

COUNCIL ASSESSMENT REPORT

SYDNEY WESTERN CITY PLANNING PANEL

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| PANEL REFERENCE & DA NUMBER | DA-72/2024 |
| PROPOSAL | The DA is an Amending Concept Application seeking to modify the approved Concept Development Application (DA-585/2019) including a change of use to allow for Residential Flat Buildings, Shop Top Housing, and Co-Living Housing in the Phase B building envelope and to modify and extend the approved Building Envelope of Phase B building for Liverpool Civic Place. |
| ADDRESS | Lot 1 DP 1293937 Civic Place, 40, 48, 52, and 64 Scott Street, Liverpool, 306 – 310 Macquarie Street, Liverpool |
| APPLICANT | Built Development Group |
| OWNER | Liverpool City Council |
| DA LODGEMENT DATE | 9 February 2024 |
| APPLICATION TYPE | Concept Development Application |
| REGIONALLY SIGNIFICANT CRITERIA | Sydney Western City Planning Panel (SWCPP) is the determining body as the Capital Investment Value (CIV) of the development is over \$30 million (as well as being a Council related development over \$5 million) |
| CIV | \$137,096,654.00 (excluding GST) |
| CLAUSE 4.6 REQUESTS | Not applicable |
| KEY SEPP/LEP | Liverpool LEP |
| TOTAL & UNIQUE SUBMISSIONS | Nil |
| DOCUMENTS SUBMITTED FOR CONSIDERATION | <ul style="list-style-type: none"> Proposed building envelope plans, prepared by Scott Carver Reference scheme plans, prepared by Scott Carver Economic Statement, prepared by Ethos Urban Site Survey, prepared by Land Surveys |

| | |
|--------------------------------------|--|
| | <ul style="list-style-type: none"> • Design Report, prepared by Scott Carver • QS Report, prepared by WT • Noise Impact Assessment, prepared by Acoustic Logic • Traffic Impact Assessment, prepared by ptc • Heritage Impact Statement, prepared by NBRS • Social Impact Assessment, prepared by Ethos Urban • Operational Waste Management Plan, prepared by Elephants Foot • Construction Waste Management Plan, prepared by Elephants Foot |
| RECOMMENDATION | Approval with conditions |
| DRAFT CONDITIONS TO APPLICANT | Yes |
| SCHEDULED MEETING DATE | 11 November 2024 |
| PREPARED BY | Patch Planning (consultant town planners) |
| DATE OF REPORT | 5 November 2024 |

EXECUTIVE SUMMARY

The subject application is an amending DA seeking to modify an approved concept DA (DA-585/2019) which relates to the site at 40-52 Scott Street, Liverpool.

DA-585/2019 approved various building envelopes, of which were confined to either Phase A or Phase B of the development. Refer to **Figure 1** below for the approved concept envelopes.

Note. The envelopes shaded in blue make up Phase A and the orange shaded envelopes make up Phase B. This application relates only to Phase B (orange).

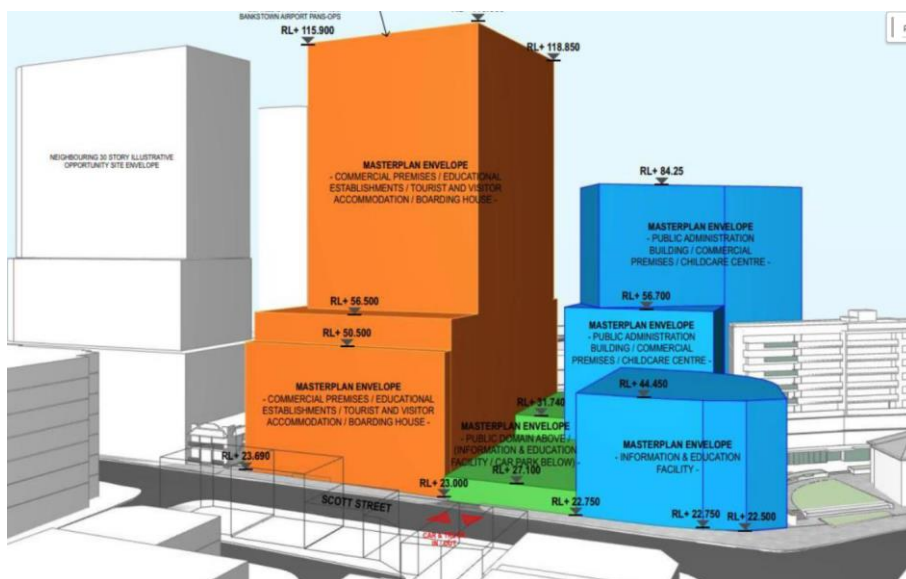


Figure 1: Approved concept envelopes under DA-585/2019 Source: FJC

The site is irregular in shape and comprises one lot legally described as Lot 1 in DP 1293937. The site has a total area of 9,189.5sqm and has three primary road frontages:

- Scott Street to the north;
- George Lane to the east; and
- Terminus Street to the south.

The north-western side boundary also extends along Macquarie Street.

The site is located within the southern end of Liverpool City Centre, within the Liverpool Local Government Area (LGA). The landowner of the site is Liverpool City Council.

The site is zoned MU1 Mixed Use, pursuant to the *Liverpool Local Environmental Plan 2008* (LLEP 2008).

The concept DA seeks to allow for residential flat buildings, shop top housing and co-living housing uses to be permitted within the Phase B building envelope, in addition to the uses already approved under DA-585/2019 (commercial premises, educational establishments, tourist and visitor accommodation, and/or boarding house [student accommodation] uses). The proposed residential uses are permissible with consent in the MU1 zone.

The application also seeks minor changes to the building envelope approved under DA-585/2019 to facilitate the provision of residential uses. The minor extensions to the Phase B envelope consist of the following:

- Minor increase to the maximum building height at the southwestern corner by 0.035m;
- A reduction in height at the northeast corner by 0.193m;
- Northernmost component of the podium extended by approx. 2 storeys, from RL 50.50 to RL 56.50. This aligns with the rest of the approved podium height at the Scott Street frontage;
- The tower element is to be extended northwards, by 0-4.4m, tapering down to the west; and
- The southern edge of the tower is to be extended by 0.4m closer to Terminus Street.

As a concept DA, no physical works are proposed as part of the subject application. The future residential development is subject to a separate detailed State Significant Development Application (SSDA) which has been lodged to, and will be determined by, NSW the Department of Planning, Housing and Infrastructure (DPHI).

The principal planning controls of relevance to the subject application are *State Environmental Planning Policy (Resilience and Hazards) 2021*; *State Environmental Planning Policy (Housing) 2021*; *State Environmental Planning Policy (Transport and Infrastructure) 2021*; *State Environmental Planning Policy (Planning Systems) 2021*; *Liverpool Local Environmental Plan 2008*; and *Liverpool Development Control Plan 2008*. The proposal is generally consistent with the applicable provisions contained within these policies, as discussed within this assessment report.

There were no concurrence requirements from agencies for the proposal and the application is not integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). A referral to Ausgrid and Transport for NSW, pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP') were sent, which raised no objections. NSW Police, Endeavor Energy, Bankstown Airport, Sydney Water, and South West Sydney Local Health District were also consulted and have provided support for the application, with recommended conditions of consent as necessary.

The application has been subject to the Council's Design Excellence Panel review process. To ensure design excellence is exhibited, the panel has provided their feedback and recommended design changes, following the DEP meeting on 9th April 2024.

Jurisdictional prerequisites to the grant of consent imposed by the following controls have been satisfied including section 4.6 of the Resilience and Hazards SEPP 2021 for consideration of whether the land is contaminated.

The application was placed on public exhibition from 14 February 2024 to 15 March 2024, and again from 15 August to 13 September 2024. Two unique submissions were received which have been considered but do not warrant amendment or refusal of the application.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State environmental planning policies, Liverpool LEP 2008, and Liverpool DCP, the proposal is recommended for approval, subject to the conditions outlined in the draft Notice of Determination (refer **Attachment A**).

1. THE SITE AND LOCALITY

1.1 The Site

The site is irregular in shape and comprises one lot legally described as Lot 1 in DP 1293937. The site has a total area of 9,189.5sqm and has three primary road frontages; Scott Street to the north, George Lane to the east, and Terminus Street to the south. The north-western side boundary also extends along Macquarie Street.

The site is known as "Civic Place" and has been subject to numerous approvals and construction in recent years associated with its renewal. The intended outcome for Civic Place includes two main buildings, Phase A and Phase B. Phase A is already constructed, while this subject application relates to Phase B only. Refer to **Figure 2**.

The site is located within the southern end of Liverpool City Centre, within the Liverpool Local Government Area (LGA). The landowner of the site is Liverpool City Council.

Currently, the site contains the following development:

- Completed Phase A development, consisting of:
 - A 6-storey information and education facility (public library)
 - 14-storey mixed use building, comprising a public administration building (occupied by Liverpool City Council), commercial office floor space, retail floor space, and a child care centre
 - 4-level basement carpark
 - Landscaping and public domain
- Phase B site contains an existing two-storey retail building with an adjoining carpark at the rear.

The site slopes to the north with a gradient of approximately 3.5m from the Terminus Street frontage to the Scott Street frontage.

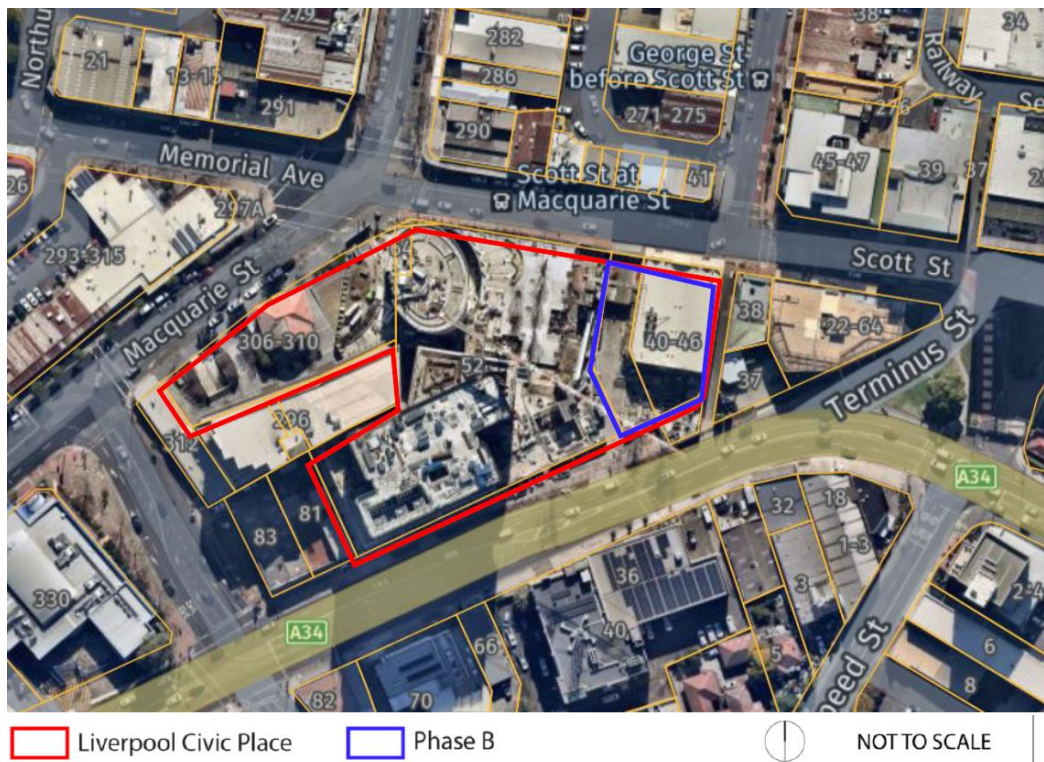


Figure 2: Site Aerial (Site B in blue being the land to which this application applies)
Source: Ethos Urban



Figure 3: View of the subject site, adjacent to the constructed Phase A buildings on the right
Source: Patch Planning



Figure 4: View looking towards the constructed Phase A buildings from Scott Street (right), and the existing building located in the Phase B site to the far left of the image

Source: Patch Planning

1.2 The Locality

The site is located within the southern end of Liverpool City Centre, approximately 300m south-west of Liverpool Railway Station. The Georges River is located adjacent to Liverpool Station and marks the eastern boundary of the Liverpool City Centre.

