February 2019

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

Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.11)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	N/A
Conditions Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Yes

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

The Sydney Western City Planning Panel is the determining body as the Capital Investment Value of the development is over \$30 million, pursuant to Clause 5(b) of Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011.

1.1 The proposal

Development consent is sought for:

- Construction of a 23-storey commercial building including the conservation and adaptive reuse of the existing heritage listed commercial Hotel, ground floor retail spaces and the demolition of existing structures.
- The proposed building is proposed have a height of 97.125m and a GFA of 27,628.8sqm.
- The proposed building will be constructed over 2 levels of basement containing 69 car spaces.
- The GFA of each of the commercial building generally ranges from 1,450sqm to 1,467sqm.



Figure 1: Building Perspectives

1.2 The site

The development site is identified as Cnr lot 17 DP 1050799, Lots 15 -16 & 18 DP 979379, Lot B DP350234, Lot 1-2 DP 102307, Lot 1 DP 77180, Lot B DP 358314, Lot 15 DP 262442 and Lots 23-24 DP 700728, 277 Bigge and 11-23 Scott Street Liverpool.

The site is irregular in shape with a total area of 2,780m². The site is situated in the Liverpool's CBD, approximately 40km south-west of the Sydney CBD. The development site is located on the corner of Scott Street and Bigge Street Liverpool. It is located approximately 80m south-west of the Liverpool Station entrance and approximately 140m south-west from the Liverpool-Parramatta Transit way.

The development site currently contains a range of commercial and retail uses including;

- New Commercial Hotel/Ground Zero Hotel;
- Le's Vietnamese Roll;
- Fiji Curry Hut;
- Stylez Barbershop Liverpool;
- Liverpool Sweets;
- TAB Liverpool; and
- A Restricted Premise.

- The locally listed heritage item Commercial Hotel (LLEP 2008 Schedule 5 Item No. 74); and;
- Portions of the locally listed Bigge Park Heritage Conservation Area (LLEP 2008 Schedule 5 Item No. 72).

- [illegible]

1.3 The issues

The maximum permissible FSR for the site pursuant to the Liverpool Local Environmental Plan (LLEP) 2008, Clause 4.4(2B) is 8:1. The application proposes an FSR of 9.94:1 or 27,628.8m², exceeding the permissible FSR by 5,388.8m² or 24.2%.

Notwithstanding the savings provisions applying to the application, Council must give due consideration to Amendment 52 as it has now been gazetted and is formally part of the LLEP 2008. Further discussions pertaining to the amendment are contained in this report.

Building Separation

Subclause 7.4(2) (d) and (e) require the following building separations for land zoned B3 Commercial Core within the Liverpool City Centre:

- 12m for parts of buildings between 25-45m above ground level (finished); and
- 28m for parts of buildings 45m or more above ground level (finished).

The proposed development would not achieve the building separation required under Subclause 7.4(2)(d) and (e) in the following instances.

- Along its western boundary, the proposed Tower would have a zero-boundary setback, which would equate to a building separation with the neighbouring commercial tower of less than 500mm (i.e. 25 Scott Street). This equates to a variation at the 25-45m building height level of 11.5m around 95.8%.
- Along the eastern elevation the proposed building provides a building separation of 9m instead of 12m between the heights of 25-45m to the rear western façade of the adjoining northern building (i.e. 269 Bigge Street).
- Along the northern elevation the proposed building provides a building separation of 6.9m instead of 12m between the heights of 25-45m to a minor element of the southern façade of the adjoining northern building. This equates to a variation of 5.1m or 42.5%.

Car Parking

For consent to be granted for new GFA on B3 Commercial Core zoned land in the Liverpool City Centre, Subclause 7.3(2) provides that the consent authority must be satisfied that:

- 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.

Based on a GFA of 27,628.8m², including a combined ground floor area of 887.8m², the site would be required to provide at least 189 car parking spaces in order to be compliant with Subclause 7.3(2). However, it is proposed to provide 69 car parking spaces at the site. This equates to a non-compliance with the car parking requirements of Clause 7.3 by 62.9%. A Clause 4.6 variation has been submitted to justify the variation.

1.4 Exhibition of the proposal

The development application was not required to be notified in accordance with Liverpool Development Control Plan 2008 (LDCP 2008).

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 development site is identified as Cnr lot 17 DP 1050799, Lots 15 -16 & 18 DP 979379, Lot B DP350234, Lot 1-2 DP 102307, Lot 1 DP 77180, Lot B DP 358314, Lot 15 DP 262442 and Lots 23-24 DP 700728, 277 Bigge and 11-23 Scott Street Liverpool.

The site is irregular in shape with a total area of 2,780m². The site is situated in the Liverpool's CBD, approximately 40km south-west of the Sydney CBD. The development site is located on the corner of Scott Street and Bigge Street Liverpool. It is located approximately 80m south-west of the Liverpool Station entrance and approximately 140m south-west from the Liverpool-Parramatta Transit way.

The development site currently contains a range of commercial and retail uses including;

- New Commercial Hotel/Ground Zero Hotel;
- Le's Vietnamese Roll;
- Fiji Curry Hut;
- Stylez Barbershop Liverpool;
- Liverpool Sweets;
- TAB Liverpool; and
- A Restricted Premise.

The site contains the following locally listed heritage items:

- The locally listed heritage item Commercial Hotel (LLEP 2008 Schedule 5 Item No. 74); and;
- Portions of the locally listed Bigge Park Heritage Conservation Area (LLEP 2008 Schedule 5 Item No. 72).

2.1 The locality

The surrounding locality is predominately characterised by a range of retail/commercial premises of varying heights within the immediate vicinity. Directly north of the development site is a 9-storey commercial development fronting Bigge Street. Directly west of the development site is an 11-storey commercial development fronting Scott Street. Directly east of the development site across Bigge Street is the Liverpool train station. Directly south of

the development site across Scott Street is a pub and a range of commercial premises. All buildings to the south of the development site are heritage listed under Schedule 5 of the LLEP 2008 and are identified as follows;

- Item No.101 – Identified as “Commercial Building”
- Item No.102 – Identified as “Commercial building (former outbuilding to form Golden Fleece Hotel and form Eugene’s Laundry)”
- Item No.103 – Identified as “Golden Fleece Hotel”

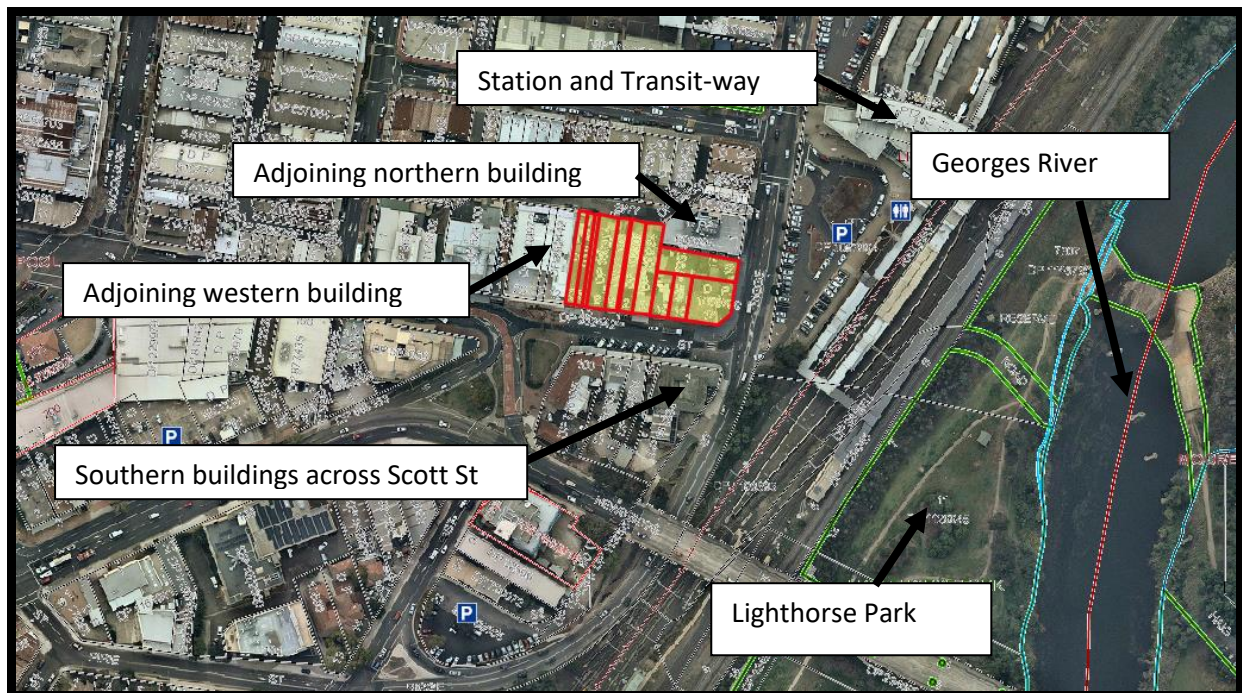


Figure 3: Locality Map

2.2 Site affectations

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

Heritage

The subject site contains the heritage listed commercial hotel located on the south-eastern corner of the site – Item No.74 under Schedule 5 of the LLEP 2008.



Figure 4: Heritage Listed Commercial Hotel on site

The following heritage listed items located south of the subject site across Scott Street.

- Item No.101 – Identified as “Commercial Building”
- Item No.102 – Identified as “Commercial building (former outbuilding to form Golden Fleece Hotel and form Eugene’s Laundry)”
- Item No.103 – Identified as “Golden Fleece Hotel”



Figure 5: Heritage Listed Items across Scott Street

Rail Noise

The development site is located in close proximity to the Liverpool Train Station. The development proposal is to address the State Environmental Planning Policy (Infrastructure) 2007, Clause 87 “Impact of rail noise or vibration on non-rail development”.

Key Site/Design Competition

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. Clause 7.5(5) permits an exemption from the design competition if the Director-General certifies in writing that the development does not require a design competition. The applicant sought and was granted an exemption through the Government Architects Office. As the exemption was granted the application did not need to progress through a design competition.

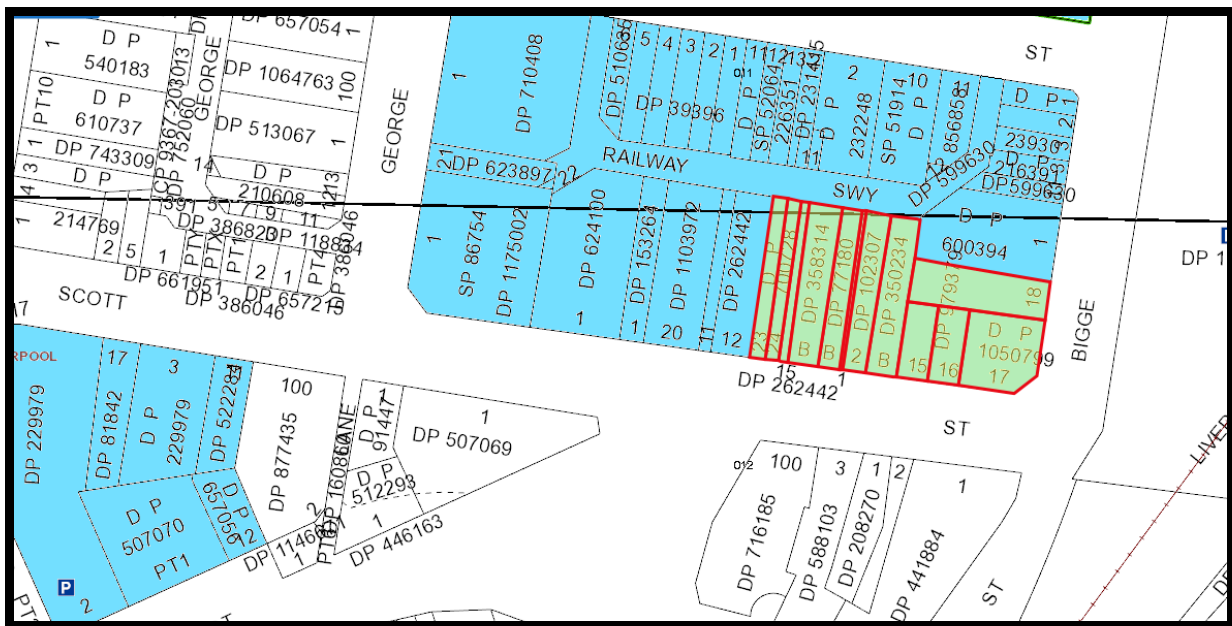


Figure 6: Key Sites Map

3. BACKGROUND

3.1 History of application

- Development Application was lodged on 29 June 2018.
- Additional Information request sent to applicant to address heritage, waste and traffic on 13 August 2018.
- Application briefed to the SWCPP on 3 September 2018.
- Letter of exemption from architectural design competition forwarded to Council on 4 September 2018.
- Application was presented to Design Excellence Panel on 13 September 2018.
- Additional information request sent regarding car parking shortfall sent on 24 September 2018.
- Email received from Sydney Metro Airports raising some preliminary concerns with the proposal sent to Council on 29 September 2018 and forwarded onto applicant.
- Additional information provided including updated heritage documentation, traffic impact assessment, updated architectural plans, urban design report and waste management plan on 25 September 2018.
- Conditions of consent provided by RMS on 17 October 2018.
- Design Integrity Panel meeting held on 19 October 2018.
- Design Integrity Panel minutes finalised on 31 October 2018.
- Additional advice re car parking provided by Mills Oakley on 25 October 2018.
- Additional information requested regarding concerns raised by Councils City Design department on 13 November 2018.
- Additional Information in response to City Design concerns sent on 11 December 2018.

- Final comments/conditions received from Department of Infrastructure, Regional Development & Cities on 16 January 2019.
- Final Heritage comments/conditions received on 25 January 2019.

3.2 Related applications

a) Pre-DA meetings

A Pre-DA meeting was held for the proposal on 6 June 2018. The main concerns raised at the pre-da meeting was as follows;

- 1) Building Height non-compliance;

Comment: The concept plans put forth at the pre-da meeting proposed a building height of 102.25m, which exceeded the height limit by 2.25m. This has now been rectified with the DA lodgement and the proposal submitted with the DA has a compliant height.

- 2) Floor Space Ratio;

Comment: The concept plans put forth at the pre-da meeting proposed an FSR of 9.9:1, which exceeded the maximum permissible FSR for the site by 5,063sqm. The non-compliant FSR has carried over with the DA and was accompanied by a Clause 4.6 variation. The non-compliant FSR is discussed in detail further in this report.

- 3) Building Separation non-compliance;

Comment: Non-compliance with the building separation under Clause 7.4 of the Liverpool Local Environmental Plan 2008. The concept put forth at the pre-da proposed a building design that had several building separation non-compliances particularly along the western and northern boundary.

The proposal put forth with the DA maintains several building separation non-compliances. These are discussed further in this report.

- 4) Car Parking non-compliance and location;

Comment: The concept put forth at the pre-da proposed a car parking shortfall of approximately 65 car spaces, which did not comply with the LLEP 2008, Clause 7.32. The concept also proposed above-ground parking, which was not supported by Council from an Urban Design aspect.

The proposal that was lodged with the DA removed all the above-ground parking, however the non-compliant parking arrangement was submitted with the DA and was accompanied by a Clause 4.6 variation. This is 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 twice prior to the DA lodgement on 28 September 2017 and 14 June 2018 as part of the pre-da Design Excellence Panel. The application was presented a third time as part of the DA lodgement on 13 September 2018.

Following the first two Design Excellence Panel meetings the concept undertook some significant re-designs to address the DEP's concerns. The comments from the final DEP meeting on 13 September 2018 are summarised as follows;

PRESENTATION

The applicant presented their amended proposal for the construction of a 23-storey commercial building including the conservation and adaptive reuse of the existing heritage listed Commercial Hotel, ground floor retail spaces and the demolition of existing structures.

The Applicant's architect briefly explained the scheme including the following:

- *The heritage precinct and scale are being maintained.*
- *The stable building is setback from Bigge Street and now aligns with the Commercial Hotel setback.*
- *Removal of existing masonry balustrade to Bigge Street to open up the site through the introduction of stairs. This will allow pedestrians to walk through the site.*
- *The ground level common area unifies the development.*
- *Festoon lighting and cantilevered lights will be introduced to the common area/pedestrian pathway.*
- *The site provides for a contiguous floor plan.*
- *The use of existing openings and scars in the building to provide new windows to increase light into the building. The existing bar is to be relocated directly above the cellar as requested by tenant for practical and functional reasons.*
- *The building takes into consideration the recommendations of the wind tunnel effect report on the tower downdraft impact upon the street.*

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
<i>The Panel thanks the proponent for bringing the scheme back to the Panel for reconsideration and the explanation provided by the applicant on how the scheme has responded to the Panel's previous minutes.</i>	Noted

<i>The Panel is satisfied that the issues raised in its previous minutes have been addressed by the amended proposal.</i>	Noted
<i>The Panel supports the realignment of the stable building with the hotel building in accordance with the Panels advice and that of the proponents Heritage consultant.</i>	Noted as part of the amended proposal presented to the DEP the “Stables” building along the ground floor that adjoins the northern commercial building was shifted further west to improve views to the commercial hotel on the subject site.
<i>The public domain and heritage treatment articulated within the amended scheme are supported by the Panel.</i>	Noted
<i>Noise associated with the removal and/or transfer of glass waste from the hotel to the waste collection point needs to be further and satisfactorily addressed by the proponent. The Panel recommends that the proponent explores the option of introducing an underground transfer system for the transfer of glass and other relevant waste to the bin rooms for collection, rather than being transferred through the public open space. Such arrangements minimise disruption of the public domain with waste disposal and collection, which are important for maintaining the social licence to operate.</i>	Noted. A condition of consent has been imposed to this effect.
<i>When asked by the Panel to explain the protection of glazing proposed on the boundary, the proponent advised that the glazing on the boundary will be drenched in accordance with a fire engineered solution. Fire proof glass is cost prohibitive and will not be considered.</i>	Noted and appropriate conditions of consent imposed to ensure compliance with NCC and BCA standards.
<i>While the Panel supports the awning continuing through the site, it recommends that the awning be carefully calibrated to ensure planting of street trees on the footpath is not restricted.</i>	Noted
<i>The proponent intends to incorporate some public art to the public areas of the proposal. The Panel considers it worthwhile for the proponent to explore indigenous heritage as well as post European heritage.</i>	Noted and appropriate conditions of consent imposed.
<i>As the scheme is a glass building, the Panel recommends that suitable environmental</i>	Noted

<i>strategies be introduced to minimise the carbon footprint on the operation of the building and minimise reliance on mechanical ventilation for heating and cooling the building. The options of providing openable windows to the building and the incorporation of photovoltaic solar panels should be further explored and introduced to the building.</i>	
<i>The Panel understands that the proponent has written to the Government Architect NSW seeking an exemption from a design competition requirement of the Liverpool LEP. As noted in the Panel's previous minutes, this is a matter to be determined by the Government Architect NSW. Should the proposal be exempt from a design competition, the proponent will need to prepare a comprehensive Design Excellence Strategy and Design Integrity Process outlining the extent of benefits to the community in the absence of a design competition.</i>	Noted. The exemption, Design Excellence Strategy and Design Integrity Process are discussed in detail in this report.
General	
Quality of construction and Material Selection <i>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.</i>	It is considered appropriate materials have been utilised in the design process and have been incorporated into the building.
Sectional Drawings <i>Sectional drawings at a scale of 1:20 of wall section through with all materials, brickwork, edging details to be submitted.</i>	Noted and provided
Close	
<i>The proposal is acceptable subject to the incorporation of the above Panel advice and will not need to be submitted to the Panel again.</i>	Based on the advice of the DEP and the amendments to the plans provided it is considered that the proposed development exhibits design excellence and is a building design worthy of support.

3.4 SWCPP Briefing

A SWCPP briefing meeting was held on 3 September 2018. At the meeting the panel requested that Council address the following matters;

- *Particular address of the floor space ratio sought in the context of the proposal's exemption of the design competition requirement and the proposed LEP Amendment 52;*

Comment: The concerns regarding the FSR non-compliance particularly pertaining to the exemption from a design competition and the LEP amendment 52 are discussed in detail further in this report.

