



COUNCIL ASSESSMENT REPORT
SYDNEY WESTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSWC-419 – DA-216/2024
PROPOSAL	Concept Development Application for the demolition of all existing structures, amalgamation of lots and boundary adjustment, and the construction of two commercial towers of 17 and 28 storeys above a 4 storey podium with 2.5 levels of basement car parking and a pedestrian through-site link connecting George Street and Macquarie Mall
ADDRESS	Lot 2 DP 591959 – 132 Macquarie Street, Liverpool Lot 2 DP 90210 – 127 George Street, Liverpool Lot 1 DP 657061 – 131 George Street, Liverpool Lot 1B DP 401936 – 146 Macquarie Street, Liverpool Lot 1 DP 620512 – 152 Macquarie Street, Liverpool
APPLICANT	Mr. G De Chalain
OWNER	Copping and Vartuli Pty Ltd; FBDM Pty Ltd; Sydrom Pty Limited; Deemhire Pty Limited; Liverpool City Council
DA LODGEMENT DATE	7 May 2024
APPLICATION TYPE	Concept DA
REGIONALLY SIGNIFICANT CRITERIA	Clause 2, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> Clause 3, Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i>
CIV	\$168,253,812.60 (excluding GST)
CLAUSE 4.6 REQUESTS	Nil
KEY SEPP/LEP	State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Liverpool Local Environmental Plan 2008

TOTAL & UNIQUE SUBMISSIONS ISSUES SUBMISSIONS	One (1) submission. Issues: • Overshadowing of solar panels • Interruption to property access and parking during construction and at completion • Interruption to business trading during construction
DOCUMENTS SUBMITTED FOR CONSIDERATION	Architectural Plans Addendum Statement of Environmental Effects Survey Plan Plan of Proposed Subdivision Tables of Compliance
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	Nil
RECOMMENDATION	Refusal
DRAFT CONDITIONS TO APPLICANT	N/A
SCHEDULED MEETING DATE	N/A
PLAN VERSION	20.8.2025, Issue D
PREPARED BY	Darren Laybutt, GAT & Associates
DATE OF REPORT	5 December 2025

1. EXECUTIVE SUMMARY

The proposed application (DA-216/2024) is a concept development application submitted under Section 4.23 of the Environmental Planning and Assessment Act 1979. The concept application entails the demolition of all existing structures, amalgamation of lots and a boundary adjustment, and the construction of two commercial towers of 17 and 28 storeys above a 4 storey podium with basement car parking and a pedestrian through-site link connecting George Street and Macquarie Mall at 132-152 Macquarie Street and 127-131 George Street, Liverpool. The development is identified as an entirely commercial building.

The site consists of five (5) irregularly shaped lots at the corner of the pedestrianised section of Macquarie Street, Elizabeth Street and George Street, with a rear boundary to Hanwell Serviceway. The lots are commonly known as 132, 146 and 152 Macquarie Street and 127 and 131 George Street, Liverpool. The site currently has a site area of 4,394m² and, following a land swap with Liverpool City Council, will have a site area of 4,546m².

Existing development on the land is commercial and generally single storey structures, with one two storey and one four storey building. No vegetation is present on the site, though street trees and vegetation are present in the public domain on Elizabeth Street and Macquarie Street.

The land is zoned MU1 Mixed Use pursuant to the Liverpool Local Environmental Plan 2008 ("the LEP"). The site is within the Liverpool City Centre, opposite the state heritage listed St Luke's Church (west), Westfield Liverpool (north), Western Sydney University (north), an

approved 34 storey mixed use development (east) and further, older commercial development (south). The site is approximately 600m walking distance from Liverpool Train Station.

The development forecast in the concept development application has an estimated development cost of \$168,253,812.60 based on the submitted Quantity Surveyors report. The development meets the criteria under Clause 2, Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021. Consequently, it is a regionally significant development to be determined by the Sydney Western City Planning Panel (SWCPP).