Directly west of the Phase B site is the completed Phase A development (detailed above). To the west of the site, at 300 Macquarie Street, is a 9-storey mixed use building.

Retail and commercial buildings of predominantly two to three-storeys in height are located to the north of the site, transitioning to higher densities in the Liverpool civic and retail centre (bound by Macquarie Street and George Street). Westfield and Western Sydney University Liverpool Campus are located approximately 550m north of the site.

To the south, opposite Terminus Street, is the Telstra Exchange building that has a height of approximately four-storeys. There are various retail stores along Terminus Street, with residential flat buildings located further south.

To the west of the site is the recently constructed Phase A Civic Place development, comprising the new Liverpool City Library and Civic building for the Council.

Low density residential development is located further south and west of the site.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The Amending Concept Application seeks to modify the approved Concept Development Application (DA-585/2019) to allow Residential Flat Buildings, Shop Top Housing, and Co-Living Housing within the Phase B building envelope, and to modify and extend the approved building envelope of the Phase B building to accommodate such.

The proposed changes are to the building envelope of Building B (not yet constructed), which was approved under DA-585/2019.

Specifically, the changes include:

- The inclusion of residential flat buildings, shop top housing, and co-living as additional uses within the approved Phase B envelope, beyond those approved under DA-585/2019; and
- Minor extensions to the Phase B envelope to facilitate the provision of a residential building, including:
 - Minor increase in building height at south-western corner by 0.035m;
 - Reduction in height at the north-eastern corner by 0.193m;
 - Extension of the northern-most component of the podium by approximately two-storeys at the Scott Street frontage, from RL 50.50 to RL 56.50;
 - Tower form diagonally extended northwards towards Scott Street, by 0-4.4m at north-eastern side, which tapers down to the west; and
 - Tower form expanded to the south of the site, by 0.4m.

The application also seeks amendments to the process established in Condition 4 of DA-585/2019 which related to the establishment of a Public Domain Design Panel to guide landscape and public realm outcomes on the site as a part of any future detailed DA. The proposed changes are sought in the interest of streamlining the panel review process and by allowing this process to be satisfied by a State Design Review Panel (SDRP) in addition to a Council-led Public Domain Design Panel (the latter being the only option currently under DA-585/2019). The SDRP process would be utilised in the instance where the detailed DA is classified as an SSDA, which is currently the case. Notwithstanding, despite the condition allowing for this process to be run through a State-led SDRP, the condition would require the panel to include (at least):

- A representative of or person nominated by Government Architect NSW;
- A suitably qualified landscape architect and urban designer; and
- A representative of Liverpool City Council's City Design and Public Domain team.

Therefore, in both instances, representatives from Council's Design Team will form part of the panel make up regardless of whether it is Council-led or State-led. This ensures that the panel would be provided with knowledge of the Liverpool City Centre and local context, which would be important in developing the detailed design.

Refer to **Figure 5** to **Figure 7** below for excerpts of the approved envelope compared to the proposed modified envelope.

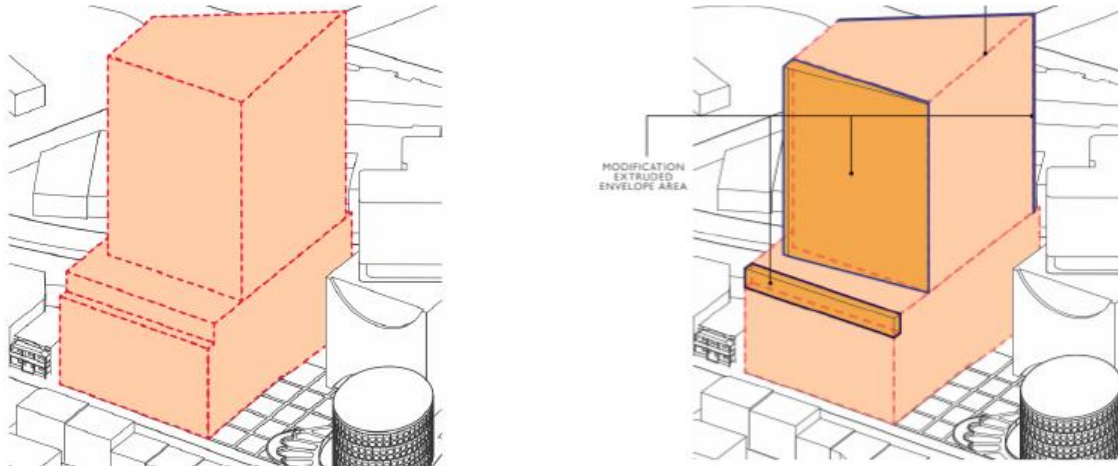


Figure 5: Approved and proposed modified envelope extents

Source: Scott Carver

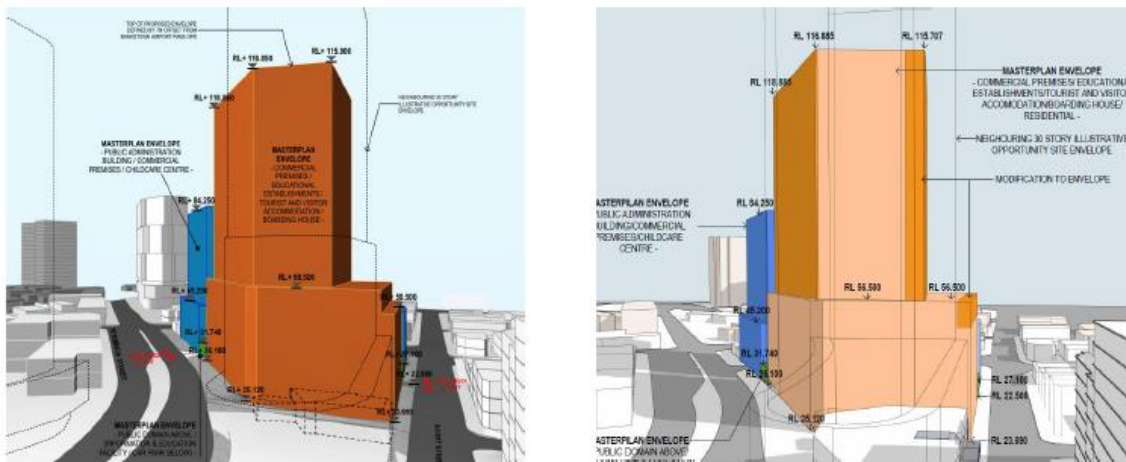


Figure 6: Existing and approved eastern envelope perspectives showing approved and proposed building heights

Source: Scott Carver

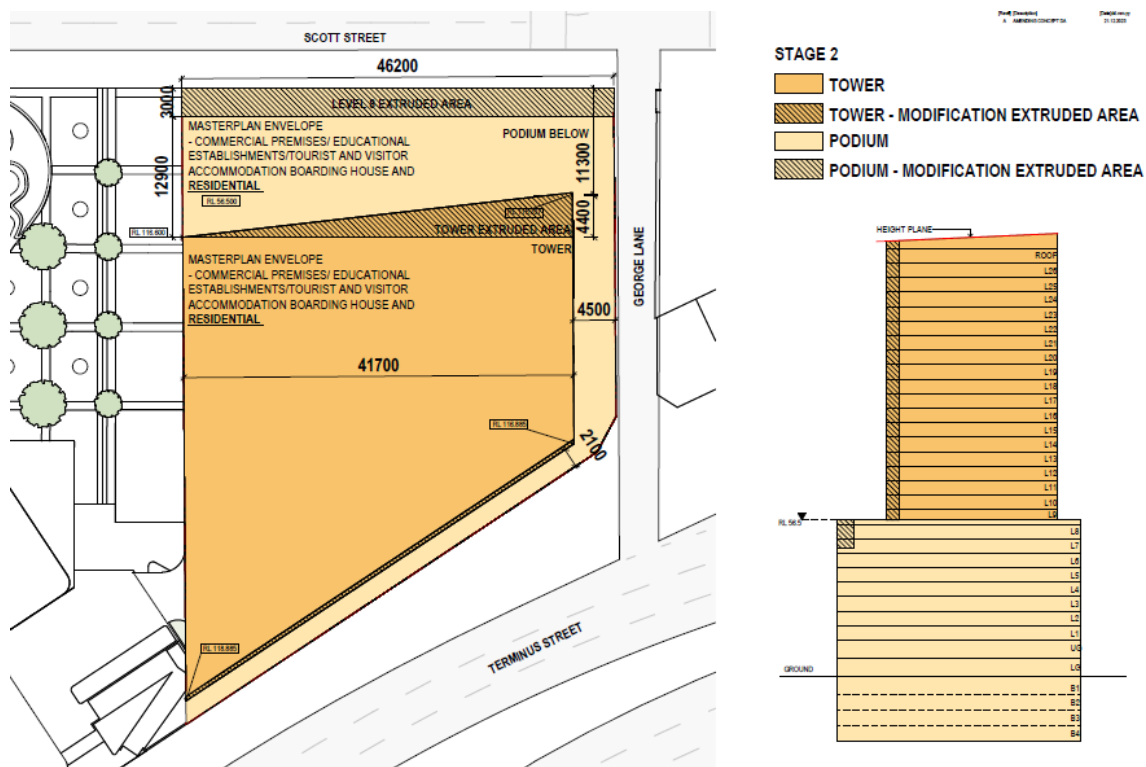


Figure 7: Plan of proposed Phase B building envelope showing extensions (hatched) beyond approved envelope under DA-585/2019

Source: Scott Carver

The key development data is provided in **Table 1**.

Table 1: Key Development Data

| Control | Approved under DA-585/2019 | | Proposed | |
|---|--|---|---|--|
| Site area | 9,189.5sqm (Phase A and Phase B) | | 9,189.5sqm (Phase A and Phase B) | |
| GFA (Indicative of reference design) | 22,073sqm (Phase A reference design) + 27,961sqm (Phase B reference design) = 50,034sqm | | 25,362sqm (Phase B, reference design) + 21,606sqm (approved and constructed Phase A buildings) = 46,968sqm | |
| FSR | 5.44:1 (reference design) | | 5.11:1 (indicative Phase B reference design + constructed Phase A buildings) | |
| Clause 4.6 Requests | Yes – Clause 7.4 of the LEP | | Not applicable | |
| No of apartments (reference design) | Not applicable. | | 320 apartments | |
| Max Height | 94.7m (RL 118.850) | | 94.735m (RL 118.885) | |
| Landscaped area | Unconfirmed | | Unconfirmed | |
| Car Parking spaces | 413 spaces, to split across Phase A and B. Subject to change at detailed DA stage. | | 170 Spaces for Phase B | |
| Setbacks | Podium | Tower | Podium | Tower |
| | 0m front setback to Scott Street (north) | 15.9m front setback from Scott Street (north) | 0m front setback to Scott Street (north) | 11.5-15.9m front setback from Scott Street (north) |
| | 0m rear setback to Terminus Street (south) | 2.5m rear setback from Terminus Street (south) | 0m rear setback to Terminus Street (south) | 2.1m rear setback from Terminus Street (south) |
| | 0m side setback to George Lane (east) | 4.5m side setback to Geore Lane (east) | 0m side setback to George Lane (east) | 4.5m side setback to Geore Lane (east) |
| | 12-26m separation from Phase A buildings (west) | 12-26m separation from Phase A buildings (west) | 12-26m separation from Phase A buildings (west) | 12-26m separation from Phase A buildings (west) |

2.2 Background

The development application was lodged on 2 February 2024. A chronology of the development application since lodgement is outlined in **Table 2**.