- *Building separation – particularly validity of nil setbacks and the impact of the buildings design presentation;*

Comment: The concerns regarding the building separation non-compliance particularly pertaining to the nil setbacks along the western boundary are discussed in detail further in this report.

- *Justification of reduced car parking provision given dominant commercial activity uses proposed;*

Comment: The justification of the reduced parking with the proposal is detailed further in this report.

- *Comment from Design Excellence Panel in relation to design excellence provisions of clause 7.5 of LEP;*

Comment: As discussed previously in this report, the proposal was presented to Councils DEP on three occasions and during this time has undergone numerous design changes to align with the recommendations of the panel. The final proposal was considered acceptable to the panel and was considered to exhibit design excellence.

- *Check vehicular access does not intrude into pedestrian plaza;*

Comment: As indicated in figure 7 below, vehicular access does not intrude into the pedestrian plaza and will solely be accessed off the rear laneway (i.e. Railway Service way). To assist in reducing potential conflict between pedestrians and vehicles, Council has imposed a condition requiring traffic bollards be placed on the southern end of the entry driveway to prevent vehicles/pedestrian conflicts.

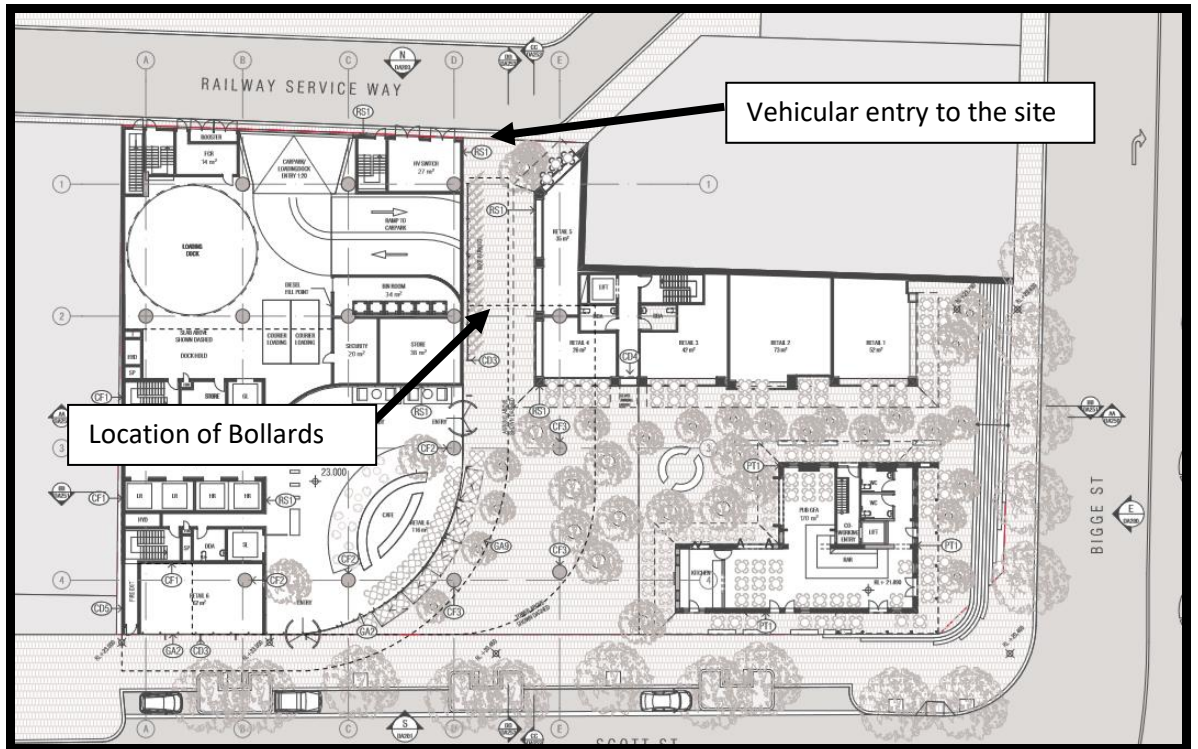


Figure 7: showing vehicular access from pedestrian plaza.

- *Secure additional perspective showing presentation of the building when viewed from the West.*

Comment: Figure 8 below indicates the perspective of the building from the west. The sections outlined in red outline the portions of the western elevation of the proposed building visible to the public domain to the west. The sections outlined in blue indicate the western elevation of the adjoining commercial building.

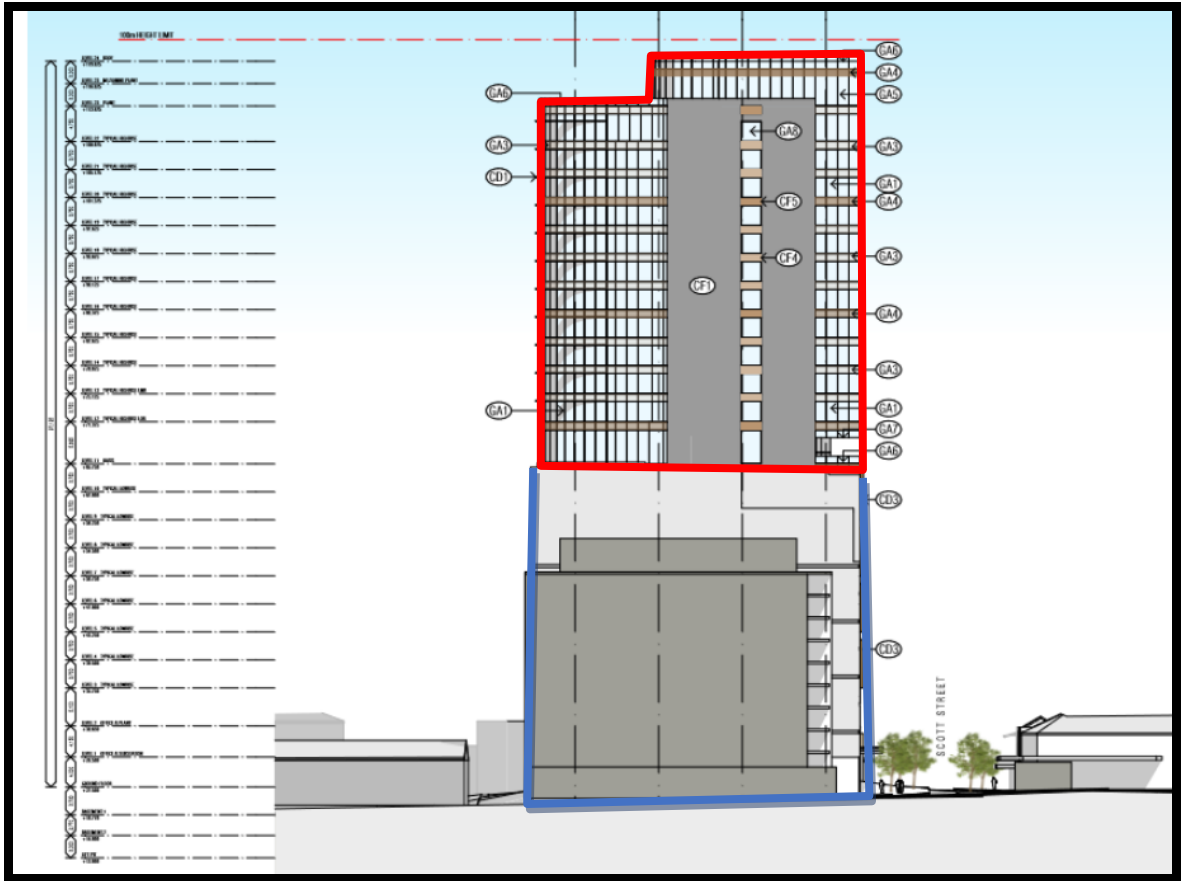


Figure 8: Perspective to the public domain from the west

4. DETAILS OF THE PROPOSAL

Development consent is sought for the construction of a 23-storey commercial building including the conservation and adaptive reuse of the existing heritage listed commercial Hotel, ground floor retail spaces and the demolition of existing structures.

Details of the proposal are as follows;

Commercial Tower

- The proposed commercial tower is located along the western boundary of the development site and will have an overall height of 97.125m
- The ground and first floor will consist of a small scale commercial premises along with the relevant building services (i.e. lifts, storage, bin rooms etc.)
- Basement access off Railway Service Way along with loading docks.
- The remaining levels of the building are designated for commercial purposes with floor plates generally 1200sqm.
- Level 11 contains a terrace known as the Oasis that overlooks the public forecourt below.

- The tower will be located over two levels of basement with 69 car spaces and 129 bicycle spaces.
- The GFA of the commercial tower equates to approximately 27,600sqm.

Retail/Commercial Precinct at Ground Level

- The proposal also incorporates a two level commercial/retail premises along the northern boundary adjoining the existing commercial building to the north.
- The retail precinct is identified as the “new stables” and will be two storeys in height.
- The ground floor will contain a number retail premises ranging from 26sqm to 52sqm in area.
- The second floor contains a proposed co-working space that is approximately 241sqm.

Adaptive reuse of the Commercial Hotel

- The proposal also incorporates the partial demolition and adaptive reuse of the existing commercial listed commercial hotel. This includes the removal of the northern wing and the internal fit out of the ground floor.
- The application had also proposed the fit out of the 1st and 2nd floors however this will be removed from the DA approval as will be discussed further in the report.

New Civic Space

- The proposal also involves the creation of a new civic space at ground level that is approximately 1200sqm in area that will be utilised in conjunction with the commercial tower and the proposed uses and buildings on site.

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.55 – Remediation of Land;
- State Environmental Planning Policy (Infrastructure) 2007;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment; and
- Liverpool Local Environmental Plan 2008.

Draft Environmental Planning Instruments

- Liverpool Local Environmental Plan Amendment No.52 (draft at the time of lodgement).

Development Control Plans

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

Contributions Plans

Liverpool Contributions Plan 2018 applies to all development within the Liverpool City Centre, and requires the payment of contributions equal to 3% of the cost of the development pursuant to Section 7.12 of the EPA & Act.

5.2 Zoning

The site is zoned B3 – Commercial Core pursuant to LLEP 2008 as depicted in figure 9 below;

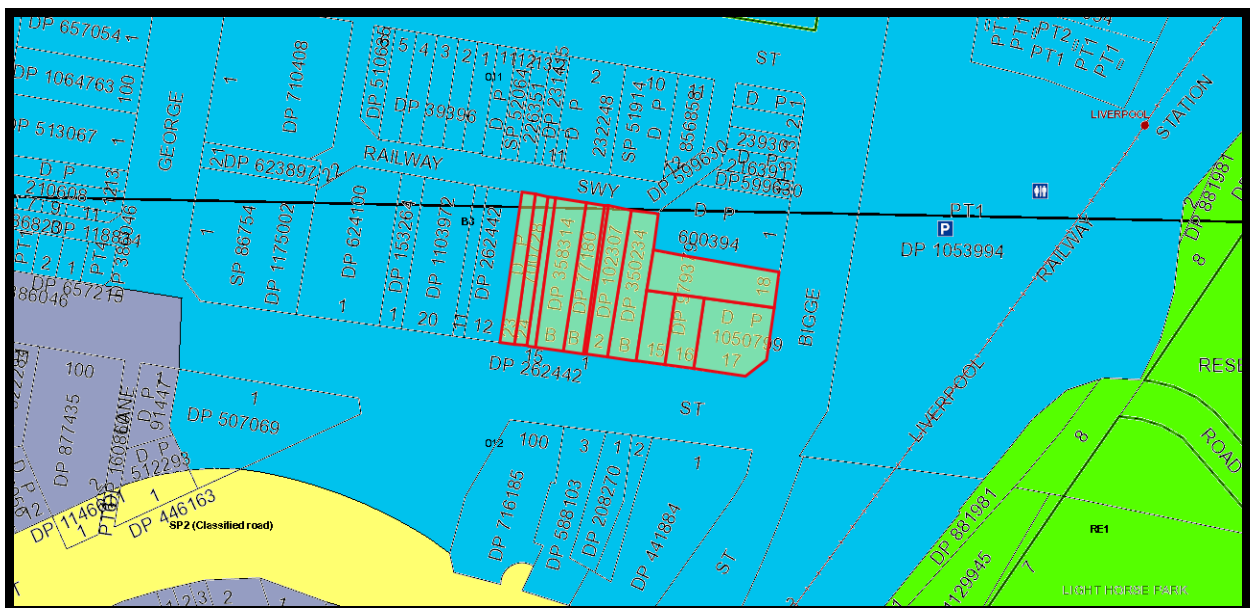


Figure 9: zoning map

5.3 Permissibility

The proposed commercial tower development is a form of 'commercial premise' which is a permissible development with consent within the B3 zone pursuant to the LLEP 2008.

6. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of

consideration prescribed by Section 79C of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000 as follows:

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

(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: An investigation into the site history by Council and further evidence in the preliminary contamination assessment discussed below have indicated that the site has been utilised for commercial purposes from at least the 1930's. As such, it is considered that the proposal does not involve a change of use to a development type that is considered a more sensitive use that would require a more pertinent consideration (i.e. residential, educational, recreational, child care or hospital) under. The site will be maintained for commercial purposes as part of this application and as such is considered will remain suitable for the site.

Moreover, the proposed development involves significant excavation across the majority of the development site to cater for two levels of basement and the proposed retail premises along the northern elevation. It is therefore expected that most of the potential contamination identified within the development site would be remedied through the proposed excavation.

As part of the development application the site will be predominately replaced with a new sealed and paved public parking area if not taken up by the proposed tower, retail premises along the northern part of the site and the retention of the commercial hotel.

Notwithstanding the above, the application was accompanied by a Preliminary Site Investigation (PSI), prepared by EI Australia. The PSI concluded the following;

Conclusions;

The property located at 277 Bigge Street and 9-23 Scott Street, Liverpool NSW was the subject of a Preliminary Site Investigation (PSI) for site characterisation purposes. The assessment is required to appraise the environmental condition of the site as part of a development application (DA) for proposed redevelopment of the site. Based on the findings of this assessment, it is concluded that:

- *The site history review indicated that the historical land use of the site appeared to remain as commercial with possible residential lodgings since the 1930s. Historical land uses on neighbouring properties were primarily commercial and residential throughout the studied period;*
- *A search through the record of notices for contaminated land indicated that the site was free of statutory notices issued by the NSW EPA/OEH. The site was not identified on the List of NSW contaminated sites notified to the EPA;*
- *Review of the Council records did not indicate potentially contaminating activities and areas of concern in 277 Bigge Street and 9-21 Scott Street, Liverpool, however a search of Council records relating to previous development applications, complaints and other information pertaining to previous activities at 23 Scott Street site is currently pending, pertinent findings will be reported as soon as they become available;*
- *Review of the Safework NSW dangerous goods register indicated the storage and sale of fireworks for the property located at 11 Scott Street. The register did not contain any records for the properties at 277 Bigge Street, 9 Scott Street and 13-21 Scott Street. The results for the search on 23 Scott Street is currently pending, pertinent findings will be reported as soon as they become available;*
- *The site walkover inspection identified the following areas of environmental concern;*
 - *Potential for pesticide use across the site;*
 - *Potential for fill material of unknown origin to be present across the site;*
 - *Potential for hazardous building material buried at the site;*
 - *Potential for spills or leaks from potential historical fuel and chemical use, and utilities onsite; and*
 - *Localised impacts from vehicle use at the site;*
- *A conceptual site model (CSM) and subsequent qualitative risk assessment was derived for the site in this PSI. The CSM identified potential contaminating sources that may occur at the site and evaluated the likelihood for relevant exposure pathways to be completed during and after the proposed development. The risk assessment was conducted with respect to the proposed development, which includes sensitive land uses. The qualitative risk assessment identified a general medium risk of contamination to be present at the site.*

Based on the findings of the report, and with consideration of the Statement of Limitations (Section 7), EI conclude that there is the potential for contamination to be present on site. Given the nature of the proposed development, a Detailed Site Investigation (DSI), as well as a hazardous materials survey are warranted to quantify any potential contamination, and

assist with the selection and implementation of remedial and risk mitigations measures (if required) to enable the site to be suitable for proposed redevelopment.

Based on the conclusions of the PSI the following recommendations were made;

Recommendations

With regard to the finding of the PSI, EI provide the following recommendations:

- *Prior to site demolition, carry out a Hazardous Materials Survey on existing site structures to identify potentially hazardous building products that may be released to the environment during demolition. This survey is necessitated by the legislative requirements of protecting site personnel from potential exposure risks; and*
- *Undertake a detailed site investigation (DSI) following the demolition of site structures due to restricted access and operating businesses, comprising an intrusive site investigation, including a programme of soil and groundwater. The DSI should be utilised to characterise any potential site contamination, and to ascertain any requirements for remediation or management should contamination be identified.*

Based on the information above and the recommendations of the PSI, it is considered that the proposal will not involve a change of use to a more sensitive use that would warrant a more detailed assessment during the application assessment stage. It is acknowledged there is further investigations and possible remediation works required, however due to site being primarily built upon and the operating businesses on site it is considered that it would be appropriate to require the work be undertaken post or during demolition, dependent on the work required. It is on this basis that it is considered the site will be suitable for the proposed development and through the imposition of conditions of consent will satisfy the requirements of Clause 7 of SEPP 55.

(b) State Environmental Planning Policy (Infrastructure) 2007

Due to the proximity of the development site to Liverpool Train Station, clause 87 of the Infrastructure SEPP must be considered. Clause 87 of the Infrastructure SEPP states the following;

87 Impact of rail noise or vibration on non-rail development

- (1) *This clause applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration:*
 - (a) *residential accommodation,*
 - (b) *a place of public worship,*
 - (c) *a hospital,*
 - (d) *an educational establishment or centre-based child care facility.*

- (2) *Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.*
- (3) *If the development is for the purposes of residential accommodation, 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 residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,*
- (b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

Comment: Having regard to Clause 87 above it is considered that the proposed development is not for a use identified in subclause 1 and therefore is not required to implement or address the necessary acoustic requirements stipulated in subclauses (2) and (3).

(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	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas	The proposal provides soil and erosion control measures.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries	The proposal provides a stormwater management system that will connect to the existing system. A Stormwater concept

	plan also outlines proposed sediment and erosion control measures.
d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments)	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning)	The proposal includes a Stormwater Concept plan. There is no evidence that with imposition of mitigation measures, the proposed development would affect the diversity of the catchment.
(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 to the development or other proposal concerned	The site is located in an area nominated 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.

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	An erosion and sediment control plan aims to manage salinity and minimise erosion and sediment loss.

(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	A Stormwater Concept Plan proposes connection to existing services.
(10) Urban development areas	<p>The site is not identified as being located within the South West Growth Centre within the Metropolitan Strategy.</p> <p>The site is not identified as being an Urban Release Area under LLEP 2008.</p>
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	A drainage plan proposes stormwater connection to existing services.
(13) Wetlands	Not applicable.

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

(d) Liverpool Local Environmental Plan 2008

The proposed development is a form of 'commercial premise' which is a permissible development with consent within the B3 zone pursuant to the LLEP 2008. Commercial premises are defined as follows:

commercial premises means any of the following:

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

Zone Objectives

The objectives of the B3 zone are as follows:

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

The proposal satisfies the objectives of the B3 zone in that it proposes a commercial development that will provide a range of commercial uses that will serve the need of the local and wider community. It provides for a commercial development that encourages employment opportunities within walking distance of Liverpool Train Station and the Liverpool-Parramatta Transitway.

Given the strategic location of the site across the road from Liverpool station it provides the ability to maximise the public transport patronage. The proposal provides for a unique development within the Liverpool CBD in that it's a large-scale commercial development that will encourage a range of commercial uses and employment generating activities for the Liverpool CBD and Western Sydney as a whole.

It provides for a development on a key site within the Liverpool CBD that will promote and encourage employment opportunities for the longer term. The proposal has given strong consideration to the urban design presentation of the development and has proposed a final design that now exhibits design excellence.