The concept development application also occurs over land that is currently owned by Liverpool City Council. The application depends on a land swap whereby the applicant will dedicate 100.8m² of land for road widening on Hanwell Serviceway and acquire a total of 247.6m² from Liverpool City Council, with a portion of this land at the northwestern corner of the site (Macquarie Street/Elizabeth Street corner) and the remainder on Hanwell Serviceway, to facilitate a more regularly shaped allotment. Owners consent from Liverpool City Council has been obtained for the application. An agreement is in place separate from the assessment of this application for the land swap, though it has not yet occurred. However, as the concept development proposes work on land owned by Council with an estimated development cost exceeding \$5 million, the application is also regionally significant under Clause 3, Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021.

The development will utilise the provisions of Clause 7.5A of the Liverpool Local Environmental Plan 2008, seeking the bonus FSR provisions afforded to certain land in the city centre to achieve a 10:1 FSR. This concept application is made pursuant to Section 4.23 of the Environmental Planning and Assessment Act 1979 in place of a development control plan as otherwise required by Clause 7.5A(3)(a).

The application was placed on exhibition from 30 May to 27 June 2024. One (1) submission was received objecting to the proposal, on the basis of overshadowing impacts on solar panels and disruption of business and parking access for the property during construction and operation. These matters are addressed in the report.

Following the receipt of referral comments, a Request for Further Information (RFI) letter was issued by Council on 16 October 2024, which raised a range of issues relating to planning, urban design, community planning, engineering, traffic and transport, economic impacts, heritage, public art, environmental health, contamination, and waste management.

A preliminary briefing was held with the SWCPP on 21 October 2024 and the following key points were discussed:

- The building envelope is the principal concern of the concept plan.
- The Council's interest in the materials and façade, particularly in relation to the way in which they resonate with the adjacent heritage churches and the plan for the pedestrianisation of Macquarie Street, are important issues, but they can be developed at DA stage (for built form).
- The Council acknowledged advantages for the massing changes in the concept plan which might reduce overshadowing of the heritage listed church.
- The Applicant indicated an openness to adopting suggestions made by the Design Excellence Panel in regard to resolving the through-site link issue.
- The orientation of the western tower and the extent to which it provides for reinforcement of the corner of Macquarie and Elizabeth Streets, as well as the extent to which the address of the building might be seen as prioritising the frontage opposite Westfield. Encouraging Macquarie Street as public destination is important to any consideration of this site.

- The Council's economic planners and the Design Excellence Panel were concerned that the proposed large floor plates for all three buildings reduced the potential for encouraging the availability of smaller boutique style tenants. Solutions suggested by Council's Design Excellence Panel would be to reduce the height of the connecting central tower or possibly separating the proposal into two or three separate but connected towers, which may have an impact on yield.
- Council's planning team noted that the podium proposed in the concept was lower than that anticipated by the DCP. It may be that the envelope could be increased to reflect the DCP, but final design decisions in that regard could be left to DA stage.
- Contamination remediation is an issue for the DA and the Council has requested further information in that regard.

Following the issue of the RFI letter dated 16 October 2024 and the briefing with the SWCPP, the applicant submitted amended plans and documentation between October 2024 and April 2025. A further briefing with the SWCPP was held on 23 June 2025. The amended plans received from the applicant consolidated the development into two towers (three towers were originally proposed).

Additional amended plans and documents were submitted by the applicant in July and August 2025.

Following the receipt of additional information, the application was re-notified from 1 August to 15 August 2025. No submissions were received in this period.

Following the receipt of the additional information, a number of external and internal referral comments have been received, with the majority supporting the concept development application subject to conditions. However, there are issues relating to urban design and heritage which remain outstanding.

The key issues associated with the proposal include:

1. *Heritage* - The proposed visual impact assessment will allow for the assessment of the siting and bulk of the proposed development of the urban landscape associated with St Lukes Church, including impacts on views to, from and concurrent with the item. As this relates to siting and bulk, items up for consideration with a concept DA, determination cannot occur until this visual assessment has been prepared and provided to Council for review.

Further, the applicant has still failed to provide a preliminary historical archaeological assessment to determine the potential for historical archaeology, which would be followed by a full historic archaeological assessment for the full development application.