Table 2: Chronology of the DA

| Date | Event |
|---------------------------------|---|
| 6 December 2023 | The applicant met with Council to discuss the proposed amended DA scope. |
| 14 February 2024 | Exhibition of the application |
| 15 February 2024 | DA referred to external agencies |
| 6 May 2024 | Preliminary Panel briefing |
| 15 July 2024 | Additional information was provided by the applicant and accepted by Council on 15 July 2024. The additional documentation included: <ul style="list-style-type: none">• Heritage Impact Statement, prepared by NBRS• Social Impact Assessment, prepared by Ethos Urban• Operational Waste Management Plan, prepared by Elephants Foot• Construction Waste Management Plan, prepared by Elephants Foot |
| 1 August 2024 | Applicant clarified that the intended land use is to include co-living housing. |
| 15 August – 13 September | Application was re-notified given the above land use clarification. |
| 23 September 2024 | Additional information requested from the applicant relating to: <ul style="list-style-type: none">• Submission of a reference scheme which could demonstrate Apartment Design Guide;• Public realm outcomes. |
| 26 October 2024 | Applicant provided a response to the matters raised in the above additional information request. |

2.3 Site History

DA-906/2019 – Early works DA approved by the Sydney Western City Planning Panel (SWCPP) on **29 June 2020** for:

- The demolition of all structures on the broader Liverpool Civic Place site, including:
 - the two storey commercial building fronting Scott Street and the associated above ground car parking structure fronting Terminus Street; and

- the two-storey retail building fronting Scott Street and the associated at-grade car park fronting Terminus Street.
- Bulk earthworks involving the excavation of land at 52 Scott Street to a maximum depth of RL 10.35 to accommodate the required basement levels.
- Tree removal and bulk earthworks including shoring through the use of piles.

The approved early works have been completed for Phase A of Liverpool Civic Place though are yet to commence for Phase B.

DA-585/2019 – Concept DA was approved by SWCPP on **15 September 2020**. Concept approval was provided for the following:

- Phase A – 2 building envelopes approved comprising:
 - An information and education facility (public library); and
 - A public administration building use (for Liverpool Council offices), and either (or combination of) commercial premises or childcare uses.
 - A landscaping and public domain concept was also approved, including a through-site link running north to south.
- Phase B – 1 building envelope comprising:
 - Commercial premises, educational establishments, tourist and visitor accommodation, and/or boarding house (student accommodation) uses.
- Basement level parking approved, to be shared between both phases, in the form of a public car park to be owned by Council.

DA-836/2020 – Phase A Detailed DA, approved by SWCPP on **28 August 2021**. Several Modification Applications have been approved since. The resultant approved (and constructed) development comprises the following:

- Construction and use of a 6-storey information and education facility (public library).
- Construction and use of a 14-storey mixed use building, comprising a public administration building to be occupied by Liverpool City Council), commercial office floor space, retail floor space and a child care centre.
- Construction of a 4-level basement with car parking and end of trip facilities.
- Landscaping and public domain works including a shared road, a plaza and pocket park.

All the abovementioned works have been completed for this development and an Occupation Certificate was issued in October 2023.

DA-1080/2020 – Phase B/C Detailed DA, approved by SWCPP on **5 May 2022**. Detailed development for the Phase B sites including:

- Construction and use of a 22-storey commercial office building, comprising lower ground and upper ground retail floor space and 19 commercial office levels (excluding plant level);

- Construction and use of a 9-storey hotel building, comprising lower ground retail floor space and 8 hotel levels;
- Construction of a 4-level basement with 150 car parking spaces, that will accommodate car, bicycle and motorcycle parking as well as loading facilities;
- Landscaping and public domain works; and
- Extension and augmentation of services and infrastructure as required.

This consent has not been activated as none of the abovementioned works have been undertaken. The SSDA currently being prepared by the applicant would in essence replace this consent.

SSD-62367962 – The application to which this subject concept DA relates has been lodged with the Department of Planning, Housing and Infrastructure (DPHI) as a State significant Development (SSD) seeking a Build-to-Rent (BtR) development outcome. Specifically, the proposal seeks:

“Construction of a 29-storey mixed-use build-to -rent (BTR) development comprising ground floor retail uses, 9 level podium, 320 dwellings, build-to-rent amenities, basement car parking, landscaping and public domain works.”

The application was exhibited between 19 July 2024 and 15 August 2024. Council has provided detailed commentary to DPHI to assist in its determination which is included as **Attachment I** to this report.

2.4 Liverpool Council Design Excellence Panel Briefings

The proposal was presented to Council's Design Excellence Panel on 9 April 2024. Noting the SDRP process also underway for the detailed SSDA, the DEP suggested consolidating the design review process in the future for this site to ensure a streamlined process for both the applicant and assessors. This was considered important to ensure on-going design excellence, and consistency and continuity of feedback as the design develops.

A more detailed discussion of the DEP meeting outcomes is provided within Section 0 (Key Issues) of this report.

3. STATUTORY CONSIDERATIONS

3.1 Environmental Planning and Assessment Act 1979

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent*

authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

(iii) any development control plan, and

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

that apply to the land to which the development application relates,

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.

These matters are further considered in the sections below.

Concept Applications – EP&A Act 1979

Sections 4.21 – 4.24 of the EP&A Act 1979 contains specific provisions relating to concept DAs. In particular, section 4.22(5) of the EP&A Act permits reducing the extent to which impacts are considered under a concept application as below:

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

It is noted that the above provision allows the consent authority to determine what level of assessment is necessary at the concept DA phase and which matters should be deferred to the detailed DA phase.

This will reasonably differ between applications, and it is to the discretion of the consent authority which matters are critical considerations at the concept phase.

3.2 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments (EPIs), proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following EPIs are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Housing) 2021*
- *Liverpool Local Environmental Plan 2008*

A summary of the key matters for consideration arising from these environmental planning instruments (EPIs) are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable Environmental Planning Instruments and Development Control Plans

| EPI | Matters for Consideration (Brief summary) | Comply (Y/N) |
|------------------------------|--|-------------------------|
| SEPP (Planning Systems) 2021 | Chapter 2: State and Regional Development <ul style="list-style-type: none"> • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 and 3 of Schedule 6 as it comprises development over \$30 million, and Council related development over \$5 million. | Y |
| SEPP (Housing) 2021 | Chapter 3 Diverse housing <ul style="list-style-type: none"> • Part 3 Co-living housing <ul style="list-style-type: none"> ◦ Clause 67 permits development for the purposes of co-living housing where development for the purposes of a residential flat building is permitted by another EPI. • Part 4 Build-to-rent housing <ul style="list-style-type: none"> ◦ Clause 72 permits build-to-rent (BtR) housing for BTR developments of at least 50 dwellings on a lot of land in Zone MU1. ◦ Clause 75 states that a consent authority must be flexible in its application of design criteria under the Apartment Design Guide (ADG) for BtR development. Chapter 4 Design of residential apartment development <ul style="list-style-type: none"> • Clause 147(1)(b) stipulates that a consent authority must consider the ADG in determining a development application for a residential apartment development. | Y |
| SEPP (Resilience & Hazards) | Chapter 4: Remediation of Land <ul style="list-style-type: none"> • Section 4.6 - Contamination and remediation measures were considered as part of the site preparation and early works DA (DA-906/2019), as well as the previous concept DA (DA-585/2019). • Refer to discussion below for further details. | Y |

| | | |
|--|--|---|
| SEPP (Transport and Infrastructure) 2021 | Chapter 2: Infrastructure <ul style="list-style-type: none"> • Section 2.48(2) (Determination of development applications—other development) – electricity transmission. The proposal is satisfactory subject to conditions. • Section 2.118(2) - Development with frontage to classified road. The proposal is satisfactory, subject to conditions. | Y |
| Liverpool LEP 2008 | <ul style="list-style-type: none"> • Clause 2.3 – Residential flat buildings and shop top housing are permissible uses with consent, in the MU1 Mixed Use zone. • Clause 7.4 – Complies. Refer to discussion below. • Clause 7.5 – Complies. Refer to discussion below. • Clause 7.5A – Complies. Refer to discussion below. | Y |

Consideration of the relevant EPIs is outlined below.

State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clauses 2 and 3 of Schedule 6 of the Planning Systems SEPP; the proposal is development over \$30 million and is also Council related development over \$5 million, respectively.

Accordingly, the Sydney Western City Planning Panel (SWCPP) is the consent authority for the application.

State Environmental Planning Policy (Housing) 2021

Chapter 3: Diverse housing

Clause 67 permits development for the purposes of co-living housing where development for the purposes of a residential flat building is permitted by another EPI. As the LLEP 2008 permits residential flat buildings on the site, co-living housing is permitted by extension.

Part 4 applies to BtR housing. Of note, it requires flexibility in the consent authority's consideration of the Apartment Design Guide (ADG) under cl. 75(2), as follows:

*(2) In determining an application for the modification of a development consent or a development application for the carrying out of development to which this section applies, **the consent authority must—***

(a) be flexible in applying the design criteria set out in the Apartment Design Guide, including, in particular, the design criteria set out in Part 4, items 4E, 4G and 4K, and

(b) in its consideration of the objectives set out in the Apartment Design Guide, Part 4, consider the following—

(i) the amenities proposed to be provided to tenants residing in the building through common spaces and shared facilities and services,

(ii) whether the configuration and variety of dwellings in the building will provide adequate options to prospective tenants in relation to the size and layout of the dwellings,

(iii) whether tenants residing in the building will be able to relocate to other dwellings in the building that will better accommodate their housing requirements if their requirements change.

Given the application proposes only to introduce the land use to the concept approval but does not seek approval for detailed design outcomes, the remainder of Chapter 3 is not relevant to the DA.

Chapter 4: Design of residential apartment development

The proposal is subject to the provisions of Chapter 4 which relates to residential apartment development. Under section 147(1), a consent authority **must give consideration to:**

(a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,

(b) the Apartment Design Guide,

(c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.

Notwithstanding the above, s.4.22(5) of the EP&A Act 1979 gives discretion to the consent authority to postpone consideration of assessment matters from a concept application to the detailed application stage. Additionally, cl. 75(2)(a) of SEPP (Housing) 2021 requires flexibility in the application of the ADG in BtR housing by a consent authority.

The applicant has submitted a reference scheme to support the concept application which indicates an intended development outcome. Notwithstanding some numeric non-compliances, the scheme broadly aligns with the numeric design criteria and objective design guidance of the ADG.

Given the application is currently subject to a detailed SSDA assessment, and the flexibility required by both s.4.22(5) of the EP&A Act 1979 and cl. 75(2) of SEPP (Housing) 2021, it is considered that the ADG has been satisfied to an appropriate level commensurate to this application. The subject proposal otherwise seeks only to establish additional land uses and amend the building envelopes, and the merit assessment of any departures from the ADG are more appropriately resolved in a detailed DA.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* ('the R&H SEPP') have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

Site contamination and remediation measures were considered as part of the early works and site preparation DA (DA-906/2019), and the previous concept DA (DA-585/2019). The

previous concept DA (DA-585/2019) considered the provisions of Chapter 4 of the R&H SEPP to have been adequately addressed by virtue of the conclusions of the preliminary Site Investigation Report. As the site currently accommodates a two-storey retail building, it was not possible to test the soils beneath such as part of the preliminary site assessment. This was caveated in the report, with an appropriate solution recommended. A condition was imposed on the concept DA consent, requiring a Stage 2 site investigation and contamination measures be prepared as part of a future detailed DA.