Principal Development Standards

The following principal development standards are applicable to the proposal:

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.	Complies Consent is sought for the demolition of existing buildings.
Clause 4.3 Height of Buildings	Maximum height of 100m	Complies The proposed building is a maximum of 97.125m in height
Clause 4.4 Floor Space Ratio	Maximum FSR of 8:1 which equates to a maximum GFA of 22,240m ²	Non-Compliance – Refer to Clause 4.6 variation below; The proposal put forth an FSR of 9.94:1 or

		27,628.8sqm, exceeding the permissible FSR by 5,388.8sqm or 24.2%.
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
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 specified in Column 1 of the Table to this clause projecting above the height specified opposite that land in Column 2 of the Table	N/A This clause does not encompass the subject site.
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. 	Non-Compliance – Refer to Clause 4.6 variation below; Based on a GFA of 27,628.8m ² , including a combined ground floor area of 887.8m ² , the site would be required to provide at least 189 car parking spaces in order to be compliant with Subclause 7.3(2). However, it is proposed to provide 69 car parking spaces at the site. This equates to a non-compliance with the car parking requirements of Clause 7.3 by 62.9%.

Clause 7.4 Building Separation in Liverpool City Centre	<p>Development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least:</p> <ul style="list-style-type: none"> - 12 metres for parts of buildings between 25 and 45 metres above ground level (finished) on land in Zone B3 Commercial Core or B4 Mixed Use, and - 28 metres for parts of buildings 45 metres or more above ground level (finished) on land in Zone B3 Commercial Core or B4 Mixed Use 	Non-Compliance – Refer to Clause 4.6 variation below;
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.	<p>Complies</p> <p>The frontages to Bigge and Scott Street both exceed 24m</p>

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 site contains the heritage listed commercial hotel located on the south-eastern corner of the site – Item No.74 under Schedule 5 of the LLEP 2008, in which it is proposed to be adaptively re-used as part of the development. Given the fact the proposal will impact the heritage item, Clause 5.10 of the LLEP 2008 must be considered.

The application was reviewed at the time of lodgement to determine the proposals impact on the existing heritage item in accordance with Clause 5.10. After a review of the documentation provided additional and revised documentation was requested in particular the following was requested;

- 1) A revised fabric analysis
- 2) A revised costed long term maintenance plan
- 3) A revised schedule of conservation works
- 4) A revised conservation management plan and;
- 5) A Heritage Impact Assessment

As a consequence of the above the applicant submitted the following documentation for review on 25 September 2018;

- Conservation Management Plan (CMP): The New Commercial 277 Bigge St Liverpool by Heritage 21 September 2018 (Issue 5, 25.09.18);
- Statement of Heritage Impact (SOHI): Proposed Development at 277 Bigge Street Liverpool by Heritage 21, September 2018 (Issue 3, 25.09.18);
- Fabric Analysis and Conservation Action: The New Commercial, 277 Bigge Street Liverpool by Heritage 21, November 2017 (Issue 2, 29.06.17) (there appears to be a mistake in these dates);
- Estimated Costs of Works Schedule The New Commercial, 277 Bigge Street Liverpool by Heritage 21, November 2017 (Issue 2, 28.06.18); and
- Costed Long Term Maintenance Plan

The revised heritage documentation was reviewed by Councils Heritage Consultant and after the review of the documentation submitted an assessment of the proposal. The findings of the heritage review is attached to this report, however in summary the review is summarised as follows;

Findings

9.1 Overall, the heritage documents reviewed for this DA follow a reasonable methodological approach in regard to normal heritage practice, however, shortcomings are identified in the CMP, the SOHI and the Works Schedule in the following aspects:

- The CMP lacks a good analysis linking documentary and physical evidence that results in questionable assessments of significance in relation to the Stables Building and the Northern Wing. This is reflected in a lack of references and primary research;
- The SOHI lacks an objective identification of impacts as well as a subjective evaluation. The HIS also lacks a reasonable assessment of heritage impacts in the vicinity of the development site including from overshadowing for the proposed tower. The SOHI also lacks an assessment of the archaeological potential of the development site as a whole; and
- The Costed Schedule of Works lacks sufficient detail on the extent and approach to the required conservation works, as advised by LCC and noted in the SOHI.

9.2 In my opinion, the tower design is reasonable at a broader urban scale, however, I question the concept of a 'negative' podium and the 'new civic space' created by the removal of all outbuildings to the hotel, including the Stable and the Northern Wing, on the basis that this will improve the 'curtilage' of the hotel.

9.3 As noted in paragraph 6.5, LCC should address in urban design terms streetscape guidelines for future tower development in Liverpool city centre generally that is currently comprised of low scale streetscapes that act to reinforce the important Hoddle Grid historic street plan.

9.4 My review suggests that the description, analysis and significance assessment of the former Stables building is poor. It is at least of Moderate significance (as identified in the NBRS CMP 2017) and should have seriously been considered for retention as a real alternative to the ironically named 'New Stables'. If ultimately consented for demolition then, as a minimum, LCC and the ultimate consent authority should acknowledge in their determination the heritage impacts that will result from its removal.

9.5 The analysis of the Northern wing upon which the assessment of Moderate significance is based is poor. This assessment is then used with a 'low bar' policy on elements of Moderate significance, together with the project client's desire to remove this element to provide open space to support removal without even then identifying heritage impacts. In my opinion, its removal will have adverse impacts on the building and its form and important corner streetscape presence on the Bigge Street. In my opinion the proposal

will leave the building greatly reduced in form and stature and requires an addition to mitigate the impact of its removal. As a minimum mitigative option I have suggested a two-level verandah be added on the north elevation picking up on the form of the current link space FF16, however, with the upper level roof at the same height as the existing Bigge Street verandah roof. As above in 9.4, LCC and the ultimate consent authority should acknowledge in their advice and determination the heritage impacts that will result from the removal of the Northern Wing.

9.6 The proposed demolition of most of the circulation halls, bedroom walls and spaces and associated fabric on the upper two levels of the hotel that is identified as High significance in the CMP to create largely open plan offices is not justified in relation to policy in the CMP and the Fabric analysis and the SHI listing that notes the importance of its residential history. As per 8.4, I have prepared indicated sketches as Attachment 4 to show how more spaces and fabric can be retained while providing for a new use.

9.7 In my opinion, taken together, the removal the Northern wing, the Stables and much of interior to first and second floors will have an unacceptable heritage impact on the Commercial Hotel as a heritage item and also on the Bigge Park HCA such that the current DA should not be approved in its current form

Recommendation

The following recommendations that are based on the above findings are grouped according to agency action and timing in relation to any consent.

10.1 Acknowledgement of Heritage Impacts by the Consent Agencies

In terms of expediting the DA process that has already involved many inputs and iterations, it is recommended that rather than requiring further changes to the DA documentation (apart from 10.2 below) that LCC and the Sydney West Planning Panel as the ultimate consent agency acknowledge the shortcomings identified in this report and the heritage impacts identified here that are not fully identified in the project SOHI, namely:

- Limited impact assessment on heritage items in the vicinity of the site;*
- Poor analysis of the Stable Building and a flow on from this in significance and impact assessments;*
- The proposed removal without appropriate impact identification of spaces and fabric of High significance of on First and Second floors of the Commercial Hotel; and*
- Policy for Moderate elements (such as the Northern Wing) should have required retention unless there is no prudent alternative and, in any case, the proposed removal of the Northern Wing should have identified an adverse heritage impact.*

10.2 Amendment to Proposal Prior to Consent

As per 5.1 above, the site demolition drawing DA020 should be amended to show the correct outline of the Stables building proposed for demolition (but only after considering site options as above).

As per 4.2, the Costed Works Schedule should be revised prior to determination to include an overall written approach and scope to the demolition, conservation and adaptive reuse works for the building to accompany the table in the document.

Says in 4.2 that we can consider it as a condition of consent

10.3 Conditions of Consent Prior to Construction Certificate

That the proposal be amended to include a two-level verandah addition to the north elevation of the Hotel as a mitigative measure to the impacts on the overall hotel form, its streetscape presence and on Bigge Park Conservation Area that will result from the removal of the Northern Wing.

This two-level verandah should respond to the existing in height width and form and fabric of the existing verandah but also be recognisable in close inspection as new work (eg a simplified balustrade cast iron pattern).

The verandah should start at a retained dividing wall at the end of the verandah on Bigge street and return along on the northern façade at least up to the curved upper level window above the staircase.

That the proposal be amended to reduce the width of the NeW Stables at the eastern end in the vicinity for the Hotel to provide a better spatial setting for the Hotel and a less crowded access way than that shown. (Note that the verandah above will in general terms require no more depth than the new fabric awning shown in the proposal.)

A full photographic archival record should be made of all the structures on the full development site including all structures proposed for removal. A condition of consent should be that a mechanism be identified in the Long-Term Maintenance Plan to ensure its implementation over time.

10.4 New Development Application

It is recommended that any consent for the current proposal exclude approval for the use and changes to the interior of the First and Second floors of the Commercial Hotel and that a further DA be required to be submitted for Liverpool City Council approval for the use and adaptive reuse changes and to be in accordance with the intention of the sketches that form Attachment 4 to this report (see 8.4) to retain existing circulation spaces (including halls and dividing walls and arches) and the spaces of existing bedroom spaces generally while providing for some limited enlarged areas with partial wall removals and also providing for a lift and accessible toilets on both levels, once again generally in accordance with the intent shown on the sketch plans in Attachment 4 to this report. Any consent for this current DA should include that approval and implementation of conservation and adaptive reuse works

to the Commercial Hotel should be undertaken prior to Occupation Certificate for the tower building.

Comment: In consideration of the comments above, it is acknowledged that some of the heritage documentation was lacking in certain detail, and it is acknowledged the documentation submitted may have not considered the full extent of the heritage impact on the existing heritage on site. Notwithstanding the identified shortcomings in the submitted documentation, the comments provided have identified potential mitigation measures to minimise the impact on the heritage item.

As clear from the attached heritage advice, three options have been provided as a mechanism to mitigate the potential impact on the heritage item. It is the preferred option based on the merits of case to proceed with option 3 identified in the advice, which details the addition of a verandah along the northern elevation in place of the northern wing of the building that will be removed and a subsequent reduction in the width of the new stables building along the northern boundary by 1.2m to provide an improved spatial setting for the hotel. The advice provided indicated an indicative design to which it is expected the verandah will be designed to and is indicated in the figure below.

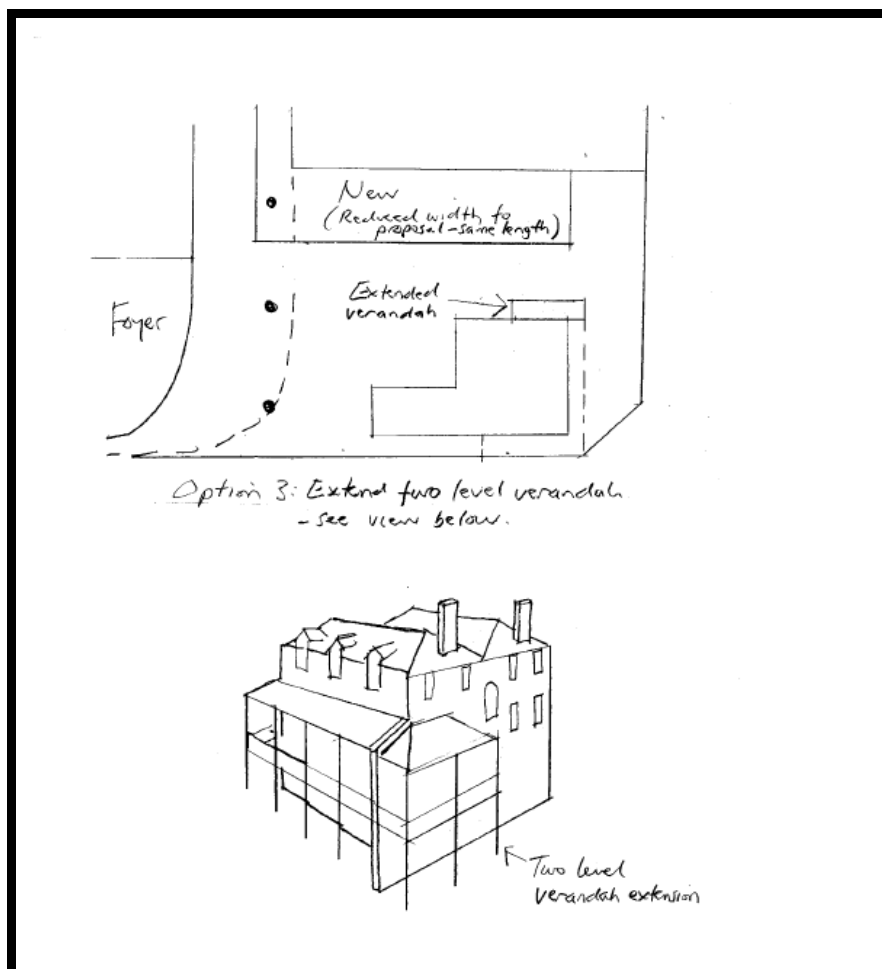


Figure 10: Indicative Design of recommended verandah.

It was considered prudent in this scenario to impose such a condition as a Deferred Commencement condition to enable a review of the proposal and ensure the proposed design aligns with the expected outcome. Therefore, the following deferred commencement condition will be included in the consent;

1. *The proposal be amended to include a two-level verandah addition to the north elevation of the Hotel as a mitigative measure to the impacts on the overall hotel form, its streetscape presence and on Bigge Park Conservation Area that will result from the removal of the Northern Wing.*

The two-level verandah is to respond to the existing in height width and form and fabric of the existing verandah but also be recognisable in close inspection as new work (e.g. a simplified balustrade cast iron pattern).

The verandah should start at a retained dividing wall at the end of the verandah on Bigge Street and return along on the northern façade at least up to the curved upper level window above the staircase. The verandah design is to be approved by Council's Manager Development Assessment prior to the issue of any Construction Certificate.

2. *The width of the proposed stables precinct along the northern boundary of the development site is to be reduced by 1.2m.*

While it is appreciated the advice provided an additional 2 further options as mitigation measures including the retention of the stables building and the northern wing or the removal of the stables and the retention of the northern wing, it is considered that these two options would have implications on the overall design of the development that has been through an extensive design review process and has undertaken an extensive urban design analysis in an effort to reach the final design outcome.

As a consequence of the extensive design review process, Council's DEP at its meeting on 13 September 2018, reviewed the proposal for a third time and provided positive comments with regards to the overall design including;

- *The Panel supports the realignment of the stable building with the hotel building in accordance with the Panels advice and that of the proponents Heritage consultant.*
- *The public domain and heritage treatment articulated within the amended scheme are supported by the Panel.*

Furthermore minutes from the Design Integrity Panel convened for the application had also made some positive comments with regards to the proposed development response to the heritage item including the following;

- *RO commented how the Design Excellence process which the site has undergone has improved the overall design of the proposed development significantly, and that earlier concept plans for the site did not demonstrate the same suitable relationship with the Heritage Hotel.*
- *The members commented how the proposed conservation and adaptive reuse of the Heritage Hotel is suitable and represents a good urban design outcome for the site.*

- *The DIP members noted that, as there is only a moderate degree of the Heritage Hotel's original fabric remaining, the building is able to accommodate further alterations so as to make it suitable for its proposed adaptive reuses.*

As part of the granting of the waiver for the design competition the Government Architects Office in their letter to Council granting the exemption stated the following;

- *The selected design by Fender Katsilidis Architects demonstrates a thoughtful approach to through site links and the relationship with the heritage item that is part of the site.*

It is therefore considered appropriate in this instance to attempt to retain the proposed design while implementing mitigation measures to maintain the significance of the heritage item. Therefore it is considered that the most appropriate option in this instance was the imposition of a deferred commencement condition for the construction of the verandah and the reduction in the width of the stables precinct along the northern boundary of the site.

It was also considered appropriate in the heritage review to defer the fit out and use of the first and second floors of the heritage listed hotel. The reasoning provided in the review is that spaces on the 1st and 2nd floors are considered of High Significance in the CMP and contain a fair degree of High Significance Fabric.

As it is considered the internal materiality of the 1st and 2nd floors of the hotel are significant, it was considered prudent in this instance to exclude the fit out and use of these floors from this application and impose a requirement to obtain approval for the use and fit out of these floors at a later date. As such a condition has been imposed to that effect. It is also important to note that no major concern was raised with the proposed ground floor fit out, as such consent will not defer the fit out of the ground floor.

A further recommendation of the review included the provision of an updated costed work schedule to include an overall written approach and scope to the demolition, conservation and adaptive reuse works. It was recommended that the information prior to determination, however section 4.2 of the advice provided indicated that the further details may be required as a condition of consent if considered necessary by the consent authority. As such, in this instance it was considered appropriate in this instance to include the requirement for the revised costed works schedule as a deferred commencement condition.

It is considered the inclusion of the revised costed works schedule as a deferred commencement condition will achieve the appropriate outcome, as it will enable the applicant to update and provide an accurate work costing in accordance with the approved works as part of this development application in conjunction with the revised works required as part of this determination in relation to the additional works required to the heritage item as stipulated above.

The advice also requested the site demolition plan be amended to show the correct outline of the stables building proposed for demolition. This has now been revised and provided and considered satisfactory.

The review also proposed conditions of consent relating to the requirement of a full archival recording of all structures proposed for removal. This has been included in conditions of consent.

It is based on the above that due consideration to the existing heritage constraints on site have been considered and through design amendments and the imposition of conditions of consent the proposal is considered to effectively respond to Clause 5.10 Heritage Conservation in this instance.

- **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 development that significantly improves the public domain and improves the quality of public spaces in the city centre. It provides for 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 & Key Site Controls**

- **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;

- (1) *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 concept was presented twice prior to the DA lodgement on 28 September 2017 and 14 June 2018 as part of the pre-da DEP (Attachment 8). The application was presented a third time as part of the DA lodgement on 13 September 2018.

It is evidenced by the numerous DEP meetings that the proposal has evolved to a final design that has carefully considered the advice of the DEP and has demonstrated that the matters set out in the clauses above have been carefully considered in consultation with the expert independent DEP.

As will be discussed further in this report the subject site also qualifies as a key site pursuant to Clause 7.5(4) of the LLEP 2008. As part of this development application process and to satisfactorily address Clause 7.5(4) the development was presented to an Independent Design Integrity Panel (DIP). The DIP also reviewed the concept plans and considered the proposal an exceptional urban design outcome that has given due consideration to the public domain and existing site constraints. As part of the development consent, conditions will be imposed that require the DIP be engaged at every step of the development process, from Construction Certificate to Occupation Certificate to ensure design excellence is maintained through the entire process.

Moreover, the application was presented to Council's City Design and Public Domain department, who have provided support for the proposal subject to the following conditions of consent.

- 1. The applicant shall upgrade the street lighting system for the frontage of the development including side streets. Any street light poles shall be multifunction poles including all necessary accessories. The specification and accessory details are to be obtained from Council. The applicant shall engage services of Endeavour Energy accredited ASP Level 3 service provider to prepare electrical designs and obtain certification from Endeavour Energy. The electrical design shall include undergrounding / maintaining underground services and communication cables for the entire frontage including side streets. The approved design shall be submitted to Council for review and approval prior to any construction works.*
- 2. Liverpool City Centre 'Core (Bluestone) paving shall be installed, reinstated or replaced along the entire street frontage for both Bigge Street and Scott Streets.*
- 3. Access must be provided to the building for people with a disability in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standard 2010 and Australian Standards – 1428.1 (2009) Design for Access and Mobility – General requirements for new building work, to satisfaction of the certifying authority.*
- 4. Prior to issue of a Construction Certificate the certifying authority must be satisfied that all proposed building cladding and attachments and other systems forming the external walls comply with the NCC, BCA and relevant Australian Standards.*
- 5. Detailed Architectural plans prepared by a suitably qualified person are to be submitted for certifier approval prior to the issue of a Construction Certificate. All aspects of construction must comply with the performance requirements of the National Construction Code (NCC). The plans must include all requirements as noted from the Design Integrity Panel for the design of the building. The plans must*

match those submitted as detailed in the Architectural package for Development Approval (DA).