2. *Urban Design* – While the additional information show some improvements to the design, there are still many recommendations that have not been responded to, or information not provided. The applicant's justification is that many of Council and the DEP's requests should not be requested for a Concept DA. CDPD's referral recommendation and the DEP recommendations were mostly in relation to design considerations that will impact the Concept Envelope. In CDPD's opinion, this information is important to demonstrate the proposed envelope will achieve a good design outcome for the CBD, in particular the public domain. CDPD is concerned that if the concept DA is approved with limited surety that a good design can be achieved with these envelopes, it will be difficult to request in the future Detailed DA.

In regard to energy conservation, the extensive glazing on the façades will not meet the expected sustainable performance. Excessively glazed façades in Liverpool's hot

climate have been shown to not work. The concept design should develop effective strategies to allow natural ventilation by allowing operable features, in combination with trickle vents at appropriate locations.

3. *Floor Space Ratio* – The development site control plan (based on the site survey) submitted with the application distinguishes the site area associated with the Area 7 and Area 8 lots (Drawing A305 Issue A). However, the amended architectural plans submitted following the request for additional information do not include any detailed floor plans to enable an assessment of whether the envelope would facilitate a GFA equal to, above or below the equivalent 2.5:1 FSR on the Area 7 lots, and 10:1 FSR on the Area 8 lots.
4. *Insufficient Information* – The applicant was requested to provide information responding to issues raised by the Design Excellence Panel and Urban Design Officer on several occasions, but insufficient responses have been provided to the Council.

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, in particular LLEP 2008, the proposal cannot be supported.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the EP&A Act, DA-216/2024 is recommended for refusal subject to the reasons contained at **Attachment A** of this report.

2. THE SITE AND LOCALITY

2.1 The Site

The subject site consists of five (5) allotments on the corner of Macquarie Street, Elizabeth Street and George Street in Liverpool. The rear of the site adjoins Hanwell Serviceway. The consolidated site area is 4,394m² by title.

The common and legal descriptions of each lot are in the table below.

Table 1: Site Description

Address	Legal Description
132 Macquarie Street, Liverpool	Lot 2 DP 591959
127 George Street, Liverpool	Lot 2 DP 90210
131 George Street, Liverpool	Lot 1 DP 657061
146 Macquarie Street, Liverpool	Lot 1B DP 401936
152 Macquarie Street, Liverpool	Lot 1 DP 620512

The consolidated land has an irregular shape with approximate frontages of:

- Macquarie Street: 63.09m
- Elizabeth Street: 83.51m
- George Street: 37.005m
- Hanwell Serviceway: 103.14m.

The land contains primarily single with one two storey and one four storey commercial buildings, comprising a number of uses including food and drink premises, business and retail premises. A car park is present at the rear of 131 George Street, accessed from Hanwell Serviceway.

An aerial image of the site is provided in Figure 1 below, with the site outlined in orange.



Figure 1: Site Aerial (Source: SDT Explorer)

The site is largely covered by buildings and otherwise paved, with no on-site vegetation. A substation is present on the Hanwell Serviceway frontage of 131 George Street.

Some vegetation is present in the public domain along Macquarie Street and Elizabeth Street.

The application proposes a land sale/acquisition with Liverpool City Council, which will increase the total site area to 4,546m². This is detailed further in this report.

Photos of the site are provided in Section 2.3 of this report.

2.2 The Locality

The land is zoned MU1 Mixed Use under the LEP and is located within the Liverpool City Centre. The current land uses around the site are primarily commercial.

Specifically, the development around the site is:

West

The land directly adjoins the pedestrian portion of the Macquarie Mall shopping strip.

Further west is the state heritage listed St Luke's Church.

North

Across Elizabeth Street are Westfield Liverpool and Western Sydney University's Ngara Ngura Building.

East

To the northeast is All Saints Catholic Church and Primary School.

Directly east is a currently vacant land associated with DA-1408/2021 "Illoura Place" for a 34 storey mixed use development comprising basement parking, commercial ground floor and podium, and 312 residential units at 26 Elizabeth Street, Liverpool.