This condition has been recommended within the draft Notice of Determination (Appendix A). The proposal is considered to be consistent with the R&H SEPP, subject to the imposition of relevant conditions of consent in relation to remediation works during construction on any consent granted.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The site has a frontage to Terminus Street, which is a classified road. Transport for NSW has reviewed the proposal and are supportive in principle, subject to the imposition of conditions (refer to letter dated 13 March 2024).

Further consideration of Clauses 2.119 and 2.122 would be required at the detailed DA stage. Considering the nature of the concept DA, which does not propose any amendments to site access or on-site parking arrangements, a detailed assessment of this SEPP is not considered warranted, given approval for a specific quantum of residential units and car parking spaces is not sought at this stage.

Liverpool Local Environmental Plan 2008

The relevant local environmental plan applying to the site is the *Liverpool Local Environmental Plan 2008* ('the LEP').

(2) *The particular aims of this Plan are as follows—*

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to encourage a range of housing, employment, recreation and services to meet the needs of existing and future residents of Liverpool,*
- (b) to foster economic, environmental and social well-being so that Liverpool continues to develop as a sustainable and prosperous place to live, work, study and visit,*
- (c) to provide community and recreation facilities, maintain suitable amenity and offer a variety of quality lifestyle opportunities to a diverse population,*
- (d) to strengthen the regional position of the Liverpool city centre as the service and employment centre for Sydney's south west region,*
- (e) to concentrate intensive land uses and trip-generating activities in locations most accessible to public transport and centres,*
- (f) to promote the efficient and equitable provision of public services, infrastructure and amenities,*

- (g) to conserve, protect and enhance the environmental and cultural heritage of Liverpool,*
- (h) to protect, connect, maintain and enhance the natural environment in Liverpool, and promote ecologically sustainable development which takes into account the environmental constraints of the land,*
- (i) to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bush fires, by managing development in sensitive areas,*
- (j) to promote a high standard of urban design that responds appropriately to the desired future character of areas,*
- (k) to improve public access along waterways and vegetated corridors while ensuring the natural environmental values of riparian and bushland corridors and the habitat they provide are protected and enhanced,*
- (l) to improve public transport accessibility, and facilitate the increased use of public transport, cycling and pedestrian activity,*
- (m) to enhance the amenity and positive characteristics of established residential areas,*
- (n) to ensure the agricultural production potential of rural land and prevent its fragmentation,*
- (o) to encourage development opportunities for business and industry so as to deliver local and regional employment growth.*

The proposal is consistent with the aims of the LLEP 2008, as the introduction of residential uses within the Phase B building encourages a range of housing, employment, and services to meet the needs of residents of Liverpool. The proposal would also promote a high standard of urban design, as well as other design panels that are required for the landscape and public realm aspects of a future detailed DA.

Zoning and Permissibility (Part 2)

The site is located within the MU1 Mixed Use Zone pursuant to Clause 2.3 of the LEP.

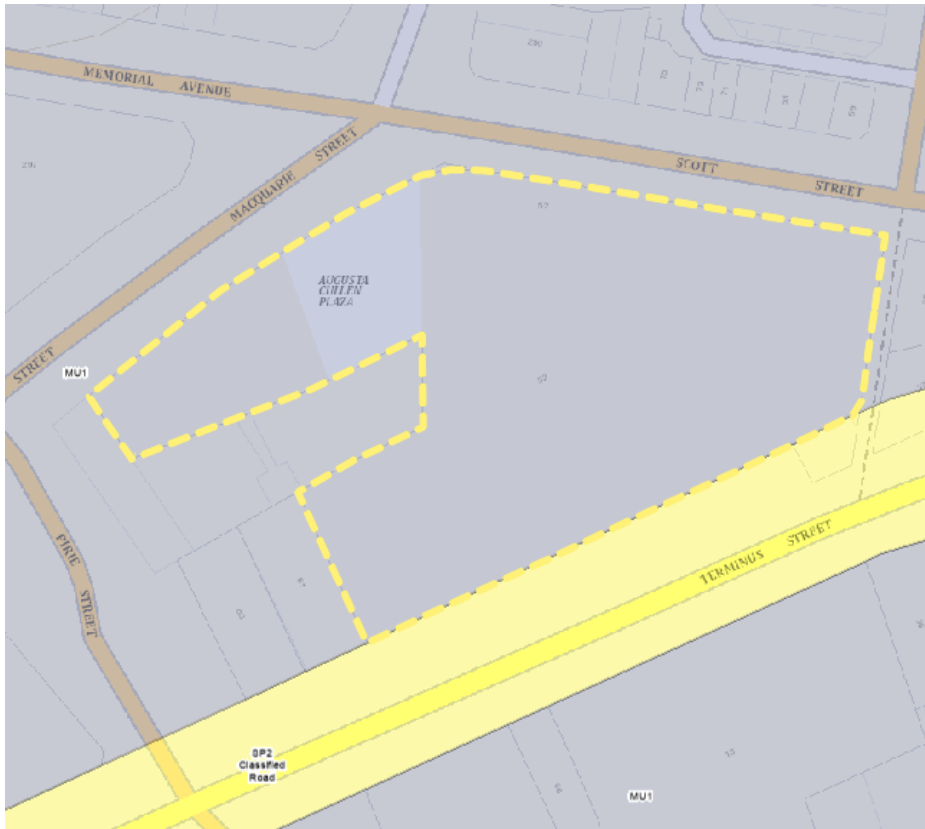


Figure 8: LLEP 2008 Land Zoning Map

Source: NSW Spatial Viewer

The amending concept DA proposes to add three additional uses to the range of approved uses pursuant to DA-585/2019. The three additional uses are defined below, all of which are permissible with consent within the MU1 Mixed Use zone.

Residential flat building

Means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.

Shop top housing

Means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.

Co-living housing

Means a building of place that –

- (a) has at least 6 private rooms, some or all of which may have private kitchen and bathroom facilities, and*
- (b) provides occupants with a principal place of residence for at least 3 months, and*
- (c) has shared facilities, such as a communal living room, bathroom, kitchen or laundry, maintained by a managing agent, who provides management services 24 hours a day,*

but does not include backpackers' accommodation, a boarding house, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

The above definitions, pursuant to the LLEP 2008, note that these uses are a type of **residential accommodation**.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To allow for residential and other accommodation in Liverpool city centre, while maintaining active retail, business or other non-residential uses at street level.

The proposal is considered to be consistent with these zone objectives. The amended concept DA will encourage residential uses within the Liverpool city centre, whilst also maintaining active retail, business, and non-residential uses at street level. The minor amendment to the building envelope will facilitate the additional permissible uses within the Phase B envelope and is suitable within this civic centre context.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4**.

Table 4: Consideration of the LEP Controls

| Control | Requirement | Compliance |
|------------------------------------|-------------|---|
| Height of buildings (CI 4.3(2)) | 28 metres | Not applicable. This Clause is overridden by Clause 7.5A, which enables an unrestricted height limit subject to meeting the requirements of the Clause. An assessment against the provisions of CI 7.5A is provided further in this report. |
| FSR (CI 4.4(2)) | 3:1 | Not applicable. This Clause is overridden by Clause 7.5A, which enables an uplift in FSR to 10:1 subject to meeting the requirements of the |

| | | |
|---|--|---|
| | | Clause. An assessment against the provisions of CI 7.5A is provided further in this report. |
| Heritage (CI 5.10) | Development within vicinity of a listed heritage item must be accompanied by a Heritage Management Document. | Complies. Refer to discussion below. |
| Car Parking in Liverpool city centre (CI 7.3) | Refer to discussion below for Clause requirements. | Complies. Refer to discussion below. |
| Building separation in Liverpool city centre (CI 7.4) | Refer to discussion below for Clause requirements. | Existing Non-Compliance Refer to discussion below. |
| Design excellence in Liverpool city centre (CI 7.5) | Refer to discussion below for Clause requirements. | Complies. Refer to discussion below. |
| Additional provisions relating to certain land at Liverpool city centre (CI 7.5A) | Refer to discussion below for Clause requirements. | Complies. Refer to discussion below. |

Further discussion on relevant LLEP 2008 Clauses

Clause 5.10 Heritage Conservation

Part of the lot contains a heritage item known as the Memorial School of Arts building (I99 of LLEP 2008). The site is also proximate to a number of other local heritage items but is otherwise not within a heritage conservation area.

The Council's Heritage Officer has reviewed the proposal and confirms that the site would not encroach into the physical or visual curtilage of any listed heritage places and that no archaeological investigation is required, following assessments undertaken pursuant to previous DAs on the site. A standard condition of consent has been recommended in relation to the potential discovery of aboriginal objects during future construction phases.

The proposal is therefore considered to comply with Clause 5.10 of the LLEP 2008.

Clause 7.3 Car parking in Liverpool city centre

(2) Development consent must not be granted to development on land in the Liverpool city centre that is in Zone E2 Commercial Centre or MU1 Mixed Use that involves the erection of a new building or an alteration to an existing building that increases the gross floor area of the building unless—

(a) at least one car parking space is provided for every 200 square metres of any new gross floor area that is on the ground floor level of the building, and

(b) in respect of any other part of the building—

(i) at least one car parking space is provided for every 100 square metres of any new gross floor area that is to be used for the purposes of retail premises, and

(ii) at least one car parking space is provided for every 150 square metres of any new gross floor area that is to be used for any other purpose.

(5) Council owned public car parking and parts of a building used for residential purposes must not be included as part of a building's gross floor area for the purposes of this clause.

The amending concept DA seeks consent to permit residential uses within the Phase B building. As such, the floorspace intended to be used for residential purposes has not been included in the GFA for the purposes of this clause, pursuant to (5) above.

The reference scheme provides the following breakdown of indicative GFA:

- 25,046sqm – Build to rent (BtR) (residential use)
- 314sqm retail

In accordance with the requirements of Clause 7.3 (2)(b)(i), the scheme would need to provide a minimum of 3 parking spaces, to accommodate the retail GFA.

The reference scheme provides 170 car spaces, within the approved 4-level basement envelope. The numeric controls prescribed in this Clause are minimums, and therefore the proposal complies.

Furthermore, the proposal has been reviewed by Council's Traffic and Transport Engineer, who supports the proposal, subject to conditions. The DA is supported with an amended Traffic Impact Assessment (TIA), which concludes the proposed residential use involves a lesser level of traffic activity, compared to the previously approved Phase B concept DA. The Engineer notes that the specific quantum of on-site parking spaces for a proposed residential development will be determined as part of a detailed DA.

The Traffic and Transport Engineer raises no objection to the amending concept DA, subject to the imposition of two non-standard conditions which relate to requirements for any future detailed DA.

Clause 7.4 Building separation in Liverpool city centre

Subclause 7.4 (2)(d) and (e) prescribe the following building separation distances for land zoned MU1 Mixed Use within Liverpool city centre:

*(d) **12 metres** for parts of buildings between 25 metres and 45 metres above ground level (finished) on land in Zone E2 Commercial Centre or MU1 Mixed Use, and*

*(e) **28 metres** for parts of buildings 45 metres or more above ground level (finished) on land in Zone E2 Commercial Centre or MU1 Mixed Use.*

Portions of the building envelope do not comply with the 12 or 28m controls, however, this was already addressed in detail and approved through the previous concept DA (DA-585/2019).

The previous concept DA was supported by a clause 4.6 variation was approved to vary this control in three locations (refer **Figure 9** below).

These building separations will remain unchanged as a result of the subject amending concept DA; that is, the minor enlargements proposed to the Phase B building envelope will not increase or decrease the building separation distances.