6. *Detailed Landscape Architectural (Public Domain) plans prepared by a suitably qualified person are to be submitted to a certifier prior to the issue of any Construction Certificate. The detailed Landscape Plans are to incorporate:*

- *Each tree planted on podium must be provided with a soil depth of at least 1000mm plus mulch of 100mm plus drainage material*
- *Each tree planted on podium must be provided with a soil volume of at least 15m³*
- *Each tree within the public domain must finish flush or set down to accommodate passive irrigation requirements*
- *Each tree within the public domain must have either tree grate, decomposed granite finish or groundcover planting installed within the tree surrounds (1.5 x 1.5m zone at the tree base)*
- *Public domain trees and planting require sub-surface drip irrigation connected to a timer and two water sources*
- *Fixed public domain seating is to be constructed from concrete and timber*
- *Public domain paving shall be designed to provide passive irrigation to planting areas – with fall orientated towards planting and trees*
- *Planter boxes shown on the plans and sections are to be replaced with in-ground planting of ground covers and native grasses*
- *All requirements from the Design Integrity Panel are addressed and included for the building and plaza design*

The proposal has been through a rigorous design review process from inception to final concept. It is now considered that the proposal has incorporated a high level of architectural design, provides a development that will improve the public domain, will not detrimentally impact view corridors and provides a development that appropriately responds to the constraints on site. It is considered that the development exhibits design excellence and has satisfied Clause 7.5(2) and (3).

➤ **Key Sites**

The subject site is identified as a key site under Clause 7.5(4) of the LLEP 2008 as identified in figure 11 below. Clause 7.5(4) requires development with a capital value over \$10 million identified as a key site to participate in an architectural design competition. Clause 7.5(5) permits an exemption from the design competition if the Director-General certifies in writing that the development does not require a design competition.

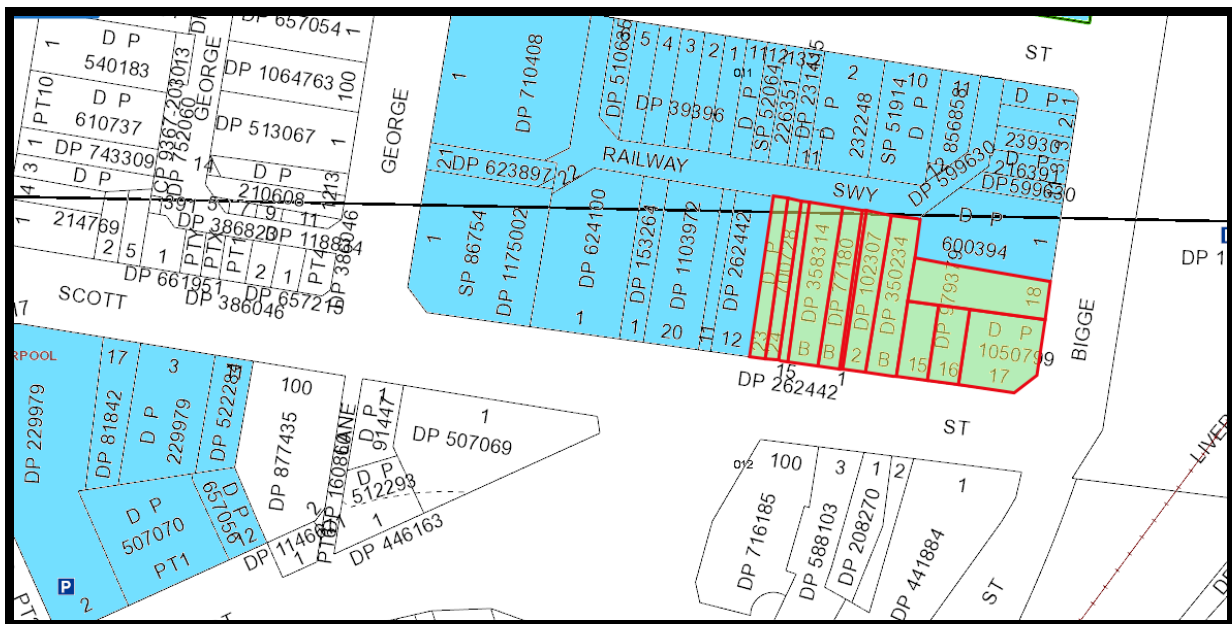


Figure 11 Key Site Map:

Clause 7.5(4) and (5) state the following;

(4) *Development consent must not be granted to the following development in the Liverpool city centre unless an architectural design competition has been held in relation to the proposed development:*

(a) *(Repealed)*

(b) *development having a capital value of more than \$10,000,000 on a key site, being a site shown coloured blue on the [Key Sites Map](#),*

(c) *development for which the applicant has chosen to have such a competition.*

(5) *Subclause (4) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required.*

Pursuant to Clause 7.5(5), the applicant sought an exemption through the NSW Government Architects Office. Correspondence from the Government Architects Office dated 4 September 2018 (Attachment 7), was provided to Council, which granted the waiver to the requirements of the design competition subject to certain recommendations. A summary of the contents of the letter of exemption are as follows;

"We note that the site in question triggers the requirement for an architectural design competition in the Liverpool LEP, to be run in accordance with the Director General's Design Excellence Guidelines. The Director General's Design Excellence Guidelines state that an exemption or waiver from a competition may be granted "where it can be demonstrated design excellence will be achieved, such as where concept drawings are submitted for a manifestly outstanding building, and the architect has a reputation for delivering buildings of the highest quality. In such a case, a design integrity panel may be appointed to oversee implementation."

Council Comment: Noted and as indicated below a DIP was appointed during the DA process and conditions of development consent are imposed to ensure the DIP oversee the development through all stages.

“In relationship to the request for support for a waiver we note the following:

-the Liverpool Design Excellence Panel have been consulted and have verified their support for the project however they state in their notes that they do not support the breaches in either height or FSR. The Liverpool DEP should continue to review the project at the request of the Liverpool City Council”.

Council Comment: It is noted that the DEP has been consulted on numerous occasions on the project. At the final DEP meeting on 13 September 2018 the panel considered the revised proposal and were satisfied that the development exhibits design excellence.

“-A Design Integrity Panel process has been submitted as part of the Design Excellence Strategy- 277 Bigge St -Final and also as part of the DA submission to council. Membership of that Design Integrity Panel should consist of one member selected by Liverpool City Council, one selected by GA NSW and one by the proponent team, as stated in the Design Excellence Strategy- 277 Bigge St -Final. All must have design qualifications and include appropriate experience in commercial tower development and heritage architecture and planning”.

Council Comment: It is noted that a Design Excellence Strategy (DES) was submitted as part of the application for a design competition exemption. The DES is attached to this report (Attachment 3). As indicated, the DES outlined a DIP process that will be undertaken to oversee the development from DA approval stage to Occupation Certificate to ensure the design integrity of the development is maintained.

Consequently, a DIP meeting was held on 31 October 2018. The DIP committee members consisted of a member selected by Liverpool City Council, a member selected by the applicant and a member selected by the Government Architects Office. At the DIP meeting a site inspection was conducted by the panel members and a subsequent meeting was held on the day with the committee members and representatives from Liverpool Council and the applicant.

The minutes of the DIP are attached to this report (attachment 9). Overall the DIP provided a positive response to the concept proposal put forth at the meeting. Particularly it was evident that the proposal was considered to provide an appropriate response to the heritage constraints on site and provide a high-quality development that would be a benchmark for Liverpool. To ensure the design integrity of the development is maintained and to align with the requirements of the design competition waiver, conditions of consent have been imposed that ensures the DIP is engaged to oversee the project from construction certificate stage to occupation certificate stage.

“- The proposal exceeds FSR controls from the Liverpool LEP 2008. Clause 7.5 (6) states that a 10% bonus on FSR is applicable only if a design competition has been undertaken. As no design competition has been undertaken the LEP non-compliance must be dealt with as part of a Clause 4.6 exception application. The proposal is also non-compliant on car parking and building separation. The Government Architect recommend that obtaining the support of the Liverpool Design Excellence Panel on these matters is recommended. The proposal is within the maximum height limit of 100 metres”.

Council Comment: It is noted that as no design competition was undertaken that the proposal exceeds the FSR development standard. The non-compliance with the FSR is discussed in detail further in this report. As indicated previously the DEP have reviewed the proposal on three occasions and have considered the proposal exhibits design excellence. It is also noted that the proposal is within the 100m height limit.

“-The selected design by Fender Katsilidis Architects demonstrates a thoughtful approach to through site links and the relationship with the heritage item that is part of the site”.

Council Comment: Noted

Recommendation

Given the notes above, and in reference to the submitted documents from Willowtree Planning, the Government Architect will grant a waiver to the requirements for a design competition dependant on the following conditions;

- *The minutes from Design Integrity Panel meetings are to be submitted as part of all DA or subsequent Section 96 applications and made available to the Liverpool Design Excellence Panel.*
- *DA conditions and Construction Certificate requirements should note the ongoing role of the Design Integrity Panel.*
- *The proposal gains the approval of the Liverpool DEP with regard to the height and FSR breaches.*

Council Comment: The minutes from the DIP are attached to this report and have been considered during the assessment process. Conditions of consent are imposed requiring the DIP oversee the proposed development at all stages. The proposal complies with the 100m height limit and discussions relating to the FSR variation are detailed further in this report. The application was also presented on multiple occasions to the DEP, who have stated the proposal is acceptable.

Conclusion

Based on the above the application has undertaken the appropriate steps to obtain a waiver from a design competition and has satisfied the requirements of Clause 7.5(5)

Discussion on variation under Clause 4.6 of LLEP 2008 development standards

As identified in the compliance table above, the development proposes a number of non-compliances of development standards prescribed by LLEP 2008. The discussions pertaining to the variation of the development standards are discussed below;

a) Variation to Clause 4.4 Floor Space Ratio

Clause 4.4 of the LLEP 2008, stipulates that the maximum permissible FSR for the site pursuant to the Liverpool Local Environmental Plan (LLEP) 2008, 4.4(2B) is 8:1. The proposal put forth an FSR of 9.94:1 or 27,628.8sqm, exceeding the permissible FSR by 5,388.8sqm or 24.2%. Consequently, the applicant has provided a clause 4.6 variation to justify the non-compliance. The clause 4.6 variation is attached to this report.

The submitted written request to vary Clause 4.4 (Floor Space Ratio) has been assessed against the provisions of Clause 4.6; the objectives of the Clause being varied; and the objectives of the B3 zone, are discussed below:

The objectives and standards of Clause 4.6 of the Liverpool Local Environmental Plan (LEP) 2008 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

1) Circumstances of the development

The development seeks development consent for the construction of a 23 storey commercial building including the conservation and adaptive reuse of the existing heritage listed commercial Hotel, ground floor retail spaces and the demolition of existing structures.

2) Written request addressing why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the contravening of the development standard

The applicant has provided the following comments addressing why compliance with the development standard is unreasonable or unnecessary in this case, as summarised:

- *The proposed development can be delivered without significant impacts to the surrounding road network or other services infrastructure, and would improve pedestrian permeability and legibility for the surrounding blocks. The site can adequately support the 24,232.8m² of Office Premises floor space which is proposed to be provided at the site.*

- *The proposed Tower's design has been developed so as to appear slender and elegant. Given that the site will be subject to an FSR of 10:1 under the pending Amendment 52, the FSR of the proposed development is considered consistent with the desired future character of the site. The site also forms part of the Scott Street Key Site, and the proposed development would comprise a gateway development and a regional marker for the locality.*
- *The proposed development would not significantly impact on the amenity of adjoining premises. Rather, it is considered that the proposed development would positively impact on the amenity of adjoining premises.*
- *The proposed Tower would have a curved shape along its eastern facade to respond to the local heritage listed Commercial Hotel. This curvature would further address the Scott Street/Bigge Street corner whilst reducing the proposed Tower's weight and appearance. It would also allow sunlight into the southern side of the street. Setbacks to the northern existing tower have been provided for to allow a comfortable relationship between these two items whilst also allowing north western sun into the new civic space. It would address the arrival of residents entering the Liverpool CBD by road or rail. The proposed Tower's curved glass form would articulate the skyline and the proposed development in total would provide a prominent, quality aesthetic to vistas visible throughout view corridors from Liverpool Station, Light Horse Bridge, Scott Street, Bigge Street and the Railway Serviceway.*
- *The proposed Tower would be articulated to provide a high level of activation from its western boundary, including with a glass façade. The proposed Tower's core has also been designed to be as slender as practicably possible, and is further articulated with windows to the lift lobbies and bathrooms to reduce the non-activated surfaces. With reference to the adjoining commercial tower on Scott Street, the proposed Tower would complete the street wall. The separation between these two towers would help to distinguish the proposed development with a slender and elegant tower. Further reference to the neighbouring Scott Street tower would be achieved through the proposed Tower's waistline corresponding to the height of this neighbouring tower to the west. This waistline would create a quasi-street wall whilst articulating the proposed Tower form. The waistline would further create the opportunity for external terrace space on level 11, giving the building scale and balance. The relatively short building setback to the west is preferred to avoid the creation of a quasi through-site link which would be lacking in ground-level activation (as such activation was not incorporated into the neighbouring Scott Street DA).*

The proposed development would include various scaled features which would increase focus onto the local heritage listed Commercial Hotel as part of views and vistas to and from the site. These design elements would include:

- *Constructing a two-storey ground floor Podium responding to the height of the co-located Commercial Hotel;*
- *Elevating the height of the proposed Tower above its Podium to create a volume of air space around the co-located Commercial Hotel;*
- *Creating space around the Commercial Hotel and connecting the new civic space to Bigge Street, Scott Street and the Railway Serviceway;*
- *Removal of the non-original Commercial Hotel wings;*
- *Construction of a new two storey 'Stables' building co-located with the Commercial Hotel and the proposed Tower to complete the relationship between the Commercial Hotel, the Heritage Conservation Area, and the proposed Commercial Tower;*

- *Shaping the eastern edge of the 'Stables' building to wrap around the nearby Commercial Hotel;*
- *Creating around 1,200m² of civic space within the Conservation Area and immediately surrounding the Commercial Hotel, highlighting ground floor space around the Commercial Hotel (being separated from the Podium by around 25m); and*
- *Elevating the height of the proposed Tower above its Podium to create a volume of air space around the Commercial Hotel.*

The proposed development would therefore maintain an appropriate visual relationship with the local heritage listed Commercial Hotel.

- *The proposed development responds to the size and extent of the local heritage listed Commercial Hotel which will remain co-located at the site.*
- *The proposed development is considered to meet the prerequisites for design excellence within the Liverpool CBD on the following bases:*
 - *The proposed development would comprise a manifestly outstanding built form design, including quality materials and finishes to complement the site's heritage context whilst providing general site uplift;*
 - *The proposed development would create around 1,200m² of high quality new civic space which relates to both the site's existing heritage context and the proposed Tower;*
 - *The proposed development would open up views to the local heritage listed Commercial Hotel;*
 - *The proposed development would constitute a landmark building within the Liverpool CBD, addressing the arrival of residents entering Liverpool by road or rail. The proposed Tower's curved glass form would articulate the skyline and the proposed development in total would provide a prominent, quality aesthetic to vistas visible throughout view corridors from Liverpool Station, Light Horse Bridge, Scott Street, Bigge Street and the Railway Serviceway;*
 - *The proposed development would not cause overshadowing for Bigge Park, Liverpool Pioneers' Memorial Park, Apex Park, St Luke's Church Grounds and Macquarie Street Mall;*
 - *The proposed development is generally consistent with the relevant provisions of LDGP2008.*
 - *The proposed development responds to heritage constraints at the site.*
 - *The proposed Tower would be articulated to provide a high level of activation from its western boundary, including with a glass façade. The proposed Tower's core has also been designed to be as slender as practicably possible, and is further articulated with windows to the lift lobbies and bathrooms to reduce the non-activated surfaces. With reference to the adjoining commercial tower on Scott Street, the proposed Tower would complete the street wall. The separation between these two towers would help to distinguish the proposed development with a slender and elegant tower. Further reference to the neighbouring Scott Street tower would be achieved through the proposed Tower's waistline corresponding to the height of this neighbouring tower to the west. The relatively short building setback is preferred to avoid the creation of a quasi through-site link which would be lacking in ground-level activation (as such activation was not incorporated into the neighbouring Scott Street DA);*

- *The proposed Tower would have a curved shape along its eastern facade to respond to the local heritage listed Commercial Hotel. This curvature further addresses the Scott Street/Bigge Street corner whilst reducing the proposed Tower's weight and appearance. It would also allow sunlight into the southern side of the street;*
- *The proposed development would establish new through-site linkages to promote pedestrian permeability and legibility throughout the site and within the Liverpool CBD more generally. The proposed development would include a combined 142m2 End of Trip facility with provision for 129 bicycles to encourage cyclist patronage of the site. Level one of the Podium would include back of house areas adjacent to the Railway Serviceway allowing convenient access for servicing and maintenance. This would include provision for electrical, mechanical, gas and water, switch room and substation. The proposed Tower ground floor would include car parking and loading dock entry off the Railway Serviceway, as well as areas for security, HV, waste bin storage, loading docks and courier loading areas, as well as the general lobby with a supporting commercial/retail area and access to the elevator lobby; and*
- *The proposed development would create around 1,200m2 of high quality new plaza-style civic space which would create significant uplift for the locality. The proposed development would there significantly improve the public domain.*

In response to the comments raised above, Council has provided the following justification as to why the imposition of the applicable FSR control is unreasonable and unnecessary in this instance:

- A key reason as to why compliance with the FSR development standard is unreasonable and unnecessary in this instance is the fact the proposed development falls within an area of the City Centre that was subject at the time of lodgment to a draft amendment to the LLEP known as Amendment 52. Subsequent to the lodgment of the development application Amendment 52 was gazetted in September 2018 and now forms part of the LLEP 2008.

The detailed aspects of Amendment 52 as it pertains to the development are discussed further in this report, however in summary the key aspects of the amendment are summarised as follows;

- a) As a consequence of Amendment 52 the zoning of the site was changed from B3 – Commercial Core to B4 –Mixed Use.
- b) The removal of the requirement for a design competition as the key sites provisions under clause 7.5 have been deleted.
- c) The amendment introduced “additional provisions” relating to certain land at Liverpool City Centre. The additional provisions enabled certain sites of which this site was one, in excess of 1500sqm and with 2 or more frontages to obtain an FSR uplift of up to 10:1 subject to certain requirements.

Given the fact that the development site can now obtain an FSR of up to 10:1 as Amendment 52 has been gazetted it would be considered prudent to give due consideration to the development standards that now apply to the site and enable the achievement of an FSR of 10:1 if it is demonstrated the development proposal will be consistent with the objectives and desired outcomes intended by the amendment.

The report below details how it is considered the subject proposal is consistent with the amendment and therefore, enabling the achievement of an FSR of 10:1 for the site consistent with the amendment is considered justified in this instance. It is important to note that notwithstanding the site can now obtain an FSR of 10:1 the proposal provides an FSR of 9.94:1, which is less than the applicable FSR.

- The proposal has been through a rigorous design review process, inclusive of three reviews by Councils DEP, the design review of the proposal by an Independent DIP, a review by Councils City Design and Public Domain department and a review by the NSW Government Architects Office as part of an application to obtain a waiver from a design competition. Based on the numerous design reviews it is now considered the proposal exhibits design excellence and is a development that has given due consideration for the public domain, the existing site constraints and is a quality and form that is unique and beneficial to the Liverpool CBD.
- The proposal provides in excess of 27,000m² of commercial floor area for the Liverpool CBD and will encourage and promote employment generating uses which is significant for the Liverpool LGA and greater western Sydney.
- The proposal does not create detrimental overshadowing impacts on adjoining properties despite the FSR non-compliance.
- The proposal presents as a unique and original design at key vehicular and public transport entry points to the Liverpool CBD.
- The application has also been reviewed by Council's City Economy department, who have provided very positive commentary as to why a building of this scale would be beneficial to the economy of the LGA. The entirety of the comments is detailed further in this report, however some of the comments include;

Liverpool currently has approximately 98,000sqm of commercial office space (including University sites), of which only around 15% is classed as A grade. All of this A grade office space is currently occupied at 100%.

This proposed new offering of 24,232sqm of lettable A Grade office space at 277 Bigge Street will potentially facilitate the creation of approximately 1200-1600 new jobs (based on 15 – 20 sq/m per office worker) In addition the retail laneways and upgraded entertainment precinct that will be activated with this development will add an additional 30-50 jobs to our city and all within 80 metres of the CBD's major transit hub. In effect creating Liverpool's first truly major public transit-oriented development, reducing the need for vehicles to enter the CBD.