Southeast of the site is the Liverpool Court House and Police Station.

South

Single storey commercial land uses are present at 158 Macquarie Street and 137 George Street to the south along Macquarie Mall and across Hanwell Serviceway, respectively.

The site is approximately 600m walking distance from Liverpool Train Station. Several frequent bus services operate along Elizabeth Street. The land is also close to Bigge Park and the Liverpool Hospital to the east.

A locally significant heritage item, "Milestone", is present in the public domain at the corner of Elizabeth Street and George Street.

Refer to Figure 2 below for a contextual aerial of the immediate locality.



Figure 2: Site Context Map (Source: SDT Explorer)

2.3 Photos of the Site and Surrounds

A series of photographs of the site and the surroundings is provided below.



Figure 3: View of the Macquarie Street portion of the site from Macquarie Mall (foreground) with Western Sydney University Ngara Ngura Building in the background



Figure 4: View of the western section of the site on Elizabeth Street toward Macquarie Mall



Figure 5: View of the eastern section of the site on Elizabeth Street toward George Street



Figure 6: View of the George Street portion of the site



Figure 7: View of St Luke's Church opposite the site to the west



Figure 8: View of Westfield Liverpool entry from Macquarie Mall, looking to the northwest of the site



Figure 9: View of Elizabeth Street eastward, with the Ngara Ngura Building (Western Sydney University) to the left and the site to the right



Figure 10: View of Macquarie Mall to the south from Elizabeth Street



Figure 11: View of adjoining commercial land to the south of the site on George Street with Hanwell Serviceway to centre right



Figure 12: View of Hanwell Serviceway from George Street



Figure 13: View from Hanwell Serviceway toward the rear of the Macquarie Street portion of the site and part of the area associated with the land swap



Figure 14: View toward the rear of the Elizabeth Street portion of the site from Hanwell Serviceway



Figure 15: View toward George Street from Hanwell Serviceway, with the site to the left of the image

3. THE PROPOSAL AND BACKGROUND

3.1 The Proposal

The concept development application proposes the demolition of all existing structures, amalgamation of lots and boundary adjustment, and the construction of two commercial towers above a podium with basement car parking and a pedestrian through-site-link connecting George Street and Macquarie Mall.

The application is made pursuant to Section 4.23 of the Environmental Planning and Assessment Act 1979.

As the application is a concept development application, no building work is sought to be approved as part of this application. The application establishes the building envelope, including building height, floor area, as well as preliminary details of design excellence and public domain works (including a through-site link).

A summary of the numerical attributes of the concept is provided in Table 2 below.

The key envelope plans are provided in Figures 16-21 thereafter.

Table 2: Development Data

Control	Proposal
Site area	4,546m ²
GFA*	Allowable Total GFA: 38,013.75m ² Proposed Total GFA: 37,987m ²

FSR*	<u>Permitted:</u> 2.5:1 (Area 7) 10:1 (Area 8) <u>Proposed:</u> 2.46:1 (Area 7) 10:1 (Area 8)
Height	<u>Permitted</u> Area 8: None (Clause 7.5A) Area 7: 21m (Clause 4.3) <u>Proposed:</u> Area 8: 111.5m (max RL125.9 AHD) Area 7: 21m (max RL38.2 AHD)
Clause 4.6 Requests	No
No of apartments	Nil
Deep Soil Area	Nil
Car Parking spaces	433 (indicative)
Setbacks	<u>Ground</u> Macquarie Street: Nil Elizabeth Street: Nil to 6m George Street: 3.2m Hanwell Serviceway: Nil to 5m South (neighbour): Nil <u>Podium</u> Macquarie Street: Nil Elizabeth Street: Nil to 11m George Street: Nil Hanwell Serviceway: Nil to 5m South (neighbour): Nil <u>Tower</u> Macquarie Street: nil Elizabeth Street: 6m to 10m George Street: 6m Hanwell Serviceway: 3m to 9.65m
Separation	Minimum 28m to other towers

***GFA/FSR:** it is noted that the amended architectural plans include a table outlining the proposed GFA at each floor level, and a total FSR of the building contained within Area 7 and Area 8 (the sheet is not numbered but is titled 'Layout Plans'). However, this is not represented diagrammatically (i.e. on the floor plans), so an assessment cannot be made to confirm that the proposed GFA/FSR for Area 7 and Area 8 is compliant.