Therefore, no further justification of the non-compliance with Clause 7.4 is considered necessary in this instance and the clause can be considered satisfied.

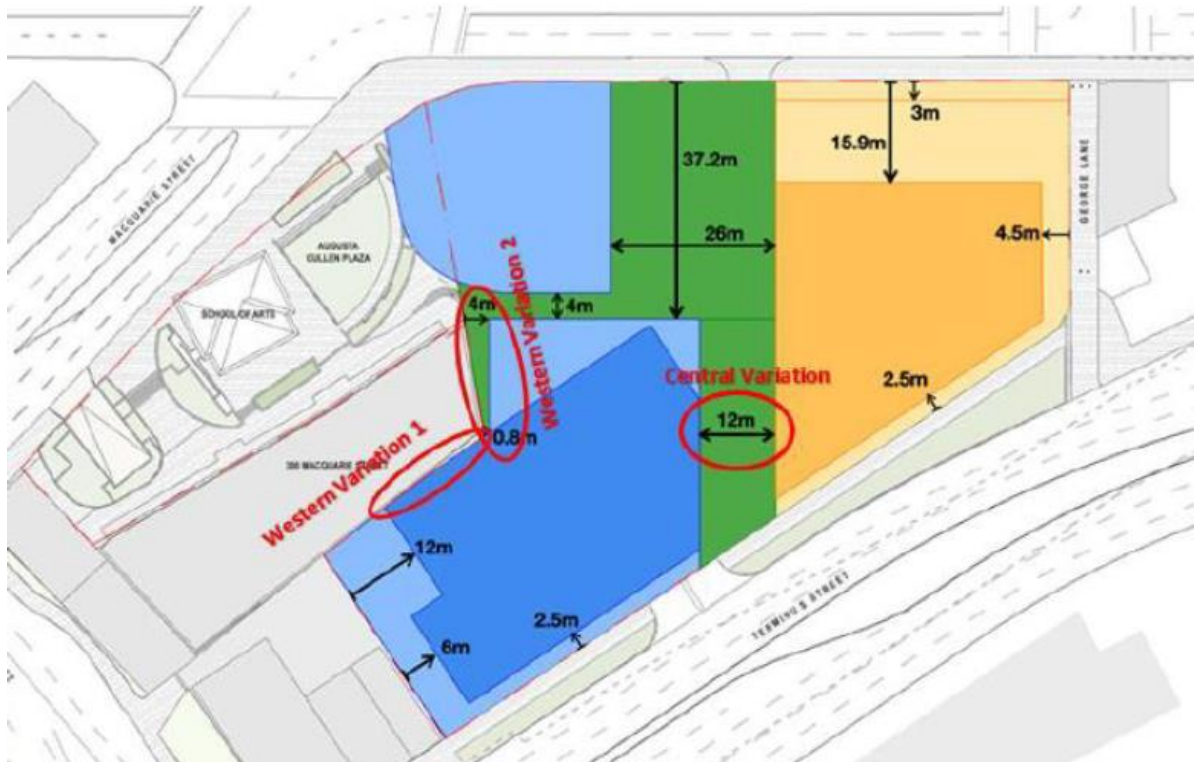


Figure 9: Approved building separation variations (towers indicated in darker shades)

Source: FJTM with Ethos Urban edits

Clause 7.5 Design excellence in Liverpool city centre

Development in the Liverpool city centre is subject to design excellence provisions under cl. 7.5 as outlined below:

- (1) *The objective of this clause is to deliver the highest standard of architectural and urban design.*
- (2) *Development consent must not be granted to development involving the construction of a new building or external alterations to an existing building in the Liverpool city centre unless the consent authority considers that the development exhibits design excellence.*
- (3) *In considering whether development exhibits design excellence, the consent authority must have regard to the following matters—*
 - (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

- (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*
- (c) whether the proposed development detrimentally impacts on view corridors,*
- (d) whether the proposed development detrimentally overshadows Bigge Park, Liverpool Pioneers' Memorial Park, Apex Park, St Luke's Church Grounds and Macquarie Street Mall (between Elizabeth Street and Memorial Avenue),*
- (e) any relevant requirements of applicable development control plans,*
- (f) how the proposed development addresses the following matters—*
 - (i) the suitability of the site for development,*
 - (ii) existing and proposed uses and use mix,*
 - (iii) heritage issues and streetscape constraints,*
 - (iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) bulk, massing and modulation of buildings,*
 - (vi) street frontage heights,*
 - (vii) environmental impacts such as sustainable design, waste and recycling infrastructure, 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.*

It is noted that clause 7.5(2) specifies the clause applies to “construction” of a new building. The subject DA will not authorise any construction works, rather this would be approved through a separate detailed DA. Accordingly, it is considered that clause 7.5 does not technically apply to the proposed development.

Notwithstanding, the concept DA has been reviewed by Council's DEP given its scale and prominence within the Liverpool city centre. The amending concept DA was presented to the DEP on 9th April 2024. A series of recommendations were made by the DEP which are discussed further in Section 5 (Key Issues) of this report. These issues predominantly relate to detailed outcomes which are subject to assessment under the separate SSDA, not this subject concept DA.

The clause is considered to have been satisfied for the purposes of this application.

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

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

(a) is identified as “Area 8”, “Area 9” or “Area 10” on the Floor Space Ratio Map, and

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

(c) has 2 or more street frontages.

In accordance with subclause (1), this Clause is applicable to the subject DA, as the site is located on land identified as “Area 8” on the FSR map, it has a lot size exceeding 1,500sqm, and it has 2 or more street frontages.

(2) Despite clauses 4.3 and 4.4, if at least 20% of the gross floor area of a development is used for the purpose of centre-based child care facilities, commercial premises, community facilities, educational establishments, entertainment facilities, functions centres, hotel or motel accommodation, information and education facilities, medical centres or public administration buildings—

(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,

...

As identified within the previous concept DA (DA-585/2019), the proposed development qualifies for the FSR uplift and unlimited height allowance due to the inclusion of mixed-uses within the Phase A buildings (i.e. childcare facilities, commercial premises, educational establishments, and public administration building).

The GFA of the approved (and constructed) Phase A buildings represents approximately 46% of the total GFA across both the Phase A and Phase B buildings (pursuant to the reference scheme indicative GFA figures). This satisfies the 20% threshold required by subclause (2), enabling the FSR and height bonuses permitted. A condition of consent was imposed on DA-585/2019 to ensure that uses listed in Clause 7.5A(2) are maintained in perpetuity for at least 20% of the development’s GFA. A similar condition is recommended for any consent granted under this application.

Subclause (3) of the Clause prescribes that a development control plan (DCP) must be prepared for these sites, which addresses the matters specified in subclause (4), and that development must include recreation areas, through site links, or public car parking (among others). The approved concept DA (DA-585/2019) satisfies the first requirement, pursuant to Section 4.23(2) of the EP&A Act, which prescribes that a concept DA can be provided in lieu of a DCP.

Furthermore, the Civic Place site includes information and education facilities (public library), a through site link, and a public carpark, all of which have been constructed and are now operational.

Subclause (4) prescribes that the DCP must include provision for how proposed development would address the following matters –

- (a) the impact on conservation areas,*
- (b) 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,*
- (c) achieving appropriate interface at ground level between buildings and the public domain,*
- (d) the excellence and integration of landscape design,*
- (e) the matters specified in clause 7.5(3)(f)(i)–(viii) and (x).*

The following is noted in response:

- (a) The site is not located within or adjacent to an HCA.
- (b) The amending concept DA will not impact the development's passive or public transit offering, and sufficient on-site parking would be provided within the 4-level basement carpark, as indicated by the reference scheme.
- (c) The amending DA relates to the inclusion of residential uses along with an enhanced above-ground building elevation. The details regarding ground floor interfaces will be developed at the detailed DA stage and will be developed alongside panel members as part of the proposed Public Domain Design Panel or SDRP (current Condition 4 of DA-585/2019, to be expanded under this DA to include the SDRP).
- (d) The landscape and public domain design will be developed alongside panel members as part of the Public Domain Design Panel or SDRP (current Condition 4 of DA-585/2019, to be expanded under this DA to include the SDRP).
- (e) Refer to discussion provided for Clause 7.5 above. In summary, appropriate mechanisms are in place to ensure the development exhibits design excellence, including Design Excellence Panels and conditions of consent prescribing further design panel collaboration.

The proposal is therefore considered to be consistent with the LLEP 2008 provisions under cl. 7.5A.

(b) Section 4.15(1)(a)(ii) – Any Draft Environmental Planning Instruments

No applicable draft Environmental Planning Instruments.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- *Liverpool Development Control Plan (2008)*

A compliance table is provided as **Attachment H** to this assessment report, and a summary of the key controls that propose alternatives to the guidelines and are supportable on merit, are discussed below.

Notwithstanding the below, it is considered that the majority of LDCP 2008 controls are more relevant to assess under the future detailed DA.

Part 4 Development in Liverpool city centre

4.2.5 – Controls for sites that require the submission of a site specific DCP or concept DA

Part 6 of the control requires buildings on the subject site to be constructed in accordance with the requirements illustrated in **Figure 9** below:

Figure 4-7: Tower on a Podium/Mid-Block

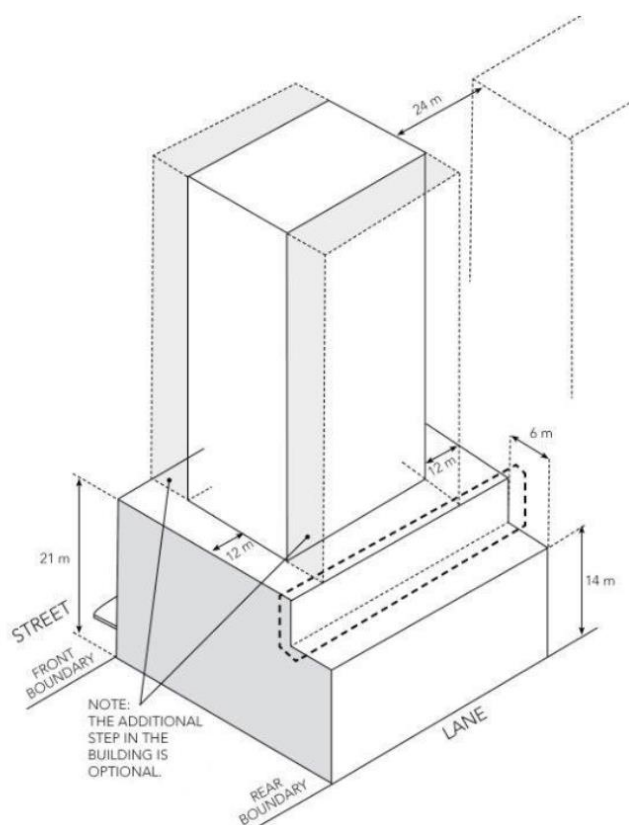


Figure 10: Tower on podium mid-block (Figure 4-7 of the DCP)

Source: Liverpool DCP 2008

The front elevation of the podium measures approximately 33.5m in height and the tower element is setback between 11.3m and 12.9m from the front elevation facing Scott Street. The amending envelope proposes minor changes to this aspect, by filling in the 3m setback of levels 7 and 8. This is not considered to result in significant visual impacts, considering the small nature of the infill, and the surrounding context. The generous setback of the tower element furthermore helps to breakdown the massing.

The amended concept envelope remains largely as approved under DA-585/2019, and is supported by the DEP.

4.2.7 – Street alignments and street setbacks

Figure 4-10 of the LDCP 2008 requires the following building setbacks:

- 3m for the Scott Street frontage.
- 2.5m to the Terminus Street frontage.

DA-585/2019 approved a nil (0m) front setback to Scott Street for the podium. The amending DA proposes a 6m vertical extension to the podium, however, this does not impact upon the setback variation which has already been approved. The minor change is considered supportable.