Based on the comments above and discussions detailed further in this report, it is evident the proposed building has been designed with due consideration for the desired future character of the area in mind and will also play a significantly important economic role in the future growth of Liverpool. It is on this basis that the non-compliant FSR is considered worthy of support in this instance.

3) Consistency with objectives of the development standard Clause 4.4 Floor Space Ratio

The objectives of Clause 4.4 and assessment are as follows:

- (a) to establish standards for the maximum development density and intensity of land use, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic,*
- (b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different locations,*
- (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- (e) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (f) to facilitate design excellence in the Liverpool city centre by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.*

The proposed development is considered to be consistent with the objectives of Clause 4.4, in that, the development has been designed to account for the desired future character and intended density for the site. The proposal has provided a design that encourages pedestrian activity and enhances the public domain of the site as well as the CBD. The proposal has been through an extensive design review process and provides a building design that exhibits design excellence. It is on this basis that the proposal is consistent with the objectives of Clause 4.4.

4) Consistency with objectives of the zone – B3 – Commercial Core

The objectives of the B3 Commercial Core zone are as follows;

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

The proposal satisfies the objectives of the B3 zone in that it proposes a commercial development that will provide a range of commercial uses that will serve the need of the local and wider community. It provides for an A-Grade commercial development that encourages employment opportunities within walking distance of Liverpool Train Station and the Liverpool-Paramatta Transitway

Given the strategic location of the site across the road from Liverpool station it provides the ability to maximise public transport patronage and provides opportunities within the development that encourage walking and cycling. The proposal provides for a unique development within the Liverpool CBD in that it's a large-scale commercial development that will encourage a range of commercial uses and employment generating activities for the Liverpool CBD and Western Sydney as a whole.

It provides for a development on a key site within the Liverpool CBD that will promote and encourage employment opportunities for the longer term. The proposal has given strong consideration to the urban design presentation of the development and has proposed a final design that now exhibits design excellence.

5) Consistency with Clause 4.6 objectives

- a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development*
- b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances,*

It is considered appropriate in this instance to apply a degree of flexibility when applying the maximum Floor Space Ratio development standard applicable to the subject site having regard to the comments above.

6) Recommendation

With considerations to the discussion above, the proposed variation to the Clause 4.4 "*Floor Space Ratio*" has satisfied the provisions of Clause 4.6 and is supported in this circumstance.

d) Variation to Clause 7.3 – Car Parking in the Liverpool City Centre

For consent to be granted for new GFA on B3 Commercial Core zoned land in the Liverpool City Centre, Subclause 7.3(2) provides that the consent authority must be satisfied that:

- 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.

Based on a GFA of 27,628.8m², including a combined ground floor area of 887.8m², the site would be required to provide at least 189 car parking spaces in order to be compliant with Subclause 7.3(2). However, it is proposed to provide 69 car parking spaces at the site. This equates to a non-compliance with the car parking requirements of Clause 7.3 by 120 spaces or 62.9%.

Consequently, the applicant provided a clause 4.6 variation to justify the non-compliance, prepared by Willottree Planning (Attachment 5). After discussions with the applicant it was

considered that given the extent of the non-compliance it may be prudent for the applicant to investigate the provision of monetary (compensation/contribution) to be allocated towards parking facilities in the City Centre for the car parking shortfall or alternatively provide further evidence as to why the non-compliance with Clause 7.3 was justified. Consequently, the applicant provided a subsequent advice prepared by Mill Oakley, dated 25 October 2018 (Attachment 6) to justify the parking shortfall.

The submitted written request to vary Clause 7.3 (Car Parking in the Liverpool City Centre) has been assessed against the provisions of Clause 4.6; the objectives of the Clause being varied; and the objectives of the B3 zone, are discussed below:

The objectives and standards of Clause 4.6 of the Liverpool Local Environmental Plan (LEP) 2008 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- 3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- 4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) the consent authority is satisfied that:*
 - i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

1) Circumstances of the development

The development seeks development consent for the construction of a 23 storey commercial building including the conservation and adaptive reuse of the existing heritage listed commercial Hotel, ground floor retail spaces and the demolition of existing structures.

- 2) Written request addressing why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the contravening of the development standard

The applicant has provided the following comments addressing why compliance with the development standard is unreasonable or unnecessary in this case. The Clause 4.6 variation prepared by Willowtree Planning is summarised as follows:

Compliant carparking rates at the site would necessitate additional levels of basement car parking. However, the underlying geological conditions of the site are not favourable for an additional level of basement carparking. From a cost perspective, it is therefore not feasible to deliver the proposed development with additional levels of underground car parking at significant expense due to those geological constraints as such unnecessary costs would be borne by the eventual tenants of the site.

From an ESD perspective, these matters were further discussed in the Parramatta Road Corridor Urban Transformation Strategy: Sustainability Implementation Plan Reference Report (November 2016, UrbanGrowth NSW) (the PRUTS Sustainability Plan). In the PRUTS Sustainability Plan, the following research was noted with regards to the provision of underground car parking:

A Plan for Growing Sydney demonstrates a strong link between improved quality of life and greater access to public transport. However, a weakness or potential shortfall of this strategy is that it does not address the other side of the coin - car dependency and parking, and its impact on local amenity, affordability and the feasibility of urban transformation projects. This is potentially affecting our ability to deliver “density done well”. Consider the following:

- In a typical new apartment development, parking is equivalent to between 30% and 50% of the development floor area;*
- Reducing underground parking by 1 space could equate to reducing the sales price of a new apartment by \$60,000 to \$100,000;*
- Less energy demands for parking lighting and ventilation equate to lower compliance costs with BASIX Energy Targets; and*
- Studies have shown that underground parking can contribute up to 50% of the energy demands in a high-rise apartment building¹.*

Whilst the proposed development is for Commercial Premises rather than Residential Accommodation, and is located within the Liverpool Local Government Area and not within the Parramatta Road Urban Transformation Corridor, the above research is nevertheless valid. In order to achieve a better cost-benefit and ESD performance of the site, Mackycorp is therefore committed to providing less underground car parking at the site than would otherwise be required under Clause 7.3. Furthermore, the potential provision of above-ground car parking was previously considered as an option for the site. However, this received negative feedback from the Urban Design Panel and Liverpool City Council.

Given the site’s strategic location within 80m of Liverpool Station and 140m within the Liverpool-Parramatta Transitway, it is moreover likely that the majority of patrons to the site would access the proposed development by walking from either of those key public transport nodes. Car parking proposed to be provided at the site therefore meets the above-mentioned objective of being appropriate for the proposed development due to the following:

- Compliant carparking rates would necessitate additional levels of basement car parking. However, the underlying geological conditions of the site are not favourable for an additional level of basement carparking. From a cost perspective, it is therefore not feasible to deliver the proposed development with additional levels of*

underground car parking at significant expense due to those geological constraints as such unnecessary costs would be borne by the eventual tenants of the site;

- *The proposed development would meet key outcomes for Transit Oriented Development due to its strategic location within 80m of Liverpool Station as well as the further creation of through-site linkages connecting to surrounding street blocks. This would reduce the dependency on car travel to access to the site;*
- *The proposed development would provide End of Trip Facilities, further encouraging other modes of transport to and from the site. Liverpool Station (around 80m from the site) also provides secure bike locking facilities;*
- *The nearby Liverpool Station has four platforms meaning that it can serve the:*
 - *T2 line with services to Central, the City Circle via Granville and Leppington;*
 - *T5 line with services to Schofields, Richmond and Leppington; and*
 - *T3 terminating services returning to the City Circle via Bankstown;*
- *The site is around 140m from the Liverpool-Parramatta Transitway, which provides significant bus connections throughout the Liverpool and Parramatta CBDs as well as further afield throughout Greater Sydney. Specifically, the Liverpool-Parramatta Transitway provides direct connections to:*
 - *801 to Badgerys Creek;*
 - *802 to Parramatta via Green Valley;*
 - *803 to Miller;*
 - *804 to Parramatta via Hinchinbrook;*
 - *805 to Cabramatta via Bonnyrigg Heights;*
 - *806 to Parramatta via Abbotsbury;*
 - *808 to Fairfield via Abbotsbury;*
 - *819 to Prairiewood;*
 - *823 to Warwick Farm;*
 - *827 to Carnes Hill Marketplace via Bonnyrigg Heights;*
 - *851 to Carnes Hill Marketplace via Cowpasture Road;*
 - *852 to Carnes Hill Marketplace via Greenway Drive and Cowpasture Road;*
 - *853 to Carnes Hill via Hoxton Park Road;*
 - *854 to Carnes Hill via Greenway Drive and Hoxton Park Road;*
 - *855 to Rutleigh Park via Austral and Leppington Station;*
 - *856 to Bringelly;*
 - *857 to Narellan;*
 - *865 to Casula via Lurnea Shops;*
 - *866 to Casula;*
 - *869 to Ingleburn via Edmondson Park and Prestons;*
 - *870 to Campbelltown;*
 - *871 to Campbelltown via Glenfield;*
 - *872 to Campbelltown via Macquarie Fields;*
 - *901 to Holsworthy via Wattle Grove;*
 - *902 Holsworthy via Moorebank;*
 - *903 Chipping Norton;*
 - *904 to Fairfield;*
 - *M90 to Burwood;*

- N30 from Macarthur to City Town Hall;
 - N50 to City Hall;
 - 1043 Webster Road and Hoxton Park Road to Unity Grammar College; and
 - T80 to Parramatta via T-way;
- *Mackycorp prefers to encourage patrons to access the site by walking from Liverpool Station and/or the Liverpool-Parramatta Transitway as this allows the significant views of the site including the heritage listed Commercial Hotel to be appreciated from the Bigge Street frontage (rather than vehicle access via the Railway Serviceway). It also encourages those accessing the site to patron the ground floor retail land uses which are proposed at the site. It also encourages those accessing the site for work or services to further explore the Liverpool CBD, which is a compact and highly walkable CBD centred around a grid-type pattern. In this manner, patrons of the site can access the Westfield centre within 11 minutes of walking from the site, Bigge Park within 6 minutes of walking from the site, the Liverpool Library within 7 minutes of walking from the site, Liverpool Court House within 7 minutes of walking from the site, the pedestrianised Macquarie Mall within 8 minutes of walking from the site, and the Georges River foreshore (Moorebank Reserve) within 8 minutes of walking from the site; and*
 - *The site is easily accessible from a range of residential suburbs, including new residential release areas, thereby delivering on the Greater Sydney Commission's strategic aim of the 30-minute city.*

As indicated previously the applicant was requested to investigate the viability of providing monetary contributions to cater for the car parking shortfall or alternatively provide further advice to Council as to why the provision of a monetary contribution is not warranted in this instance and the shortfall in car parking is worthy of support. As such, the applicant provided written advice from Mills Oakley, dated 25 October 2018, stipulating why a shortfall of parking is worthy of support in this instance. The advice is summarised as follows;

- *We consider that the Development Application is capable of being approved with a lower car parking rate than the value set by clause 7.3, in circumstances where a suitable clause 4.6 written request has been submitted with the Development Application. We also consider that the reduced car parking rate must be considered to be in the public interest as the reduced car parking rate remains consistent with the objectives of clause 7.3, and also specifically responds to the objectives of the B3 Commercial Core zone.*

We do not consider that a voluntary planning agreement or a monetary contribution is required as part of the Development Application in circumstances where the proposed development, as a Transport Oriented Development, responds directly to the strategic planning policies of the NSW State Government that seek to increase reliance on public transport, rather than over-dependence on private vehicles. Further, the inclusion of 10 car spaces for car sharing vehicles will result in approximately 120 less vehicles requiring parking at the Site. In our opinion, the number of car parking spaces should be adjusted accordingly, and only 69 car parking spaces should be provided as part of the Development Application.

- *1.6 The objective of cl 7.3 of the LEP is two-fold, being to ensure that adequate car parking is provided for new or extended buildings in the Liverpool city centre that:*

- (a) *is commensurate with the traffic likely to be generated by the development; and*
- (b) *is appropriate for the road network capacity and proposed mix of transport modes for the city centre.*

1.7 *The clause 4.6 written justification that accompanied the Development Application confirms that:*

- (a) *A high number of patrons to the Site will be expected to travel to the Site by way of public transport, in light of the proximity of the Site to Liverpool Station and the Liverpool-Parramatta Transitway. Accordingly, the reduced number of car parking spaces will be commensurate with the traffic likely to be generated by the development.*
- (b) *The proposed reduced number of car parking spaces for the Development Application is appropriate in light of the proposed mix of transport modes for the city centre, as this design actively responds to the proximity of public transport to the site and also recognises modern reliance on car sharing vehicle arrangements.*

1.8 *Accordingly, in our opinion, the Development Application meets the objective provided for at cl 7.3(1) of the LEP, and satisfies cl 4.6(3)(a).*

- 1.15 *In our opinion, through a reduction in the provision of car parking spaces, the proposed development will directly encourage 'maximum public transport patronage', and also provide employment opportunities accessible by rail and bus networks. The reduced number of car parking spaces proposed by the Development Application is therefore directly consistent with the objectives of the B3 Commercial Core zone.*
- 2.2 *The Development Application, as a proposed Transport Oriented Development, responds to the strategic planning policy prepared by the NSW State Government in respect of increasing reliance on public transport. We note the following specific policies prepared by the NSW State Government, for example, seek to reduce over-reliance on cars, and increase public transport usage:*
 - (a) *Integrating Land use and Transport, dated August 2001, provides (at page 18) that '[c]ontrol of parking is an effective tool in managing demand for travel. Consideration needs to be given to reducing parking requirements for development in areas with good public transport [and] the location and design of parking areas.' This document also provides (at page 51) that '[p]arking requirements should see a balance between satisfying a proportion of parking demand on-site, addressing car reduction objectives and minimising the spread of parking into surrounding areas...Reduced parking requirements may also help attract good quality and affordable higher density development at these nodes.'*
 - (b) *Sydney's Bus Future, dated December 2013, states (at page 30) that '[w]ith most of Sydney's future growth set to take place in Western Sydney, a modern bus network that integrates with the wider transport network will be essential to connect customers to jobs, education and services.'*

(c) *The Greater Sydney Commission's 'Western Sydney District Plan', dated March 2018 (the Western Sydney District Plan). 'Planning Priority W11 – Growing investment, business opportunities and jobs in strategic centers' provides, at page 94, that '[a]ll strategic centers will be the focus of public transport investments that seek to deliver a 30-minute city.'*

- 2.7 Car sharing is emphasized as a preferred future mode of transport in the Western Sydney District Plan. In respect of 'Planning Priority W1 – Planning for a city supported by infrastructure', for example, the Western Sydney District Plan states at page 20:

'In terms of transport planning, new public transport services and infrastructure such as rideshare, car sharing and other emerging modes that complement public transport, will help connect residents to their nearest strategic or metropolitan cluster within 30 minutes.'

In response to the comments raised above, Council has provided the following justification as to why the imposition of the applicable car parking standard is unreasonable and unnecessary in this instance:

- With the subjects site's extremely close proximity to the Liverpool Train Station and the Liverpool-Parramatta Transitway the proposed developments reduced parking rate promotes and encourages the establishment of a Transit Orientated Development (TOD) and the positive attributes associated with such a development through the following.
 - The development provides for a large-scale A-Grade commercial development within close proximity to a significant transport hub of Western Sydney. With the reduced parking rate and the close proximity to the significant transport hub the development will promote the utilisation of the well serviced and accessible public transport options in lieu of the utilisation of motor vehicles.
 - By encouraging the utilisation of public transport and the reduced dependency on motor vehicles the development promotes sustainable urban development and the reduction in a carbon footprint.
 - The development in this form and location will promote walkability and create an improved and engaging public domain and promote social interaction as it will reduce car dependency and vehicle congestion within the CBD.
- As indicated in the justification provided above the proposals reduced parking rate aligns with the desired and envisaged direction of the Greater Sydney Commissions "Western Sydney District Plan" for key strategic centres including Liverpool, by promoting the use of public transport, creation of a 30-minute city and promoting walkability.
- As stipulated in the applicant's submission a compliant parking rate would necessitate additional levels of parking, however the provision of additional levels of parking would incur significant additional cost to the development given the geological constraints on the site. The additional levels of basement would be cost prohibitive in this instance and would likely result in a substandard urban design outcome for the commercial building itself.

The applicant had also proposed an above-ground parking arrangement during a pre-da meeting with Council and it was advised that above ground parking will present an inferior urban design outcome and is not encouraged.

- Low car parking provisions is considered important in this instance as it will also act to limit potential traffic generation by the sites activity to a level which will not unduly compromise the operation of the Liverpool CBDs existing road network.
- Given the location of the commercial building within close proximity to Liverpool Station and Transit way the provision of a reduced amount of parking spaces for employees that will be employed in the building is considered a viable option in this instance.
- The proposed development is considered to have due consideration to the encouragement of the use of reduced car dependency and vehicular movement to and from the site through the introduction of and encouragement of bicycle parking.

As part of the lodgement a traffic impact assessment prepared by ason group was submitted with the application. The assessment is attached to this report (attachment 15). The report provided additional reasoning from a traffic assessment perspective as to why a shortfall in parking is considered acceptable in this instance. A summary of the comments in the assessment are as follows;

- *Pedestrian paths near the Site are well developed and located on both sides of the surrounding roads as follows:*

- *Scott Street and Bigge Street, providing access to Liverpool station*
- *George Street, providing access to the CBD and Westfield Shopping Centre*
- *Macquarie Street, providing access to Westfield Liverpool*

A safe walking environment is provided for pedestrians. During the Site visit it was noted that pedestrians generally observed road rules and utilised safe crossing points.

- *The Proposal offers a unique opportunity to achieve a Transit Oriented Development (TOD) within a precinct that has access to high frequency rail and bus networks, employment and educational facilities and critical services including the nearby Westfield Shopping Centre. The development is informed by TOD principles as it seeks to achieve transport and land integration, improved connectivity to the stations and throughout Liverpool and access to open space.*
- *The Proposal will include an increase in floor area for the Site. However, it is not expected that this increase would result in significantly more additional vehicle trips. It is proposed to provide reduced onsite car parking to discourage private vehicle use. As such, the traffic generation of the Proposal would likely remain similar to existing conditions and not uptake the spare capacity on the surrounding road network.*

The limited availability of parking off-site further discourages the use of travel by car, with nearby on street parking imposed with time restrictions, resident parking restrictions and parking fees. Also, an additional 26 vehicles per hour added to the road network during the peak periods would not take up the existing capacity at nearby intersections and significantly affect the existing Levels of Service. As such, the proposed development would not create any adverse traffic impacts to the surrounding road network.

3) Consistency with objectives of the development standard Clause 7.3 Car Parking in the Liverpool City Centre

The objectives of Clause 7.3 and assessment are as follows:

- (1) *The objective of this clause is to ensure that adequate car parking is provided for new or extended buildings on land in the Liverpool city centre that is commensurate with the traffic likely to be generated by the development and is appropriate for the road network capacity and proposed mix of transport modes for the city centre;*

Given the close proximity of the development to a key transport hub and the primary use of the development as a commercial development it is envisaged that a large number of patrons of the building will utilise public transport options. The propose development encourages and promotes the reduced dependency on motor vehicles through the encouragement of public transport usage and the large amount of bicycle parking. It is on this basis that it is considered the proposal is consistent with the objective of Clause 7.3.

4) Consistency with objectives of the zone – B3 – Commercial Core

The objectives of the B3 Commercial Core zone are as follows;

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

The proposal satisfies the objectives of the B3 zone in that it proposes a commercial development that will provide a range of commercial uses that will serve the need of the local and wider community. It provides for a commercial development that encourages employment opportunities within walking distance of Liverpool Train Station and the Transit way.

Given the strategic location of the site across the road from Liverpool station it provides the ability to maximise public transport patronage. The proposal provides for a unique development within the Liverpool CBD in that it's a large-scale commercial development that

will encourage a range of commercial uses and employment generating activities for the Liverpool CBD and Western Sydney as a whole.

It provides for a development on a key site within the Liverpool CBD that will promote and encourage employment opportunities for the longer term. The proposal has given strong consideration to the urban design presentation of the development and has proposed a final design that now exhibits design excellence.