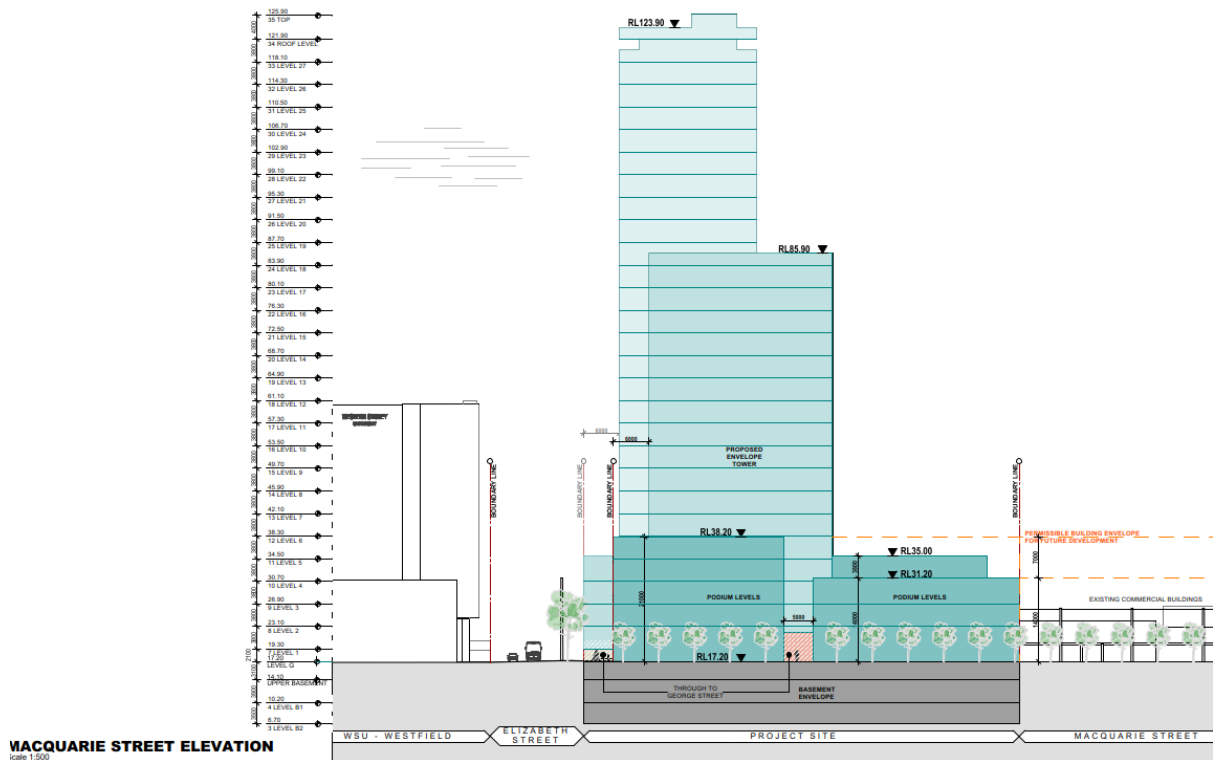


Figure 16: Indicative Macquarie Street Elevation (Drawing No. A801, Issue D)