DA-585/2019 also approved a nil setback along the Terminus Street frontage for the podium, and a 2.5m setback for the tower. The amended envelope would not change the nil podium setback, however, it would reduce the tower's setback by 0.4m, resulting in a 2.1m setback to Terminus Street. This minor adjustment would not be discernible from the public domain, nor would it give rise to any unreasonable amenity impacts.

The amended concept envelope remains largely as approved under DA-585/2019, and is supported by the DEP and Council's City Design and Public Domain team (CDPD). As such, the continued variation to the DCP setbacks is accepted.

(d) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are not relevant to the proposal, as it is for a concept approval only.

Section 69 of the 2021 EP&A Regulation requires development that involves building work to be carried out in accordance with the requirements of the BCA. Given the subject application relates to a concept approval only, with no physical works being proposed, it is not considered necessary for BCA compliance to be achieved at this stage.

3.3 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

Natural and Built Environment

The amending concept DA does not propose significant changes to the Phase B envelope approved under DA-585/2019. The minor adjustments are deemed acceptable considering the civic nature of the site, and the surrounding scale of development in the Liverpool city

centre. Furthermore, the amended envelope is proposed to facilitate the inclusion of residential uses within the building, which as confirmed by Council's Strategic Planning Officer, will directly respond to the current housing crisis by increasing supply. The BtR reference scheme would also greatly benefit Liverpool and responds to the rental property shortfall experienced by the LGA.

Furthermore, the detailed design of the Phase B building would be developed alongside panel members as part of the DEP and Public Domain Design Panel, to ensure the built form exhibits design excellence for Liverpool. No unreasonable or detrimental impacts upon the natural or built environment is therefore considered likely to arise, particularly for this concept DA, which does not propose any physical works.

Social and Economic Impacts

The amending concept DA is unlikely to result in any detrimental social or economic impacts. Council's City Economy Officer has reviewed the Economic Statement provided by the applicant, which outlines the changed nature of the market for residential and commercial development and concurs that the introduction of residential uses would help address the challenges currently being experienced in the sector. The application is supported in principle, from an economic perspective, due to changed market conditions.

Council's Community Planning Officer requested additional information, to aid further assessment of the DA, specifically, a Social Impact Assessment (SIA). The Liverpool SIA Policy and Guidelines (updated March 2023) and Liverpool DCP, Part 1 section 27, states that a Social Impact Assessment (comment) is required for '*Applications for development of, or major changes to: Housing within SEPP (Housing) 2021 including Affordable Housing and Diverse Housing, excluding secondary dwellings*'. The policy requires '*a comprehensive SIA for residential flat buildings greater than 100 units*'.

Notwithstanding, the applicant has submitted the SIA that has been prepared in support of the concurrent SSDA for the detailed BtR scheme. This will be reviewed as part of the SSDA assessment process, and it is therefore not considered necessary to form part of the approved documentation for the subject amending concept DA.

For completeness, the SIA concludes the following at page 45:

"Overall, the proposal is likely to have a positive impact on the supply and diversity of housing within the Liverpool CBD – noting the immense need for increased housing supply across NSW. The proposal will also provide new places for socialisation and community development through an expansion of the public domain. This space will be used in the future for community-based events and activations. There will also be benefits to employment and viability of local businesses associated with the project.

However, it is noted that there will be some temporary negative impacts associated with the project which will occur during the construction phase. This may include disruption to daily routines and enjoyment of public space for community members on account of dust, noise, vibration, and construction vehicle movements. These can be partially mitigated through the implementation of standard measures, which are detailed in Table 15."

The amending concept DA is therefore considered likely to result in positive economic and social impacts.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

3.4 Section 4.15(1)(c) - Suitability of the site

The amending concept DA would introduce an additional use (i.e. residential) for the Phase B site, which would facilitate a truly mixed-use Civic centre development. This accords with the site's MU1 Mixed Use zoning, and the introduction of residential uses to Phase B, furthermore, achieves the objectives of the MU1 zone.

No unreasonable natural, built, social, or economic impacts are considered likely to arise.

The site is considered suitable to facilitate the proposed concept development.

3.5 Section 4.15(1)(d) - Public Submissions

Two unique public submissions were received as discussed in Section 4.3. The submissions have been considered and do not warrant amendment or refusal of the application.

3.6 Section 4.15(1)(e) - Public interest

The subject application is considered to be in the public interest for the following reasons:

- The proposed residential uses are permissible in the MU1 zone, and will enable activation of the site in line with market conditions;
- The proposal is generally consistent with relevant SEPP, LEP, and DCP controls;
- The proposal is consistent with the objectives of the MU1 Zone;
- The introduction of residential uses is an appropriate response to changed market demands, and a BtR product would contribute to addressing the pressures faced in this sector for Liverpool; and
- The environmental, social, and economic impacts of the proposal have been assessed and shown to be acceptable. The proposal will have an overall positive impact on the Liverpool city centre and wider locality.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various external agencies for technical review as outlined in **Table 5**.

NB: No integrated referrals were required, pursuant to Section 4.46 of the EP&A Act.

Table 5: External Referrals

| Agency | Comments | Resolved |
|---|---|----------|
| Transport for NSW | Supported, subject to conditions. Note. refer to letter dated 13 March 2024 for full referral comments. | Y |
| Endeavour Energy | Supported, subject to conditions. Note. refer to letter dated 19 February 2024 for full referral comments. | Y |
| Bankstown Airport | Supported. No conditions are required. | Y |
| Sydney Water | Supported. No conditions are required. | Y |
| South West Sydney Local Health District | No response was received within 21 days of the agency receiving the referral request; therefore it is assumed the Local Health District do not object to the proposal, and do not require any conditions to be imposed. | Y |
| Design Excellence Panel | Supported, subject to design revisions being provided to Council. Refer to “Key Issues” section of this report | Y |

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined in **Table 6**.

Table 6: Council Referrals

| Officer | Comments | Resolved |
|---------------------|---|----------|
| Engineering | Supported. No conditions are required. | Y |
| Traffic & Transport | Supported, subject to conditions. | Y |
| Flooding | Supported. No conditions are required. | Y |
| Building | Supported. No conditions are required. | Y |
| Waste Management | <p>The waste management referral notes that the team have no objections to the modified building envelope, as these would not affect the operation or effectiveness of the waste services. The officer has requested further details in regards to the intended operation of the building's waste services, covering all wastes that will be generated across the varying uses.</p> <p>Comment: As the subject DA is for a concept approval only, this information is not considered necessary at this stage. This</p> | Y |

| | | |
|-------------------------------|--|-----|
| | <p>would be required at the detailed DA stage when a definitive use and quantum of development has been determined.</p> <p>Detailed plans would be provided as part of a detailed DA, highlighting the role of any dedicated refuse and/or store rooms; and this information would be referred to the waste team for comment.</p> | |
| Strategic Planning | Supported. No conditions are required. | Y |
| Community Planning | <p>Community Planning requested a Social Impact Assessment (SIA) be submitted in accordance with Council's SIA Policy & Guidelines (updated March 2023) and LCC DCP part 1 section 27.</p> <p>The applicant provided a copy of the SIA that has been lodged alongside the SSDA which is discussed elsewhere within this report.</p> | Y |
| Property Services | No response provided. | N/A |
| City Economy | Supported. No conditions are required. | Y |
| Landscape | <p>Noted no landscape plan had been submitted for review.</p> <p>A landscape plan was later requested of the applicant and provided in response. However, the landscape plan is conceptual in nature only, with detailed landscaping consideration to be a matter for the detailed SSDA.</p> | Y |
| City Design and Public Domain | <p>Supported subject to consideration of comments.</p> <p>Council's City Design and Public Domain (CDPD) referral provided general support for the proposal on the basis that its detailed urban design advice to be considered as a part of the assessment and would inform a determination.</p> <p>The majority of comments provided by CDPD relate to public domain outcomes, or detailed matters such as amenity of future apartments based on the reference scheme. These matters are acknowledged, however, are not strictly relevant to the subject application at hand given these will not impact upon the actual approval sought, being an amendment to permitted land uses and slight increases to the tower envelope. These matters are to be addressed in the SSDA, upon which Council has already been separately invited to provide comment on.</p> <p>CDPD also raised concerns with the extent of residential land uses being introduced to the building. In order to protect the predominantly commercial character of Civic Place, CDPD</p> | Y |

| | | |
|------------------------|--|---|
| | <p>recommend at least the first three storeys of Phase B contain a commercial/retail podium, with a preference for 7 storeys.</p> <p>This request has been considered and it is deemed unnecessary to enforce a specific extent of commercial development across the building for the following reasons:</p> <ul style="list-style-type: none"> • Clause 7.16 of LLEP 2008 already contains a clause which requires the ground floor of development in Zone MU1 to be used for the purposes of business premises or retail premises; • The introduction of residential uses will respond to market conditions and make a contribution to housing supply and diversity in the Liverpool LGA in turn responding to the broader housing supply issues facing Sydney; • A predominantly residential focused outcome would align with the objectives for development in Zone MU1, in particular, <i>“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.”</i> <p>Accordingly, no further changes were requested of the applicant in response to the CDPD referral.</p> | |
| City Design - Heritage | Supported, subject to conditions. | Y |
| Environmental Health | <p>The Environmental Health officer states that the Preliminary Site Investigation Report, which accompanied the previous concept DA (DA-585/2019) did not confirm the extent of asbestos contamination at the site.</p> <p>In relation to acoustic amenity, the recommendations provided within the accompanying acoustic report demonstrate that a residential use on the site would be able to comply with policy guidelines, subject to implementation of passive measures at the detailed design stage. This is therefore a consideration for a future detailed DA.</p> <p>Comment: As caveated within the report, until the existing building is demolished, it is impossible to test the soils beneath such. A suitable condition of consent was imposed, requiring a Stage 2 Site Investigation Report and a RAP be prepared, ahead of any detailed DA coming forward or excavation occurring at the site.</p> <p>The subject application relates to a concept DA only and no physical works are proposed. The conditions imposed on the</p> | Y |

| | | |
|--|--|--|
| | previous consent in relation to site investigation and remediation will be applied to any consent granted. | |
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The outstanding issues raised by Council officers are considered in the Key Issues section of this report, below.

4.3 Community Consultation

The proposal was originally notified in accordance with the Council's Community Participation Plan from 14 February 2024 until 15 March 2024. The proposal was notified a second time between 15 August and 13 September 2024 following the amendment to introduce co-living as a permitted land use.

The Council received two unique submissions in response to the notification. As outlined in **Table 7**, the matters raised do not warrant amendment or refusal of the application.

Table 7: Summary of Submissions

| # | Summary | Consideration |
|---|---|--|
| 1 | The design is merely a block, lacking any architectural elements. Given its prime location, the building should be designed with aesthetics in mind to contribute positively to the city's visual appeal. | The subject DA is a concept application which seeks primarily to have land uses and building envelopes approved. Architectural design is not a matter for consideration at this stage. This will be considered in detail under the SSDA being assessed by DPHI. |
| 2 | There is a serious lack of car parking in the Liverpool CBD. The development provides 119 car spaces for 201 residential units as well as a cinema, gym, meeting rooms, and other facilities, which is insufficient. Requests occupants to be provided with at least one, possibly two spaces, as well as spaces for visitors and other land uses provided. | The amending DA seeks approval only for permitted land uses and building envelopes above that already approved under DA-585/2019. A detailed parking and traffic assessment will be undertaken as a part of the SSDA. Notwithstanding, it is noted that the SSDA does indicate that compliance can be achieved with relevant parking rates applying to the proposed land uses. |

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the planning controls and proposal in detail:

5.1 Land Use

The original concept DA (DA-585/2019) received approval for various uses across the broader Civic Place site, including:

- In Phase A - information and education facility (public library), public administration building, and either (or a combination of) commercial premises or child-care centre uses.
- In Phase B - Either (or a combination of) commercial premises, educational establishments, tourist and visitor accommodation or boarding house (student accommodation) uses.