5) Consistency with Clause 4.6 objectives

- a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development*
- b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances,*

It is considered appropriate in this instance to apply a degree of flexibility when applying the car parking development standard applicable to the subject site having regard to the comments above

6) Recommendation

With considerations to the discussion above, the proposed variation to the Clause 7.3 “*Car Parking in the Liverpool City Centre*” has satisfied the provisions of Clause 4.6 and is supported in this circumstance.

c) Variation to Clause 7.4 Building Separation in Liverpool City Centre

Subclause 7.4(2)(d) and (e) require the following building separations for land zoned B3 Commercial Core within the Liverpool City Centre:

- 12m for parts of buildings between 25-45m above ground level (finished); and
- 28m for parts of buildings 45m or more above ground level (finished).

Portions of the proposed building do not comply with the 12m building separation required from the existing commercial building to the west (i.e. 25 Scott Street) between the heights of 25-45m. Elements of the proposed building also do not meet the 12m building separation requirement to the adjoining building to the north (i.e. 269 Bigge Street) between the heights of 25-45m. The buildings where the non-compliance exists are depicted in the figure 11 below. All building separation non-compliances occur between the heights of 25-45m and are isolated to between levels 6-11 of the proposed building along the western elevation and between levels 6-9 along the northern elevation. Both buildings to the west and north do not exceed a height of 45m, as such there is no building separation non-compliance above the height of 45m.



Figure 12 – Perspective of adjoining buildings

The site plan below (Figure 13) indicates the elements of the proposed building where the building separation non-compliance occurs to the west and north. In summary the following building separation non-compliances exists;

- Along its western boundary, the proposed Tower would have a zero-boundary setback, which would equate to a building separation with the neighbouring commercial tower of less than 500mm (i.e. 25 Scott Street). This equates to a variation at the 25-45m building height level of 11.5m around 95.8%. This is depicted by the red line in figure 13 below.
- Along the eastern elevation the proposed building provides a building separation of 9m instead of 12m between the heights of 25-45m to the rear western façade of the adjoining northern building (i.e. 269 Bigge Street). This equates to a variation of 3m or 25%. The area of non-compliance is indicated by the green line in figure 13 below.
- Along the northern elevation the proposed building provides a building separation of 6.9m instead of 12m between the heights of 25-45m to a minor element of the southern façade of the adjoining northern building. This equates to a variation of

5.1m or 42.5%. The area of non-compliance is depicted by the purple line in figure 13 below.

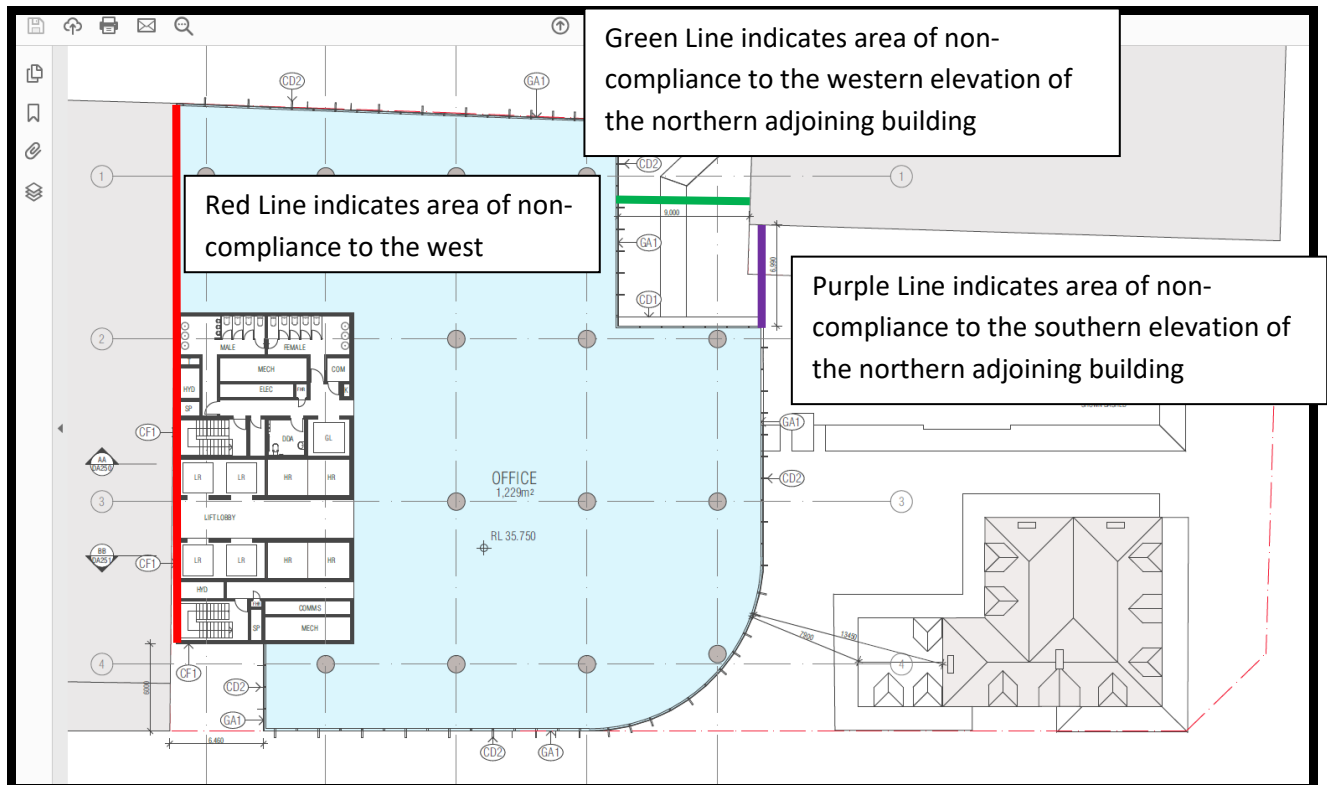


Figure 13: Site Plan showing sections of non-compliance

Consequently, the applicant has provided a clause 4.6 variation to justify the non-compliance. The clause 4.6 variation is attached to this report.

The submitted written request to vary Clause 7.4 (Building Separation in the Liverpool City Centre) has been assessed against the provisions of Clause 4.6; the objectives of the Clause being varied; and the objectives of the B3 zone, are discussed below:

The objectives and standards of Clause 4.6 of the Liverpool Local Environmental Plan (LEP) 2008 are as follows:

- a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- 3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

- i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

1) Circumstances of the development

The development seeks development consent for the construction of a 23 storey commercial building including the conservation and adaptive reuse of the existing heritage listed commercial Hotel, ground floor retail spaces and the demolition of existing structures.

2. Written request addressing why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the contravening of the development standard

The applicant has provided the following comments addressing why compliance with the development standard is unreasonable or unnecessary in this case, as summarised:

- Overall, the proposed development would create around 24,232.8m² of Office Premises floorspace, concentrated within the proposed Tower. The proposed development is therefore considered to be key in meeting the demand for new Commercial Premises and Office Premises floorspace within the Liverpool CBD, providing around 24,232.8m² of Net Lettable Office Premises floorspace. It therefore assists in meeting the rising demand for office floorspace outside of the traditional office centres throughout Greater Sydney, as recognised by the Greater Sydney Commission. This is furthermore consistent with the NSW Government's Decentralisation Program; whereby public sector jobs will be relocated from the Harbour CBD into other parts of Greater Sydney with a particular focus on Western Sydney. Indeed, Liverpool is one of the cities targeted for relocation of some of the 3,000 NSW Public Sector jobs which would fall under this scheme. The proposed development has the potential to contribute toward this Public Sector program, and has been designed to be suitable for a range of commercial tenants, including public sector tenants should that need arise. By contributing toward the growth of higher order jobs, the proposed development would also allow Liverpool to deliver metropolitan functions as a cluster centre of the Western Parkland City as recognised by the Greater Sydney Commission.
- The proposed development would also create around 1,200m² of high-quality new plaza-style civic space which relates to both the site's existing heritage context and the proposed Tower. This civic space would be generously sized. It therefore has the potential to be used for a variety of future events and other such temporary land uses as the need arises (potentially encompassing both public and private events).
- The proposed development would create employment supporting floorspace near to where a range of new residential land release areas are located, thereby supporting

the Greater Sydney's Commission's ideal of the 30-Minute City. The site itself is highly accessible by rail, bus and car, as well as via active modes of transport.

- *Compliance with the Clause 7.4 building separation requirements is considered unnecessary because the existing building facades of the western and northern neighbors have not been designed with significant façade articulation in mind.*
- *Compliance with Clause 7.4 is furthermore considered unreasonable given that this would:*
 - *Effectively sterilise a significant portion of the site from being able to be redeveloped for commercial employment generating and other purposes;*
 - *Not providing sufficient room to achieve the new 1,200m² high quality plaza-style civic space as the heart of the site;*
 - *Reducing the feasible building floorplate achievable for the proposed Tower, which would not be efficient to deliver from a cost-benefit perspective and therefore threaten the financial viability of the proposed development;*
 - *Creating quasi through-site links to the west and north of the site, which would be lacking in ground-level activation (as such activation was not incorporated into the neighbouring Scott Street DA). These hypothetical through-site links would also not have the same level of legible walkability in terms of encouraging patrons to walk to Liverpool Station or other parts of the Liverpool CBD; and*
 - *Resulting in reduced building setbacks from the local heritage listed Commercial Hotel and therefore impacts for the heritage significance of that item.*

It is also noted that the design of the proposed development has been generated in response to the neighbouring properties which have been approved for use surrounding the site. The design of the proposed development is therefore not only a response to the planning controls contained within the LLEP 2008 and LDGP 2008, but also to the current built-form environment along Scott Street and Bigge Street.

In response to the comments raised above, Council has provided the following justification as to why the imposition of the applicable building separation control is unreasonable and unnecessary in this instance:

- The building separation non-compliance along the western boundary is isolated to levels 6 -11 as shown in the figure 14 below. The effective nil building separation is consistent with the adjoining building it abuts as it too is proposed with a nil setback at all levels along the common boundary.
- The adjoining building to the west has been recently constructed and a search of Council records have indicated the proposal has been constructed at a maximum FSR and as such it is highly unlikely to increase in height so as to exacerbate the building separation non-compliance.
- By proposing a nil western boundary setback, the proposed development will be masking the current blank wall façade of the adjoining building and will result in a far superior public domain presentation to the east, compared to the existing blank wall of the adjoining building to the west that is visible from the public domain at the moment.

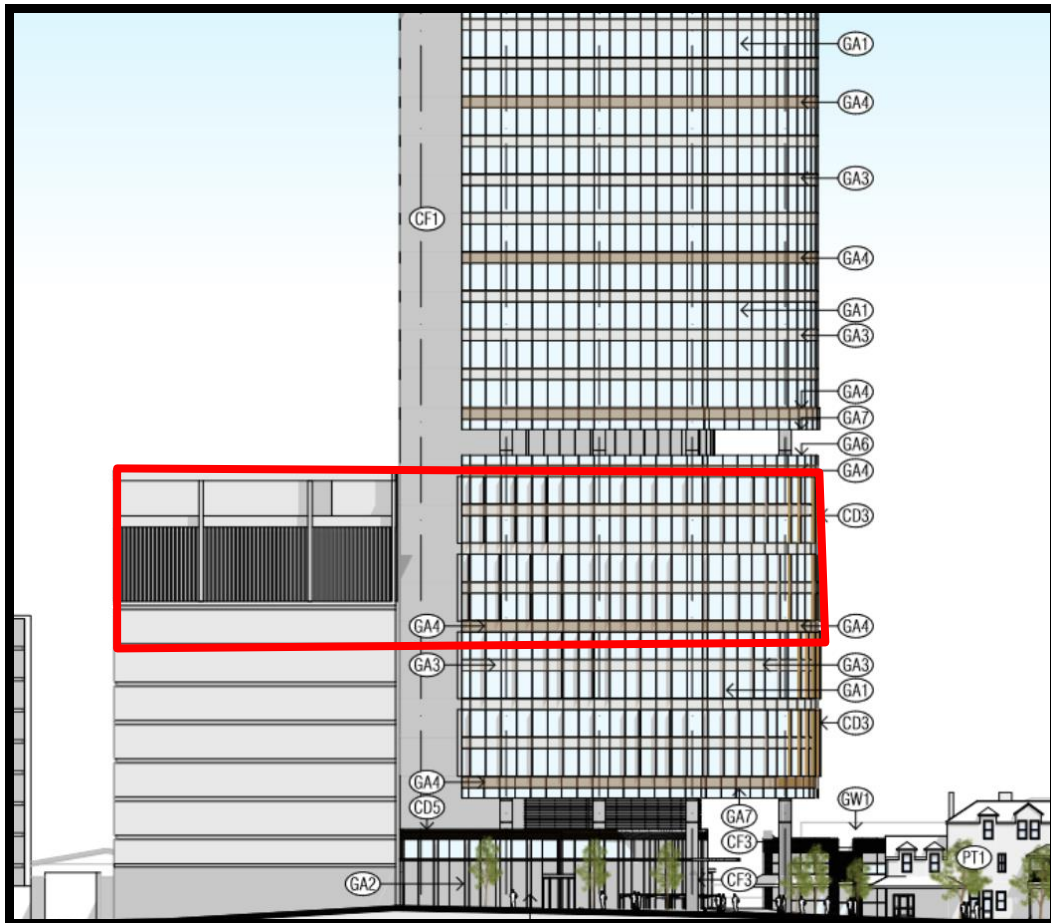


Figure 14: Portion of the building where non-compliance exists

- With regards to the building separation to the north, it is also important to note that the northern adjoining commercial building has not been constructed to the required 12m building separation along all boundaries and has not provided the required building separation in accordance with the LLEP 2008. It is generally expected that building separation is equally distributed across boundaries which in this instance will result in a 6m building separation for the proposed development.

As the building to the north is built to a non-compliant building separation this places extra onus on the subject property. Whilst the proposed development has not achieved the required 12m building separation it has proposed a separation in excess of 9m and 6.9m which exceeds the 6m requirement.

- The subject site to the north is a fairly recent addition to the CBD and is highly unlikely to be redeveloped in the immediate future with an increase in height. The commercial building to the north is only 9 storeys in height and is well under 45m as such the non-compliance is isolated to between levels 6-9 of the proposed building which is considered a minor element.
- The building separation non-compliance to the rear western elevation of the adjoining northern building occurs in a section of the northern building that is entirely a blank façade and will not result in any detrimental privacy impacts in this instance. The

section of the northern adjoining building where the building separation non-compliance occurs is depicted below;

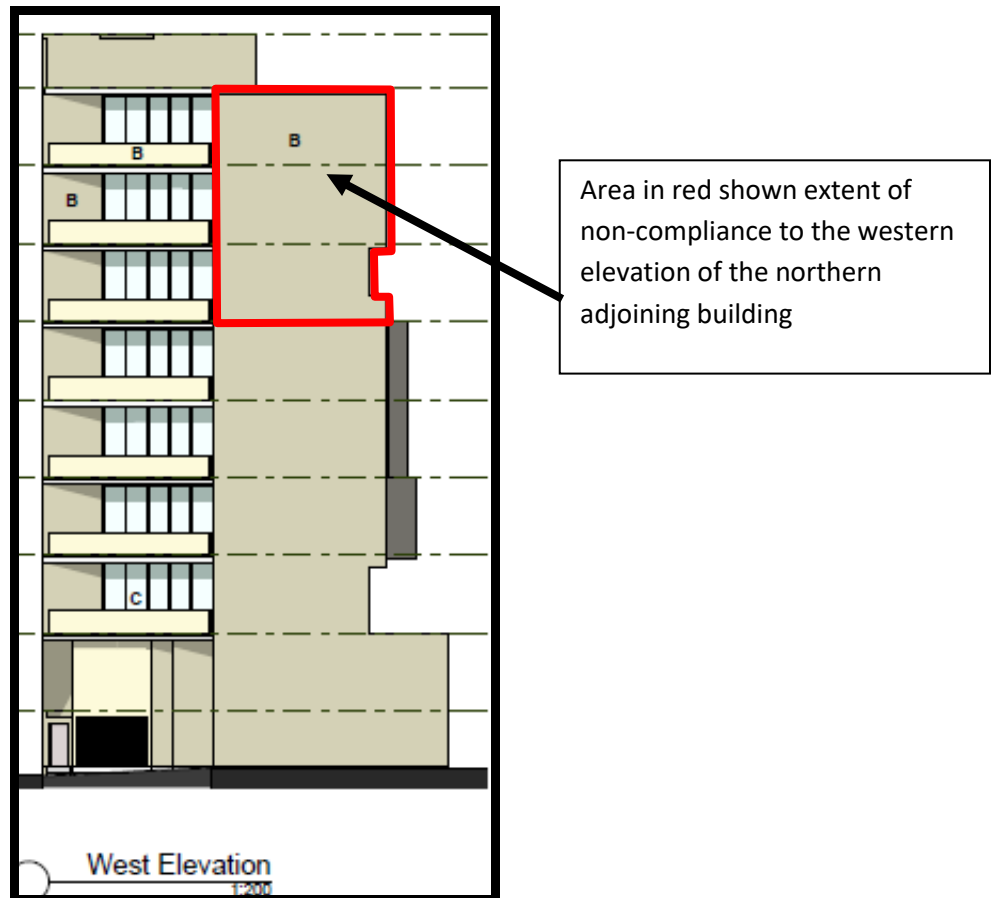


Figure 15: Section of the western elevation of the northern building

- The building separation non-compliance to the southern elevation of the adjoining northern building occurs in a minor section of the southern façade. This is a relatively minor section of the southern façade and is not considered to create any significant privacy or overshadowing impacts. The section of the northern adjoining building where the building separation non-compliance occurs along the southern elevation is depicted below.
- Despite the non-compliant building separation to the northern building the proposed development does not generate additional impacts on privacy or overshadowing on these properties.
- The proposed non-compliance does not detract from the amenity of the public domain.

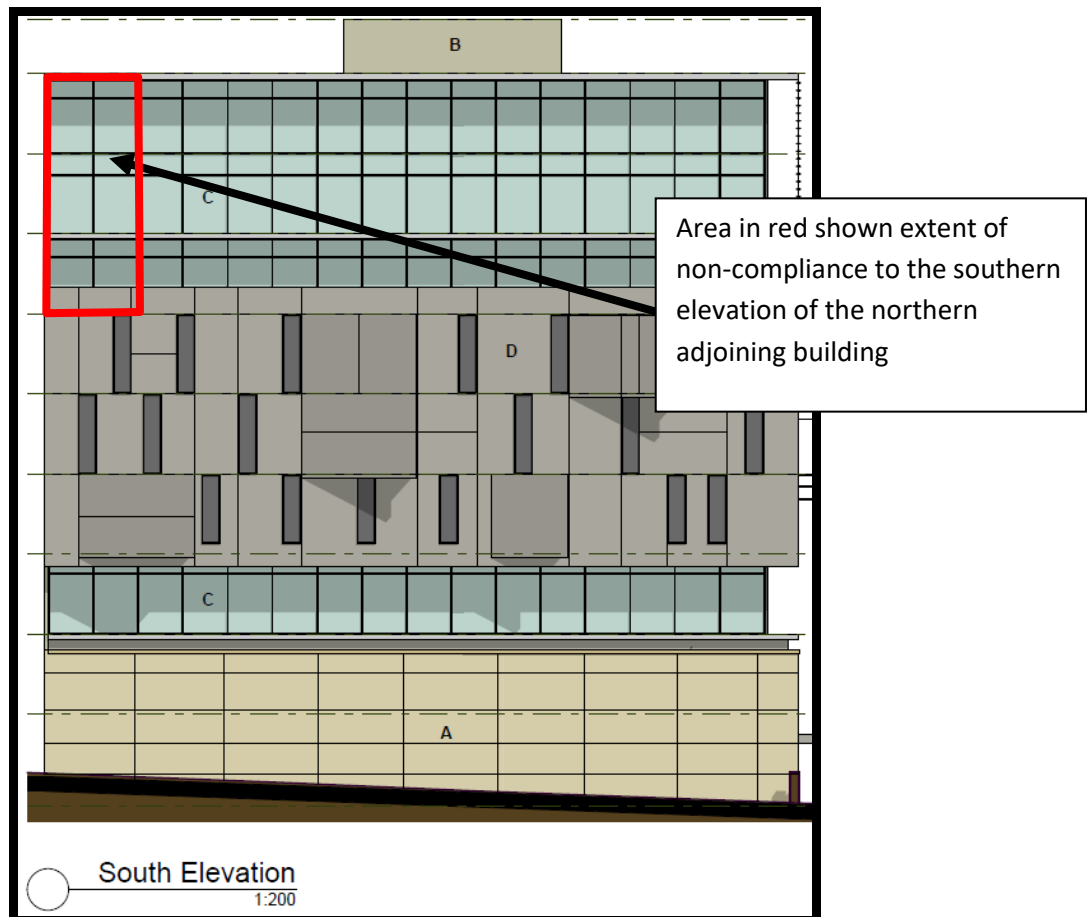


Figure 16: Section of the southern elevation of the northern building

- The proposed non-compliant building separation along the west and north is considered appropriate in this instance as it maximises the use of the public domain space at ground level and creates sufficient separation to the existing heritage item on the site to provide the item with a pride of place location.
- The proposed building separation is consistent with the commercial buildings in the immediate vicinity of the site and is common practice for commercial developments with a CBD environment.
- The proposed development has been through a comprehensive design review process and the final design was considered to exhibit design excellence.