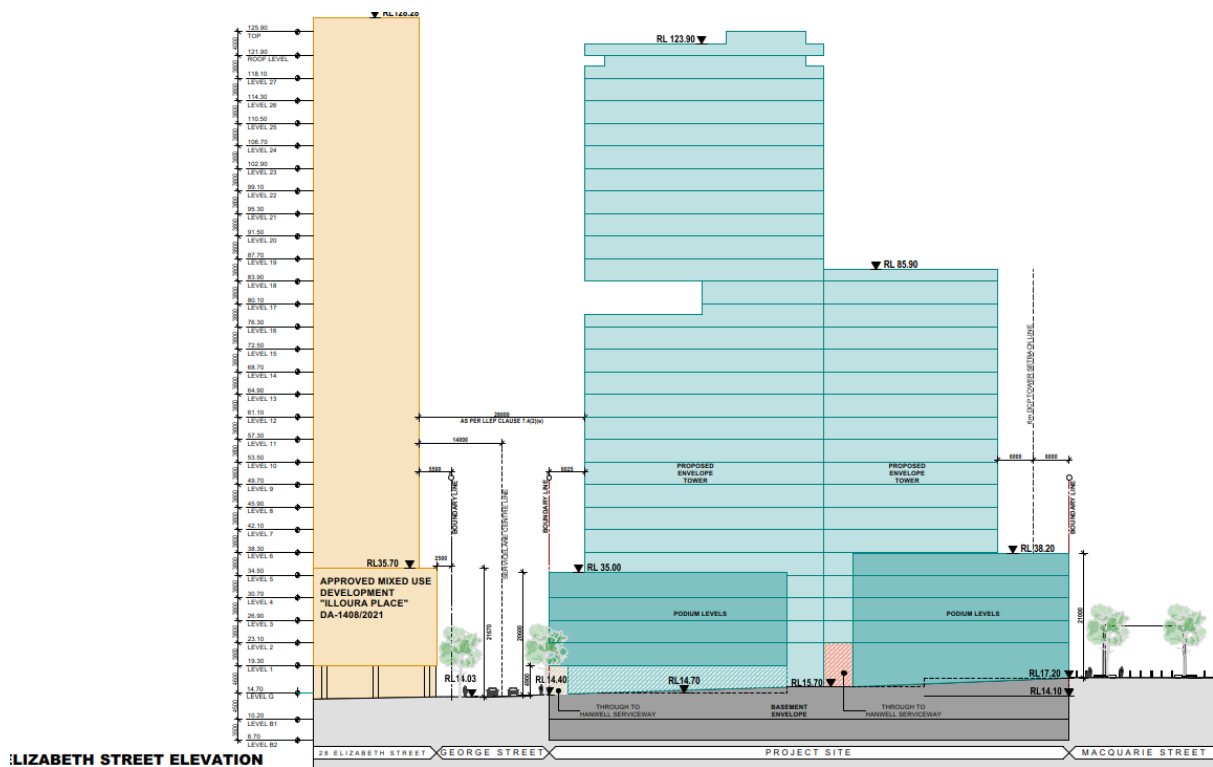


Figure 17: Indicative Elizabeth Street Elevation (Drawing No. A802, Issue D)