The subject application indicates that, since the granting of concept approval, there has been a change in market conditions including a reduced appetite for commercial, boarding house, hotel and educational establishment uses, which have coincided with Sydney's ongoing and worsening housing crisis.

The application is supported by an Economic Statement which outlines the economic justification to incorporate residential uses within the building. The statement examines the economic necessity of residential development in the context of Liverpool's current market conditions, population demographics, and relevant policy frameworks.

The report highlights Liverpool's ongoing housing shortage and affordability crisis, marked by high demand for rental properties, a low residential vacancy rate of 0.8%, and a persistent undersupply of smaller dwellings. Additionally, projected population growth in the Liverpool Local Government Area (LGA) suggests a need for up to 15,702 new dwellings by 2036, further supporting the case for increased residential development.

By shifting focus to residential uses, the proposed concept DA amendment aims to align Civic Place with local economic needs, enabling up to 350 new units within the Liverpool city centre. This adjustment is projected to attract approximately 1,110 new residents, boosting local retail expenditure by an estimated \$14 million annually and enhancing the vibrancy of Liverpool CBD. Ultimately, the Economic Statement concludes that the amended DA will provide substantial economic and community benefits, supporting Liverpool's broader urban development and housing objectives.

Given the above, it is considered that the proposal to introduce residential land uses is in the public interest and should be supported.

5.2 Building Envelope

Amendment to the approved building envelope is sought under this amending DA, seeking:

- A minor increase in total building height by 0.035m;
- A minor extrusion of the south (Terminus Street) elevation, extending an additional 0.4m to the south;
- A minor extrusion of the north (Scott Street) elevation, increasing an additional 4.4m (maximum) further north; and
- An increase in the podium street wall height by 6m, from RL 50.50m to RL 56.50m.

Associated matters for consideration associated with these changes are discussed below.

Overshadowing

The DA is supported by overshadowing diagrams that indicate the extent of additional shadow resulting from the building envelope amendments at the winter solstice or worst-case scenario.

The Shadow Diagrams demonstrate that the proposed envelope will result in minimal overshadowing above that already approved under DA-585/2019. Negligible additional shadows are cast between 9am-12pm, and only a very small additional shadow is cast from 1-3pm as shown in **Figure 11**. This additional shadow extent extends over Terminus Street, the commercial zone to the south and over the railway line, avoiding existing residences.

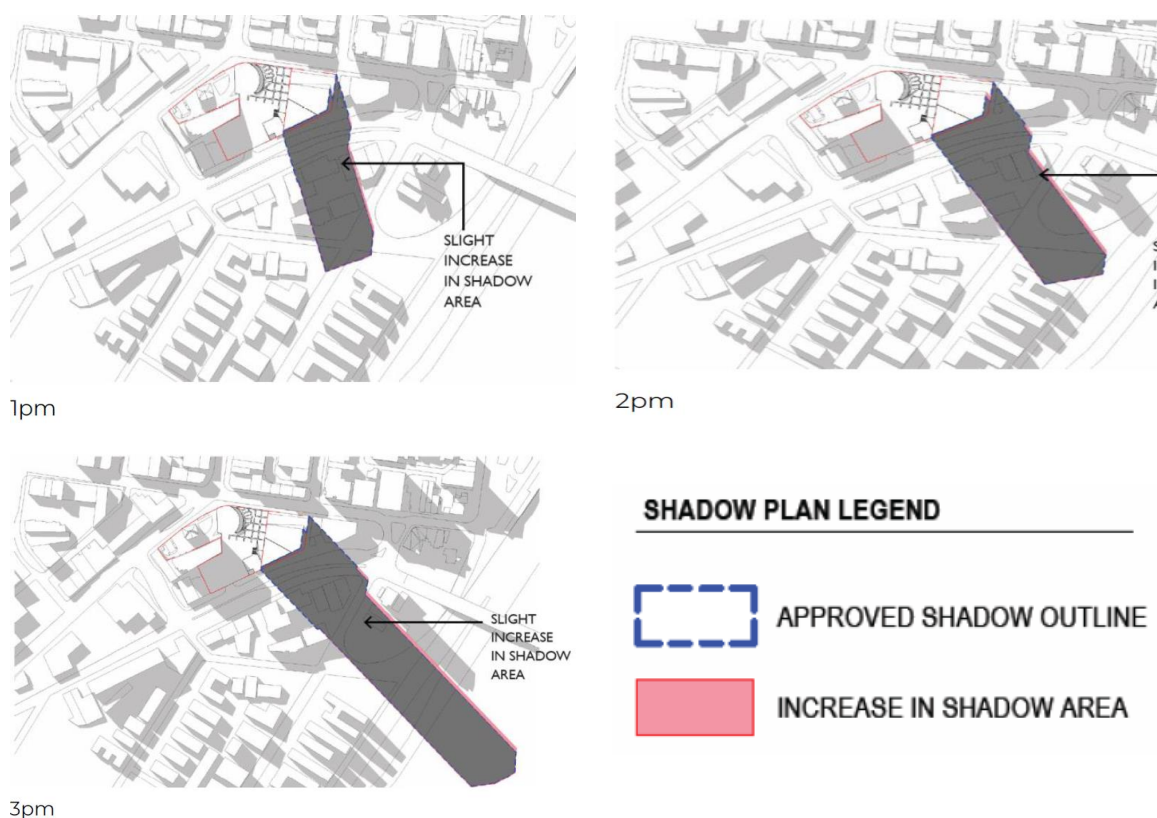


Figure 11: Additional overshadowing resulting from proposal

Source: Scott Carver

The additional shadow extents are minor and acceptable. They represent only the maximum possible outcome and provide opportunity for refinement through the detailed SSDA process.

Street Frontage Heights

The proposal increases the street frontage height along Scott Street by 6m from RL 50.50 to RL 56.50.

The applicant's Statement of Environmental Effects and supporting architectural documentation indicates that the increased tower height aligns with current and emerging height datums along Macquarie and Scott Streets, with 7-12 storeys being generally typical of established street frontages in this location (see **Figure 12**). The increased podium height is not considered to result in any unreasonable impacts and is considered acceptable.

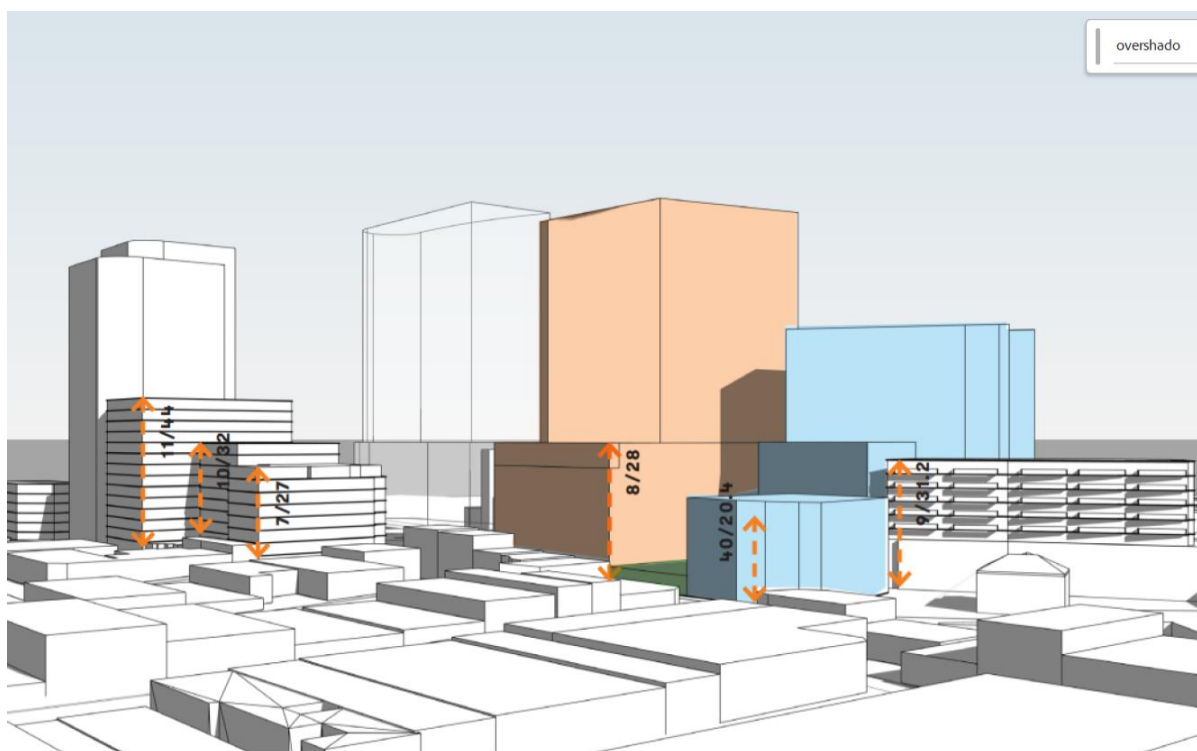


Figure 12: Street frontage height analysis (X/Y = height of street frontages in storeys/metres)

Source: Scott Carver

Building Separation

Extrusions to the tower's northern (Scott Street) and southern (Terminus Street) facades calls into consideration building separation requirements under LLEP 2008 and the ADG.

As has been outlined in this report:

- The original concept DA (DA-585/2019) was approved subject to a non-compliance with the LLEP 2008 building separation controls, following the consent authority's acceptance of a clause 4.6 variation request made by the applicant for that DA.

The subject application does not increase the extent of the variations already approved and there is no need to re-assess this clause.

- As a result of introducing residential uses into the building, the ADG becomes a consideration. Minimum building separation distances are also outlined within the ADG.

The applicant was requested to demonstrate compliance with the ADG design criteria through the assessment process. In response, they drew attention to the ability for the reference scheme to comply with its requirements through direct achievement of design criteria, consistency with design guidance, or otherwise through relying on flexibility afforded to BtR developments under s. 75 of SEPP (Housing) 2021. The applicant also drew attention to the flexibility afforded by s.4.22(5) of the EP&A Act 1979 which confirms a consent authority need not consider certain matters within a concept application that will be subject to a detailed development application.

Given the flexibility inherent within the ADG itself, which is a performance based document focused on achieving qualitative objectives, as well as the aforementioned

flexibility afforded by SEPP (Housing) 2021 and the EP&A Act 1979 related to this topic, further analysis of the reference scheme's ability to achieve ADG building separations is not deemed necessary for the purposes of this application.

5.3 Design Excellence

As outlined earlier in this report, the DA has been reviewed by the DEP which provided a number of matters for consideration.

It should be noted that the detailed application (SSDA) is also subject to a design excellence process and has been reviewed by the State Design Review Panel (SDRP). In minutes from the panel meeting dated 9 April 2024, the DEP noted the need for a streamlined and consistent design integrity process including consistency and continuity of feedback provided. In this regard, the DEP focussed its recommendations for this application on public domain outcomes and continuation of the already completed Civic Place Phase A site.

A response to each of the items raised by the DEP is provided below. While a number of recommendations have been made which do require resolution, these are generally considered appropriate to resolve through the SSDA (or another detailed DA).

Noting the DEP's broad general support for the proposal, proposed Condition 4 of the approval, and the ability to resolve design further through the SSDA phase, it is considered that the application has demonstrated sufficient capability of achieving design excellence as relevant to a concept application.

Built Form and Scale

The Panel recommend the applicant provide a revised public domain plan demonstrating consistency and continuity with the ground floor plane of the approved and constructed Phase A development. It is important for this space to seamlessly integrate, to enhance the public domain offering. It is encouraged that a meeting be held with the Phase A Landscape Architect and Architect.