3. Consistency with objectives of the development standard Clause 7.4 Building Separation in the Liverpool City Centre

The objectives of Clause 7.4 and assessment are as follows:

- (1) *The objective of this clause is to ensure minimum sufficient separation of buildings for reasons of visual appearance, privacy and solar access.*

The proposed development is considered to be consistent with the objectives of clause 7.4, in that, despite the non-compliance the proposed development results in an improved public interface and an improved public domain presentation. The proposed building separation

does not create additional overshadowing impacts or create a detrimental impact in terms of privacy or solar access.

4. Consistency with objectives of the zone – B3 – Commercial Core

The objectives of the B3 Commercial Core zone are as follows;

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

The proposal satisfies the objectives of the B3 zone in that it proposes a commercial development that will provide a range of commercial uses that will serve the need of the local and wider community. It provides for a commercial development that encourages employment opportunities within walking distance of Liverpool Train Station and the Transit way.

Given the strategic location of the site across the road from Liverpool station it provides the ability to maximise public transport patronage. The proposal provides for a unique development within the Liverpool CBD in that it's a large-scale commercial development that will encourage a range of commercial uses and employment generating activities for the Liverpool CBD and Western Sydney as a whole.

It provides for a development on a key site within the Liverpool CBD that will promote and encourage employment opportunities for the longer term. The proposal has given strong consideration to the urban design presentation of the development and has proposed a final design that now exhibits design excellence.

5. Consistency with Clause 4.6 objectives

- a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development*
- b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances,*

It is considered appropriate in this instance to apply a degree of flexibility when applying the building separation development standard applicable.

6. Recommendation

With considerations to the discussion above, the proposed variation to the Clause 7.4 "Building Separation in the Liverpool City Centre" has satisfied the provisions of Clause 4.6 and is supported in this circumstance.

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

The following draft Environmental Planning Instruments applies to the site

a) Draft LLEP 2008 Amendment 52 – Liverpool City Centre

As previously mentioned in the report the proposed development falls within an area of the City Centre that was subject at the time of lodgment to a draft amendment to the LLEP known as Amendment 52. Subsequent to the lodgment of the development application Amendment 52 was adopted in September 2018 and now forms part of the LLEP 2008.

Therefore, it is necessary in this case to give due consideration to the Amendment that is now a formal EPI. The components of the amendment that apply to this development are as follows;

1) Zoning

At the time of lodgment, the subject site was zoned B3 commercial core as indicated in figure 9 above. Subsequent to the adoption of amendment 52 the subject site was rezoned to B4-Mixed use as indicated in figure 17 below.

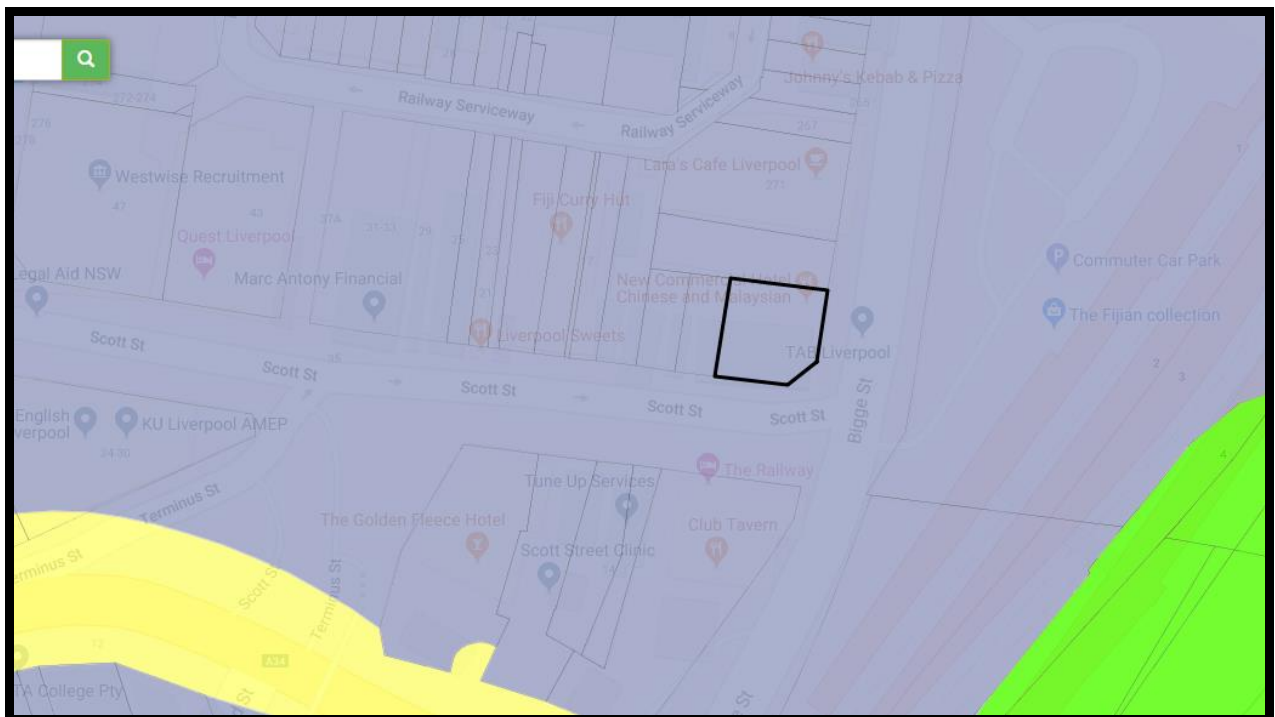


Figure 17: Zoning Map

The proposed development would still be permissible in the B4 zone. It is also important to ascertain whether the proposal is consistent with the objectives of the B4 zone. 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*

It is considered that the proposed development is consistent with the objectives of the B4 zone as it provides for a large-scale commercial development within an easily accessible location that promotes the use of public transport and provides facilities within the development include bicycle parking that promotes walking and cycling while at the same time reducing the dependency on motor vehicles.

It provides a well thought out and exceptionally designed commercial development that has given due consideration to the public domain and promotes and encourages social interaction and promotes employment generating uses.

The proposal has provided a high standard of urban design with due consideration for the presentation to the public domain and improvement of public amenity.

2) Key Site and Design Competition provision

As indicated previously in this report the subject site was identified as a key site and required the undertaking of a design competition or alternatively the granting of a waiver from such a competition. The adopted amendment omits the clauses identifying the development site as a key site and remove the requirement for a design competition.

Therefore, having consideration for the above, if the development application was lodged after the adoption of the amendment, it would no longer be identified as a key site and would not require the undertaking of a design competition or the seeking of an exemption.

3) Additional Provisions relating to certain land at Liverpool city centre

The key aspect of the amendment that will need to be given due consideration as it pertains to the development site is the addition of a Clause 7.5A (1) (2) (3) & (4) in the LLEP 2008. A breakdown of Clause 7.5A (1) (2) (3) & (4) and how the proposed development is consistent with the Clause is discussed below.

Clause 7.5A states the following;

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 18 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.

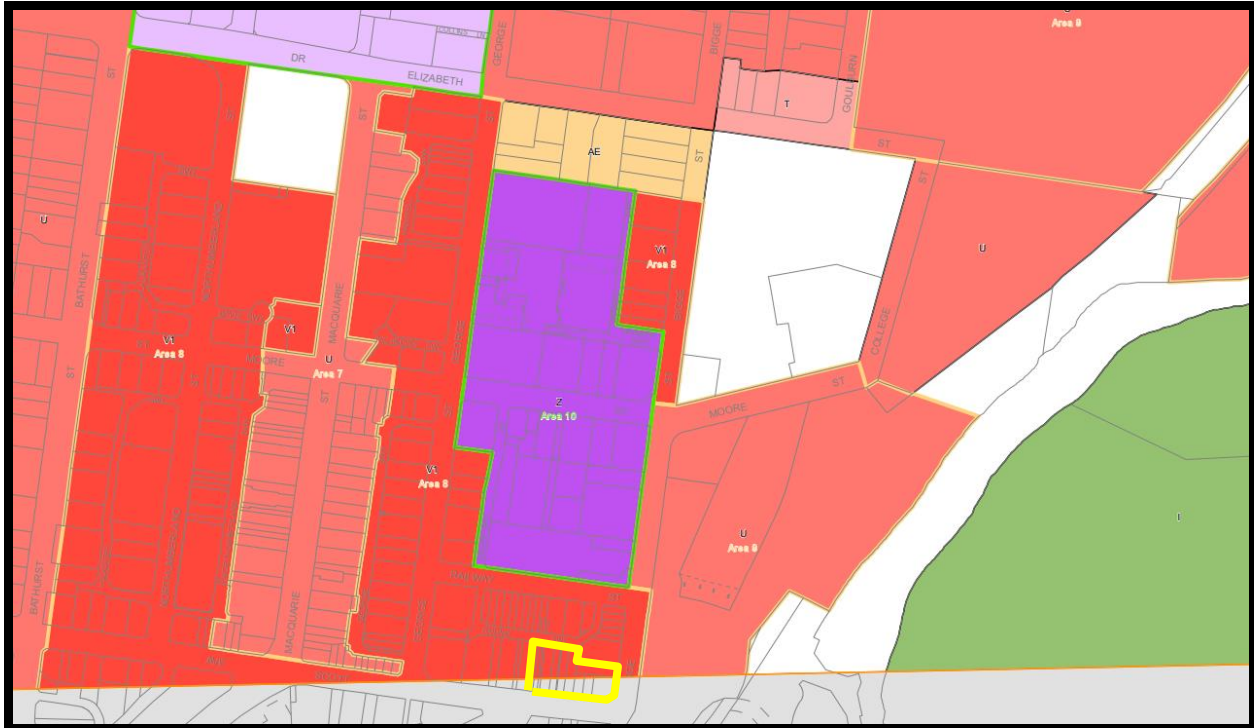


Figure 18: FSR Map indicating site is in Area 8

(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 development proposal is a large-scale commercial building which is defined as a *commercial premise*. Even though no use is proposed as part of the DA the fact the development is proposed for the sole purpose of a commercial premises will easily enable the achievement of a minimum 20% of the GFA for one or more of the uses mandated by this clause.

Therefore, having regard to the above it is considered reasonable in this instance that the development proposal provides an FSR of 9.94:1 as it has demonstrated that it is consistent with the desired future character of the area envisaged by the amendment.

- (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*
- (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) for any DA lodged under the Amendment, it is evident that the development proposal has given due consideration for all the matters listed in subclause (4). This is not only evidenced by the Urban Design Report prepared for the development but also through the Design Excellence Strategy reviewed by the Governments Architects office prepared for the site as part of the design competition waiver and finally the comprehensive Design Excellence review undertaken of the development by Council's DEP, the independent DIP and Councils City Design department.

Urban Design Report

The Urban Design Report prepared for the development by Fender Katsalidis (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.

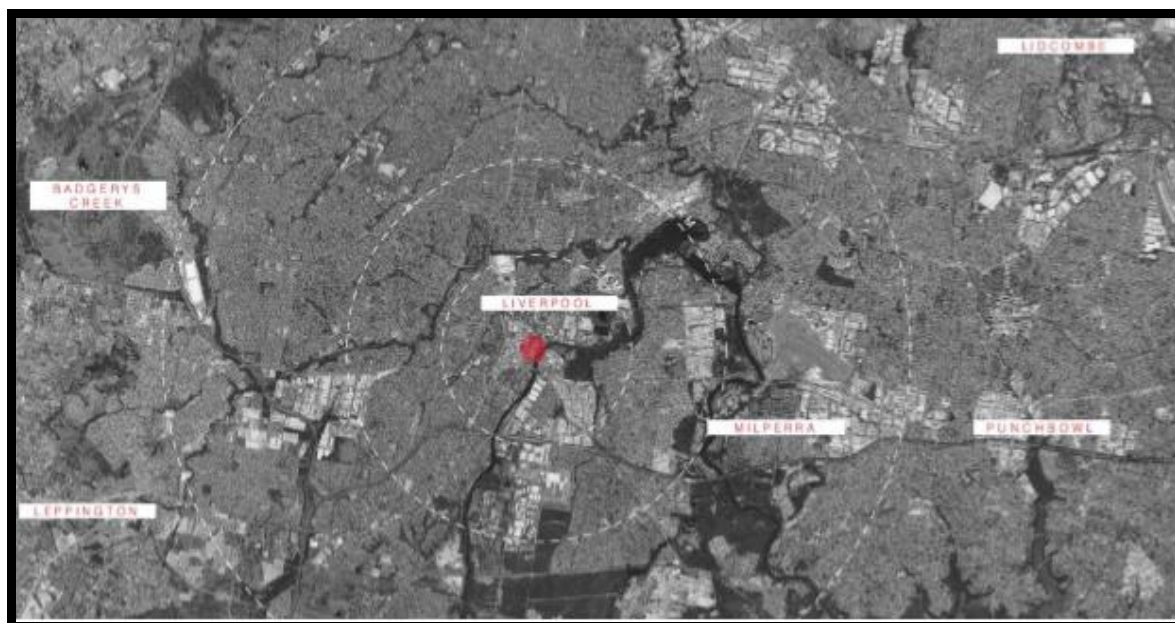


Figure 19: Site Analysis from Design Report



Figure 20: Local site analysis from urban design report

- b) Views and vistas from different key parts of the CBD including views from light horse park and the Georges River.
- c) The design response to the existing heritage items on site and within the surrounding context, particularly with regards to the bulk, scale and modulation of the building in response to the heritage items.

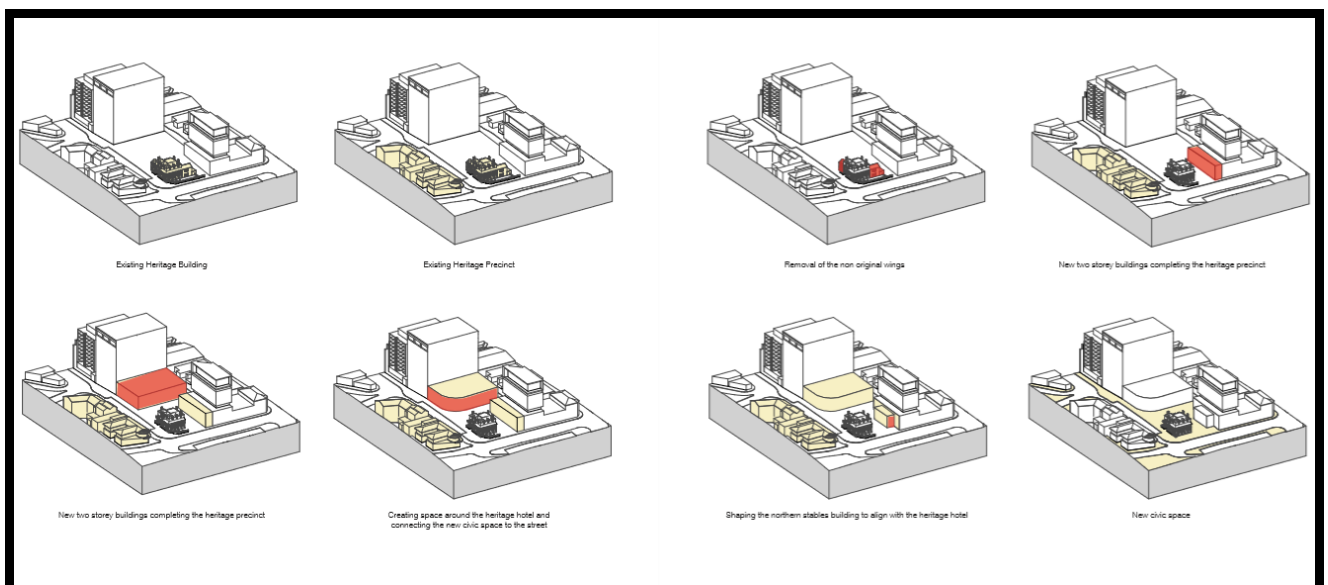


Figure 21: Modulation and bulk alternatives in from Urban Design Report

- d) Site permeability and the creation of an attractive public domain



Figure 22: Public domain presentation from Bigge Street

- e) The bulk, massing and modulation of the development in response to existing site constraints, site orientation and surrounding context.



Figure 23: Bulk/Massing diagram south-east of site

f) The building materiality in response to the surrounding context.



Figure 24: Material selection image of southern elevation from Urban Design Report

The Urban Design 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 Urban Design 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.

It is also relevant to note in this instance that Clause 4.23(2) of the Environmental Planning and Assessment Act states that;

(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.

Therefore, having regard to Clause 4.23(2) above it is also evident that the subject proposal through an extensive design review process has undertaken a pseudo concept application process in determining the final design of the proposed building. In that regard, it is further considered the subject proposal is consistent with subclause (4).

Design Excellence Strategy

As indicated previously in this report, as part of the application for a design competition exemption the applicant prepared a Design Excellence Strategy (DES) (Attachment 3). The DES amongst other things clearly demonstrates the evolution of the proposal to the final design put forth for determination. It is clear that a lot of thought has gone into developing the final design.

The following brief of concepts and subsequent images indicate how the proposal developed overtime.