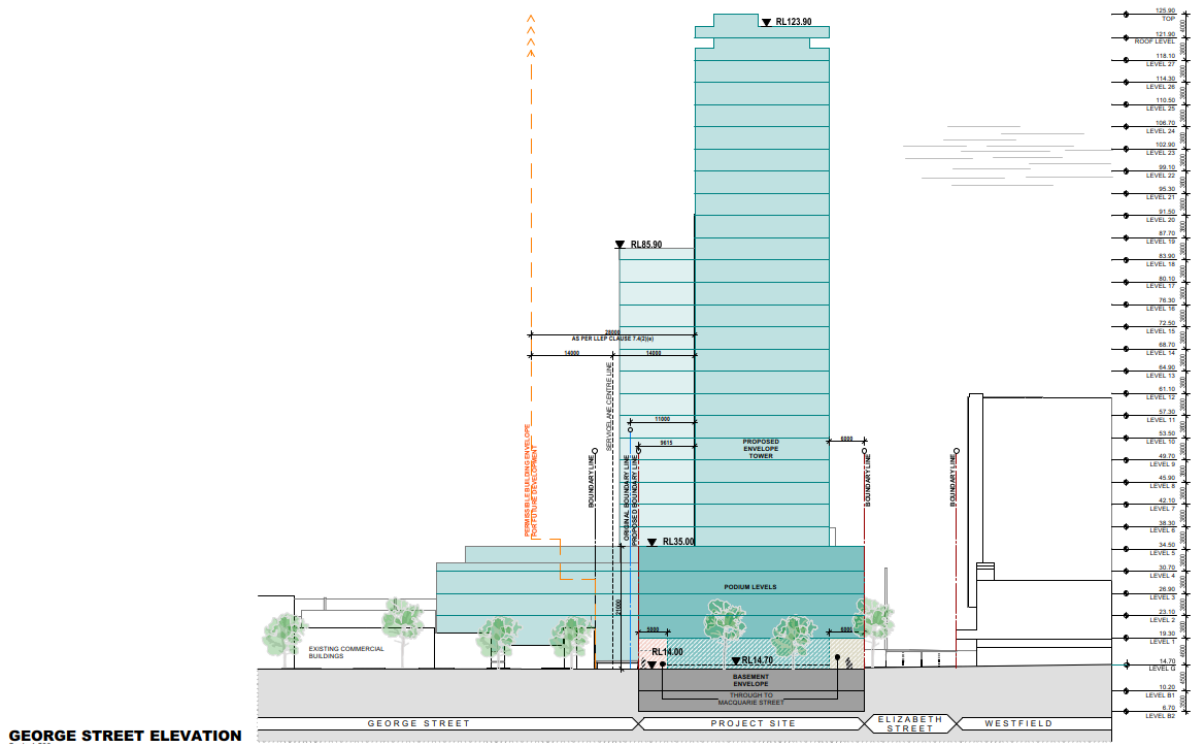


Figure 18: Indicative George Street Elevation (Drawing No. A803, Issue D)