The Panel also note that the civic space proposed would be compromised by the residential building's footprint impact at ground level, and that a reduced public domain offering is proposed compared to the previous approved public domain plan. Various other improvements were suggested by the Panel; however, these relate to a detailed design and not the proposed concept envelope being assessed under the subject DA.

Comment: A concept landscape and public domain plan was requested from the applicant in response to the DEP's requests. In response, the applicant provided information related to a Concept Landscape Plan, prepared by Arcadia (**Figure 13**) which intends for the public domain between Phase A and Phase B to be fully integrated.

However, the concept landscape plan represents one possible outcome, with the definitive landscape outcome subject to the design review process via the SSDA. The applicant noted that Condition 4 of the approval would ensure the SDRP would review and endorse the final landscape and public domain plan through the SSDA process.

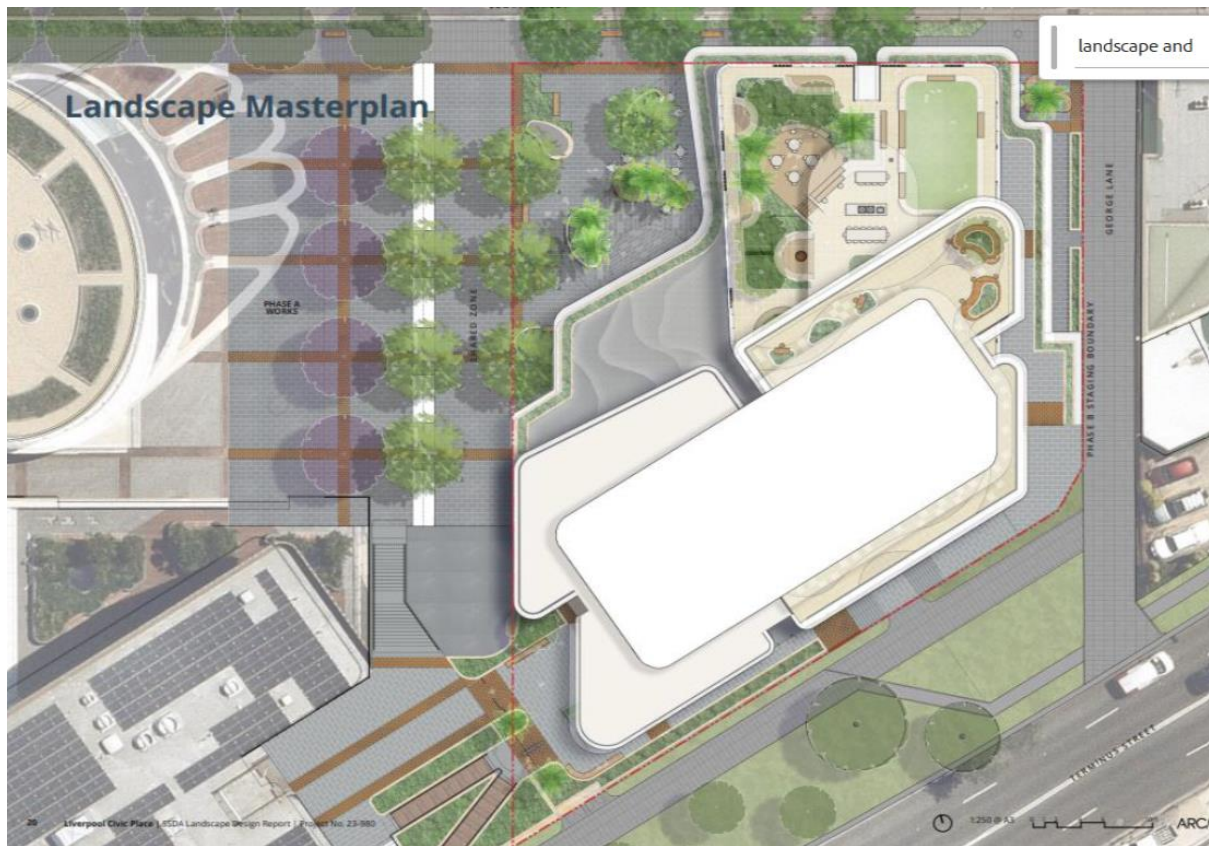


Figure 13: Concept landscape master plan

Source: Arcadia

Sustainability

There is no deep soil provided in the proposal, which is a new opportunity that was not presented in the previous DA. The applicant is recommended to seek opportunities to incorporate deep soil for trees throughout the ground plane, as meaningful sustainable landscape is a fundamental part of any design excellence approach.

Comment: Given the application is an amending DA which primarily seeks only to amend building envelopes and permitted land use outcomes, it is not considered appropriate to enforce an increase or introduction in deep soil provision. Notwithstanding, this matter can be further assessed as a part of the detailed SSDA and through engagement with the SDRP.

Landscape

The approved public domain plan consisted of an eleven-tree arrangement of Crepe Myrtles, which have now been planted as mature trees. These play a key role in the success of the public domain. The Panel will not support any changes to these trees. The approved public domain plan's interface between Phase A and Phase B was well-considered, and the applicant should consider the relationship between the built form and the ground floor plane to enable retention of all trees, with generous space provided for seating around such.

Comment: This is a detailed comment regarding public domain outcomes and are appropriate to assess as a part of the detailed SSDA.

Amenity

The panel urges that all ADG requirements are met. Visual privacy will need to be considered in detail with regard to setbacks and separation distances between the detailed Phase B building and the constructed Phase A buildings. It is noted that residential and commercial uses can happily co-exist, though detailed analysis would need to be provided. Sunlight and amenity cannot be compromised.

Comment: The applicant was requested to provide further clarity regarding ADG compliance and submit a reference scheme which showed key provisions were capable of compliance. In response, the applicant has contended that an ADG assessment is a matter for the detailed DA and should not be required at the concept DA stage in accordance with s. 4.22(5) of the EP&A Act 1979. In addition, reference was made to provisions at section 75 SEPP (Housing) 2021 which guides consent authorities to be flexible in the assessment of ADG compliance for Build-to-Rent housing.

Given the inherent flexibility called for within both the EP&A Act 1979 regarding the level of assessment required for concept DA stage, and within SEPP (Housing) 2021 related to the application of the ADG, the applicant's position is accepted and it is considered that a detailed ADG assessment is appropriately left for the detailed DA.

Safety

The panel has concerns for the urban condition, public domain, and pedestrian safety aspects along the Terminus Street side of the proposal. Little information was provided for the design of this area.

Comment: This is a matter that can be considered and resolved in detail within the SSDA, rather than the subject amending concept DA.

Housing Diversity and Social Interaction

NSW has a different (and usually higher) standard of design, amenity and environmental conditions to other states, especially when considering apartment design and amenity. The applicant is encouraged to seek build-to-rent precedents from NSW only as examples of good practice and successful design. The applicant is encouraged to provide greater diversity of communal spaces dispersed throughout the tower.

Comment: This is a matter that can be considered and resolved in detail within the SSDA, rather than the subject amending concept DA.

Aesthetics

Whilst noting it is the early stages of the design the Panel is supportive of the architectural resolution of the built form, including the building alignments and relationship to the Phase A buildings, rounded edges and materiality proposed. The panel requires the applicant to provide drawings demonstrating how the development addresses the Terminus Street frontage and public domain.

Comment: This is a matter that can be considered and resolved in detail within the SSDA, rather than the subject amending concept DA.

Outcome

The project is supported. The applicant is requested to respond to the recommendations made by the panel, and revised plans be reviewed by Council.

Comment: Notwithstanding the request for amendments to be made, the Panel's broad support for the application is noted. As outlined above, the amendments requested by the Panel largely relate to the reference scheme which is subject to a separate approval pathway, currently being under consideration by DPHI as an SSDA.

5.4 Public Realm and Urban Design Outcomes

Both Council's CDPD department and the DEP raised a number of detailed urban design and public realm issues for consideration in response to a review of the reference scheme submitted alongside the application. These have generally been summarised earlier within this report at Section 4 (Referrals and Submissions) 5.4 5.3 (Design Excellence).

The commentary from CDPD and DEP suggests there is the opportunity for refinement within the reference scheme and, in particular, for improvements to be made to the ground floor public realm. Similar comments were raised by both parties regarding:

- Highlighting the importance of an active, continuous street frontage, particularly along Scott Street, and discourage fragmented or inactive edges that could disrupt pedestrian flow and visual engagement.
- Ensuring the proposed through-site link is generous, well-connected, and open to the sky to foster a welcoming public space.
- Stressing the importance of tree retention, specifically crepe myrtles, from the previous public domain plan.
- Potential safety concerns related to the shared traffic and pedestrian zones within the precinct, especially in relation to increased traffic flow due to residential use.
- The need for robust sustainability measures and encouraging deep soil planting and large tree canopies to mitigate the urban heat island effect.
- Highlighting potential privacy issues due to the close proximity between residential and civic or commercial buildings.
- The importance of a cohesive aesthetic that respects the architectural language of Phase A and integrates well with the public domain, stressing that it should serve as a landmark and identity marker for the Liverpool CBD.

This commentary is acknowledged however it is stressed that the subject application itself cannot satisfy or resolve the above items. It is an amending DA to a concept application which seeks to introduce additional land uses, and make minor amendments to the building envelope. The application is not supported by detailed plans for approval, only a 'reference scheme' which provides a broad indication of the final outcome.

The approval document which would be most relevant to the above commentary would be a Public Domain and Landscape Plan. Such a plan was not approved under the previous concept DA (DA-585/2019) nor has one been submitted under this application. However, Condition 4 of the previous concept DA requires a detailed landscape and public realm plan be developed throughout the convening of a *Public Domain Design Panel*. The condition required that, prior to the determination of any detailed DA related to the concept application, a Public Domain and Landscape Plan is to incorporate the recommendations of the panel.

The subject application seeks to retain the condition (now Condition 5), amending it by allowing the process to be satisfied by a State Design Review Panel (SDRP). The condition requires that a representative of Council's CDPD team be on the Public Domain Design Panel or SDRP.

This condition is considered to provide adequate opportunity for urban design and public realm matters to be resolved in detail through future detailed applications. It is noted that this process has already occurred for the SSDA, for which two SDRPs have been held. Council's Coordinator City Design and Public Domain was present at both SDRPs.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls and the key issues identified in this report, it is considered that the application can be supported, subject to recommended conditions of consent (refer Appendix A).

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily 373386.2024- for the purposes of this application through the information that has been submitted, submission of additional information, recommended draft conditions at **Attachment A**, or will otherwise be resolved through the comprehensive assessment of the detailed SSDA currently under consideration by DPHI.

7. RECOMMENDATION

That the Development Application DA-72/2024 for modification to the approved Concept Development Application (DA-585/2019) by change of use to allow for Residential Flat Buildings, Shop Top Housing, and Co-living Housing in the Phase B building envelope and to modify and extend the approved Building Envelope of Phase B building for Liverpool Civic Place at 40 – 52 Scott Street, Liverpool be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent - 371914.2024
- Attachment B: Proposed Envelope Plans - 032622.2024
- Attachment C: Reference Scheme - 032629.2024
- Attachment D: Statement of Environmental Effects - 032632.2024
- Attachment E: Design Report - 032627.2024
- Attachment F: Traffic Impact Assessment - 032634.2024
- Attachment G: DEP Minutes 9th April - 133111.2024
- Attachment H: DCP Table of Compliance - 371916.2024
- Attachment I: Council comments on SSD-62367962 - 269190.2024
- Attachment J: 4.6 Variation Request - 354342.2024
- Attachment K: NSW Government Architect - State Design Review Panel Advice x 2 letters - 373386.2024