➤ Concept One

One of the first concepts for consideration is demonstrated in figure 25 below and is an appendix to the DES attached. A summary of the analysis of the concept as outlined in the DES is;

- *Elevated pylons would create unsatisfactory ground level character from a CPTED perspective and do not relate to the surrounding environment;*
- *The wedding cake façade style is not the best means of addressing the streetscape and developing a landmark building;*
- *The tower form would not address the skyline appropriately;*
- *No public through link would be provided in a north-south direction at the site;*
- *The public through link travelling in east-west direction through the site does not create adequate public thoroughfare and does not address the Commercial Hotel;*
- *The positioning of the core in the north of the building is inefficient and does not allow for any addressing of the Railway Serviceway. This also creates a less efficient floorplate;*
- *The tower configuration does not allow for adequate sunlight reaching the site from the north-east;*
- *The new stables building in the north of the site runs almost for the entire available site width. This would effectively close the site from the public rather than opening it up;*
- *The tower height and setbacks do not address the Commercial Hotel or the new Stables building;*
- *The Level 11 common floorspace would include a balcony area with areas facing the west of the site. This does not take advantage of the views over Georges River which provides superior amenity; and*
- *The tower setback to the west would create a laneway in the west of the site which is not able to be retrospectively activated due the adjoining development's zero setback, and which would therefore create CPTED issues*



Figure 25: Concept 1 of DES

➤ Concept Two

Another concept that was prepared and considered for the site is demonstrated in figure 26 below. A summary of the analysis of the concept as outlined in the DES is;

- *No public through link would be provided in a north-south direction at the site;*
- *The wedding cake façade style is not the best means of addressing the streetscape and developing a landmark building;*
- *The tower height and setbacks do not address the Commercial Hotel or the new Stables building;*
- *The Tower would not take advantage of potential balcony views over Georges River which provides superior amenity;*
- *The Tower setback to the west would create a laneway in the west of the site which is not able to be retrospectively activated due the adjoining development's zero setback, and which would therefore create CPTED issues;*
- *The pylons in the building design would not relate to the surrounding environment;*
- *The proposed Tower's geometric design would not allow adequate sunlight to enter into the site's public space; and*
- *The proposed design would not address the Railway Serviceway.*



Figure 26: Concept 2 of DES

➤ Concept Three

Another concept that was prepared and considered for the site is demonstrated in figure 27 below. A summary of the analysis of the concept as outlined in the DES is;

- *The proposed options would create an overbearing presence for the Commercial Hotel;*
- *The proposed options would not create a suitable civic space at the site; and*
- *The proposed options would not allow adequate sunlight penetration.*

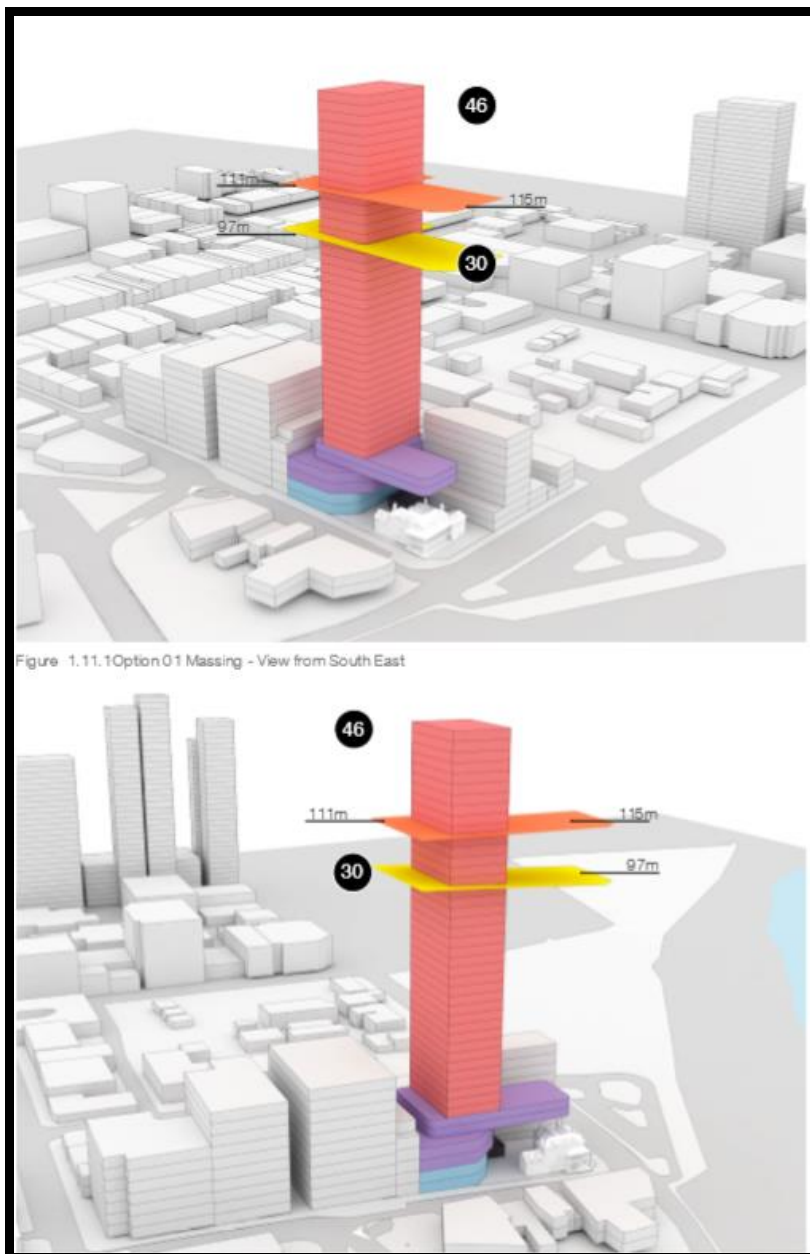


Figure 27: Concept 3 of DES

➤ Final Concept

The final concept proposed that resulted in the desired outcome and consequently the proposal put forth was incorporated into the DES for review by the Government Architects Office. A summary of the key aspects of the proposal as outlined in the DES are as follows;

The chosen design for the proposed development was decided based on its contextual urban fit and response to the local heritage listed Commercial Hotel and adjoining heritage cluster across Scott Street to the south. The final design of the proposed Tower has benefited from the following design changes in particular:

- *Decreasing the angular building form and softening the proposed Tower to better respond to the proposed Tower's surroundings, including the Scott Street/Bigge Street corner and the intersection of the site with the Railway Serviceway to the north;*
- *Providing a maximum setback of 13.5m between the proposed Tower's eastern façade and the local heritage listed Commercial Hotel. This allows the provision of the greatest setback to the Commercial Hotel which is practicable for the proposed Tower to achieve;*
- *Establishing a 'cornice' setback to the site's northern neighbour to create a comfortable fit whilst also allowing north-western sun into the new civic space;*
- *Elevating the proposed Podium to respond to the existing height of the local heritage listed Commercial Hotel;*
- *Creating a break between the street wall and the adjacent commercial tower on Scott Street with a 'book end' to establish a slender and elegant tower;*
- *Referencing the height of the adjacent commercial tower on Scott Street with a waistline represent that building's height whilst further extending the existing street wall;*
- *Creating a new, high quality plaza-style civic space of around 1,200m²; and*
- *Creating new north-south and east-west through-site linkages connecting to surrounding street blocks; and*
- *Meeting key outcomes for Transit Oriented Development due to the site's strategic location within 80m of Liverpool Station and around 140m from the Liverpool Parramatta Transitway.*

Similarly, to the Urban Design Report, the DES was subject to extensive design review and analysis and it was considered an appropriate response as to how the final concept put forth was determined. The DES 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.

As Clause 4.23(2) of the EP & A Act was relevant to the Urban Design Report it is also relevant to the DES process undertaken.

Having regard to Clause 4.23(2) it is also evident through the DES process that the subject proposal went through an extensive design review process and has undertaken a pseudo concept application process in determining the final design of the proposed building. In that regard, it is further considered the subject proposal is consistent with subclause (4) of 7.5A.

Conclusion

It is evident for the information above that the proposal has undergone an extensive urban design analysis and review and has developed the proposal given consideration to the site and its surrounding context. It has considered varying designs and building envelopes which

resulted in the final design outcome proposed. It is on this basis that the proposal is deemed consistent with Clause 7.5A and is consistent with the intended and desired future outcome of the site and the surrounding locality.

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

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

The following compliance table outlines compliance with these controls.

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.	Complies The landscape plan has been reviewed by Council's City Design and presentation department and considered satisfactory subject to conditions.
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.	Complies This aspect has been reviewed by Council's Land Development Engineers, who have raised no issues subject to conditions.
Section 7. Development	If any works are proposed near a water course, the	Not Applicable The development site is not within close

Development Control	Provision	Comment
Near a Watercourse	Water Management Act 2000 may apply, and you may be required to seek controlled activity approval from the NSW Office of Water.	proximity to a water course.
Section 8. Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	Complies Conditions of consent will be imposed to ensure that erosion and sediment controls measures are implemented during the construction of the development.
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.
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	Complies Appropriate conditions of consent will be imposed to ensure demolition works are undertaken appropriately.

Development Control	Provision	Comment
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 aboriginal archaeology.	Satisfactory
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 application was not required to be notified in accordance with the LDCP 2008.
Section 19. Used Clothing Bins	Provisions relating to used clothing bins.	Not Applicable The DA does not propose used clothing bins.
Section 20. Parking in Liverpool CBD	1 bicycle space per 200m ² of gross floor area.	Complies 139 bicycle spaces required. 129 spaces provided within basement and an additional area for approximately 20 spaces provided at grade.
Section 21. Subdivision of Land and Buildings	Provisions relating to the subdivision of land.	Not Applicable The DA does not propose the subdivision of land.
Section 22. and Section	New dwellings are to demonstrate compliance	Not Applicable

Development Control	Provision	Comment
23 Water Conservation and Energy Conservation	with State Environmental Planning Policy – Building Sustainability Index (BASIX).	The DA does not propose new dwellings.
Section 25. Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Complies The applications waste management was reviewed by Council's waste officer who raised no concern with the proposal.
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

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		
1. Street building alignment and street setbacks are to comply with figure 3. Subject site requires a 0m street setback.	Due to the irregular shape of the building the proposal, provides varying street setback, all of which equate to or exceed 0m	Yes
2. External facades of buildings are to be aligned with the streets that they front.	Due to the irregular shape of the building, the proposal does not align with the street that they	NO (Variation acceptable on merit)

	front. However, the subject site is in a unique location and proposes an innovative design that lends itself to being a focal point with the surrounding streets. As such the proposed no-compliance is worthy of support.	
<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>Street Frontage Heights</p> <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>Proposal is built to the side boundaries (0m setback) where fronting the street.</p> <p>Proposed building reaches a maximum street frontage height of 97.125m to the top of plant room Even though this exceeds the street frontage height requirement, it is considered the proposed development represents and innovative design and maintains compliance with</p>	<p>Yes</p> <p>NO (Proposal is acceptable on Merit)</p>

	<p>the objectives of the SFH requirements (i.e. solar access). The proposal provides an innovative design that takes into account existing heritage constraints on site and provides an invigorative public domain space.</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>Above street frontage height of 6 storeys, the floor plate per floor is slightly over 1,200sqm, ranging from 1,210sqm to 1,229sqm with a depth up to 35m approximately. This is considered a minor non-compliance and is a site-specific design response given the constraints on site and the extensive design analysis undertaken to reach the final concept.</p>	Yes
Boundary Setback and Building		

<p>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>Nil setback proposed</p> <p>Portions of the rear and side setbacks between SFH and 45m do not comply with the required 6m. At its worst point a Nil setback is proposed to the western side boundary. This is consistent with the adjoining buildings to the west and north. It is considered the proposal does not create a detrimental impact on overshadowing or privacy due to the non-compliance and has gone through an extensive design process to reach a final concept.</p>	<p>Yes</p> <p>NO(Acceptable on Merit)</p>
<p>2.2 – Mixed use Buildings</p> <p>1. Ground floor component is to be used for non-residential use</p>	<p>N/A</p>	<p>N/A</p>

2. Ground floor – floor to ceiling not to be less than 3.6m	N/A	N/A
3. All other levels require 2.7m	N/A	N/A
2.3 – Site Cover & Deep Soil Zones		
1. Site coverage maximum is 100 %	Proposed development is less than 100%	Yes
2.4 – Landscape Design	Landscape design considered appropriate and able to receive the necessary solar access. Landscaped areas incorporated into accessible outdoor areas	Yes
2.5 – Planting on Structures	Appropriate provisions have been accommodated to allow for planting on structures	Yes
3. Amenity		
3.1 – Pedestrian Permeability	Site has created an innovative through site link that promotes pedestrian activity and social interaction.	Yes

3.2 – Active Street Frontages & Address	Subject development is considered to propose an active ground floor fronting both streets. It is considered the proposal represents an innovative design and creates an exceptional urban design and streetscape presentation, particularly through the ground floor plaza, the incorporation of the adaptive commercial hotel and the new stables precinct. It creates an interesting visual presentation to the street and encourages and promotes social and public interaction.	Yes
3.3 – Front Fences	No fencing proposed	N/A
3.4 – Safety & Security	Building design satisfactorily addresses CPTED principles	Yes
3.5 – Awnings	Application has not proposed a continuous awning across Elizabeth Street; however a	Yes through conditions

	condition of consent will be imposed requiring an awning be provided.	
3.6 – Vehicle Footpath Crossings	Vehicular access and egress point is satisfactory. It is proposed off Railway Service way and is separate to pedestrian access. Vehicle entry points integrated into building design and is setback appropriately from the building façade.	Yes
3.7 – Pedestrian Overpass and Underpass	N/A	N/A
3.8 – Building Exteriors	Building exterior considered satisfactory. A range of building materials proposed to create visual interest and is consistent with the surrounding development. It also takes into consideration surrounding heritage items as discussed previously in this report	Yes
3.9 – Corner Treatments	It is considered the proposal has been appropriately design and incorporated appropriate	Yes

	materiality to both the Scott and Bigge Street frontages. I has also provided suitable building separation and architectural response to the existing heritage item on site.	
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. Access is provided at the most practicable point and is appropriately integrated into the building design and is recessed further from the building.	Yes
4.3 – On Site Parking	As discussed previously in this report, the proposal is deficient on the on-site parking requirements however is still acceptable on merit.	NO (Acceptable on merit)

5. Environmental Management		
5.1 – Energy Efficiency & Conservation	ESD report provided and considered satisfactory	Yes
5.2 – Water Conservation	Water conservation methods considered appropriate	Yes
5.3 – Reflectivity	Satisfactory	Yes
5.4 – Wind Mitigation	Satisfactory	Yes
5.5 – Noise	Subject proposal is entirely commercial as such a noise report is not deemed necessary in this instance	N/A
5.6 – Waste	Appropriate waste collection has been proposed	Yes
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	N/A	N/A
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	Key site provisions are discussed previously in this report	Yes
7.4 Design Excellence	Proposal demonstrates 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	N/A	N/A

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

No planning agreement relates to the site or proposed development.

6.5 Section 79C(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. If approved appropriate

conditions of consent will be imposed requiring compliance with the BCA.

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

There are no Coastal Zones applicable to the subject site.

6.7 Section 79C(1)(b) – The Likely Impacts of the Development

(a) Natural and Built Environment

Built Environment

The proposed development is considered to have an overall positive impact on the surrounding built environment. The proposal has been designed to take into account the unique site location and has provided a commercial development 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 commercial 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 commercial 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 79C(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 79C(1)(d) – Any submissions made in relation to the Development

(a) Internal Referrals

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

Department	Comments
Building	Supported, subject to conditions.
Engineering	Supported, subject to conditions.
Heritage Advisor	Discussed previously in report and conditions of consent included.
Traffic and Transport	<p>Concerns raised with development due to deficient parking and the vehicular generation that would be generated by the development. The application was deferred requesting the following;</p> <ol style="list-style-type: none"> 1. <i>Provide the parking shortfall to comply with the requirements of the LEP and DCP (118 car parking spaces, 10 bicycle spaces, and 10 spaces for motorcycles).</i> 2. <i>Re-submit an amended traffic impact assessment report that has taken into account two scenarios:</i> <ol style="list-style-type: none"> i. <i>Using trip generation rates provided in the RMS guide (updated) - 1.6 and 1.2 vehicular trips per hour per 100sqm of GFA for the AM and PM peak, respectively - business as usual scenario; and</i> ii. <i>Assuming the site's vehicular trip generation to be similar to that of Parramatta - 0.7 and 0.61 vehicular trips per hour per 100sqm of GFA for the AM and PM peak, respectively.</i> <p>As indicated previously in the report it is acknowledged that the proposal provides a deficient parking arrangement, however based on the Clause 4.6 variation and further justification put forth by the applicant, it was considered that a request for the applicant to comply with the parking rate is not required in this case.</p>
Landscaping	Supported, subject to conditions.
City Design	Supported, subject to conditions.

Waste Management	Supported, subject to conditions.
City Economy	<p>Application Supported. The following comments with respect to the application have been provided;</p> <p><i>This development is significantly important to the Liverpool economy based on economic, cultural and activation grounds, so is fully supported by the City Economy team for the following reasons:</i></p> <p><i>Liverpool currently has approximately 98,000 sqm of commercial office space (including University sites), of which only around 15% is classed as A grade. All of this A grade office space is currently occupied at 100%.</i></p> <p><i>This proposed new offering of 24,232sqm of lettable A Grade office space at 277 Bigge Street will potentially facilitate the creation of approximately 1200-1600 new jobs (based on 15 – 20 sq/m per office worker) In addition the retail laneways and upgraded entertainment precinct that will be activated with this development will add an additional 30-50 jobs to our city and all within 80 metres of the CBD's major transit hub. In effect creating Liverpool's first truly major public transit-oriented development, reducing the need for vehicles to enter the CBD. In fact, plans are also already underway to upgrade Council's periphery car parking and "commute and ride" facilities just outside the CBD, which further enhances the positive transit orientation of this project.</i></p> <p><i>Anecdotal evidence collected by the City Economy team, suggests that demand exists for A-grade office space in the Liverpool CBD and will therefore be welcomed by the market. Evidence of this includes the recent construction of the FACS building at 25 Scott St and the Western Sydney University building at 100 Macquarie Street, which have demonstrated that demand for good quality commercial space exists, as both sites are already basically fully leased. Council also has regular contact with Government Departments and is currently working with the NSW Chamber on actively seeking re-location of branches such as Property NSW to the Liverpool CBD. The next meeting with this Department is on 19th February so if there is an approved DA this will provide some incentive for the potential lessee to make a decision.</i></p> <p><i>This development will also activate an area of the CBD that is currently underutilised, dormant and culturally problematic. It will create a key strategic gateway and thoroughfare to the Railway Street precinct which includes Scott and Bigge streets and will be a cornerstone to driving and implementing Council's 18-hour walkable city (as defined in the Council's adopted City Activation Strategy – attached). The heritage</i></p>

	<p><i>listed Commercial Hotel will also be maintained and enhanced, providing additional public amenity within the precinct.</i></p> <p><i>Complementing the prominence of laneways and related connectivity, that currently exists within the CBD's Hoddle Grid network, this development's new major laneway will provide an anchoring retail offering at the southern end of the city, further positioning the CBD as "more than just Westfield" and rebalancing the city in proximity to the transit hub. As well, Council is also in the process of developing a master plan for re-development of Lighthorse Park (some 180 metres away) which will provide for additional outdoor amenity for future employees, seeking quality public open space for breaks away from the office and along the Georges River Foreshore.</i></p> <p><i>In conclusion, the addition of over 24,000 square metres of much needed commercial office space, along with the complementary 1200 square metre retail plaza, (combined with the Council upgrade of Lighthorse Park) and the further activation of laneways, will provide additional pedestrian and worker amenity to a key site within the Liverpool CBD. The creation of over 1200 jobs so close to our transit hub will of course be most welcome. Hence the development is fully supported by City Economy.</i></p>
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(b) External Referrals

The following comments have been received from External agencies:

Authority	Comments
Sydney Water	No comments received to date, however appropriate conditions of consent imposed for relevant approvals.
Endeavour Energy	Application supported.
Department of Infrastructure, regional Development & Cities (Airport)	Application supported, subject to conditions relating to craning activities.
Design Excellence Panel	Application supported.
Design Integrity Panel	Application supported.
RMS	Supported subject to conditions

(c) Community Consultation

The development application was not required to be notified in accordance with Liverpool Development Control Plan 2008 (LDCP 2008).

6.7 Section 79C(1)(e) – The Public Interest

The proposed development is consistent with the zoning of the land and would represent a high-quality development for Liverpool. The development provides additional 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 have been levied in accordance with the Liverpool Contributions Plan 2018 – Liverpool City Centre, which is based on 3% of the cost of development.

Therefore, based on the above, the contributions payable is \$3,197,679.00. The payment of the contribution will be enforced through a condition of consent, requiring the full payment to be made prior to issue of a construction certificate.

8 CONCLUSION

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The Development Application seeks development consent for a commercial development at 277 Bigge Street and 11-23 Scott Street Liverpool.
- The 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 B3 – Commercial Core zone that are 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.
- The proposal substantially complies with the provisions of the LDCP 2008. There are variations proposed to some controls, however these are considered acceptable on merit.

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

9 ATTACHMENTS

- 1) Architectural Plans
- 2) Urban Design Report
- 3) Design Excellence Strategy (With Appendices)
- 4) Statement of Environmental Effects
- 5) Clause 4.6 Variations (FSR, Car parking and Building Separation)
- 6) Advice from Mills Oakley re car parking.
- 7) Letter of Exemption from Government Architects Office
- 8) DEP Minutes
- 9) DIP Minutes
- 10) Heritage consultant comments
- 11) BCA Report
- 12) Wind Study
- 13) Reflectivity Study
- 14) Waste Management Plan
- 15) Traffic Impact Assessment
- 16) City Activation Strategy
- 17) Landscape Plans
- 18) Conditions of Consent