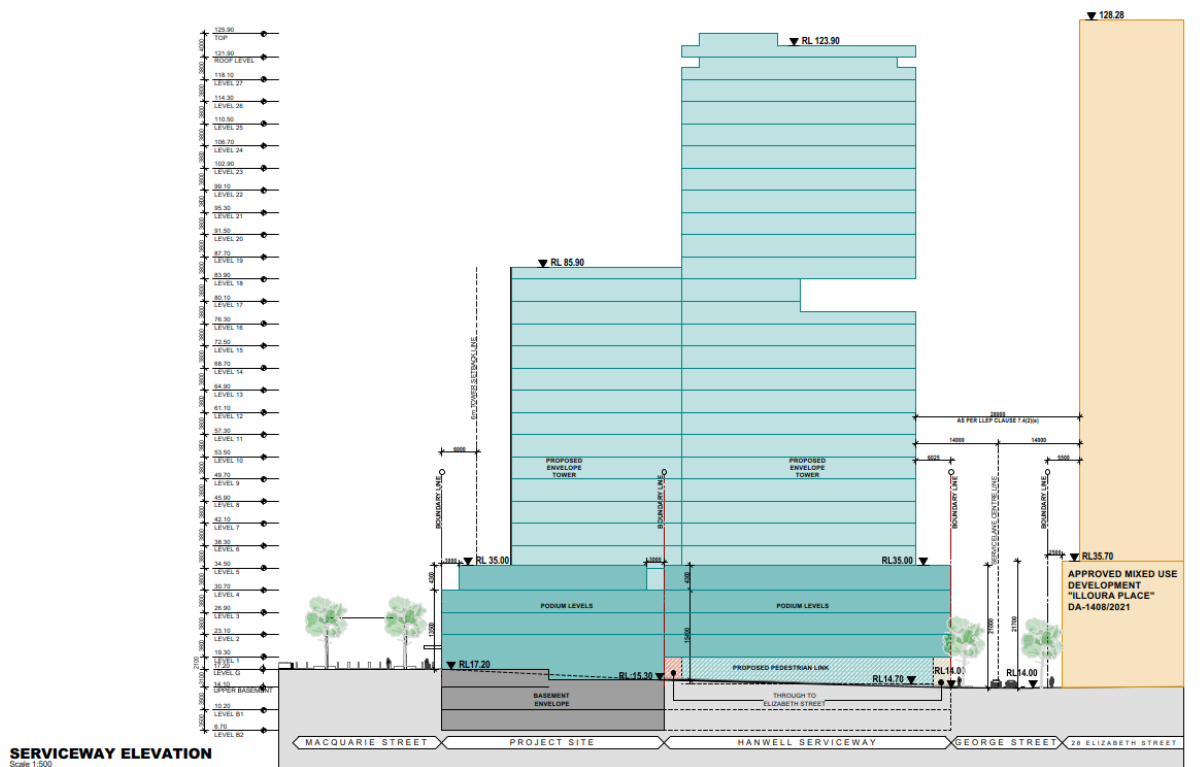


Figure 19: Indicative Serviceway Elevation (Drawing No. A804, Issue D)

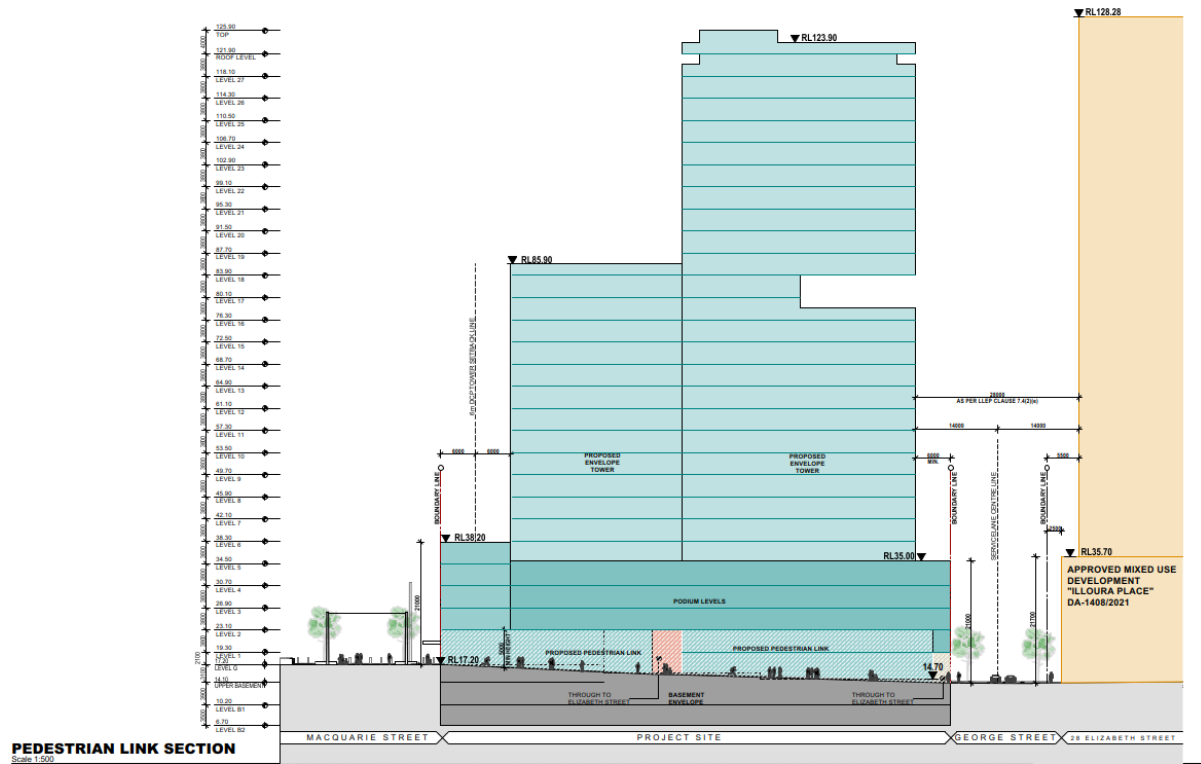


Figure 20: Indicative Pedestrian Link Section (Drawing No. A702, Issue D)

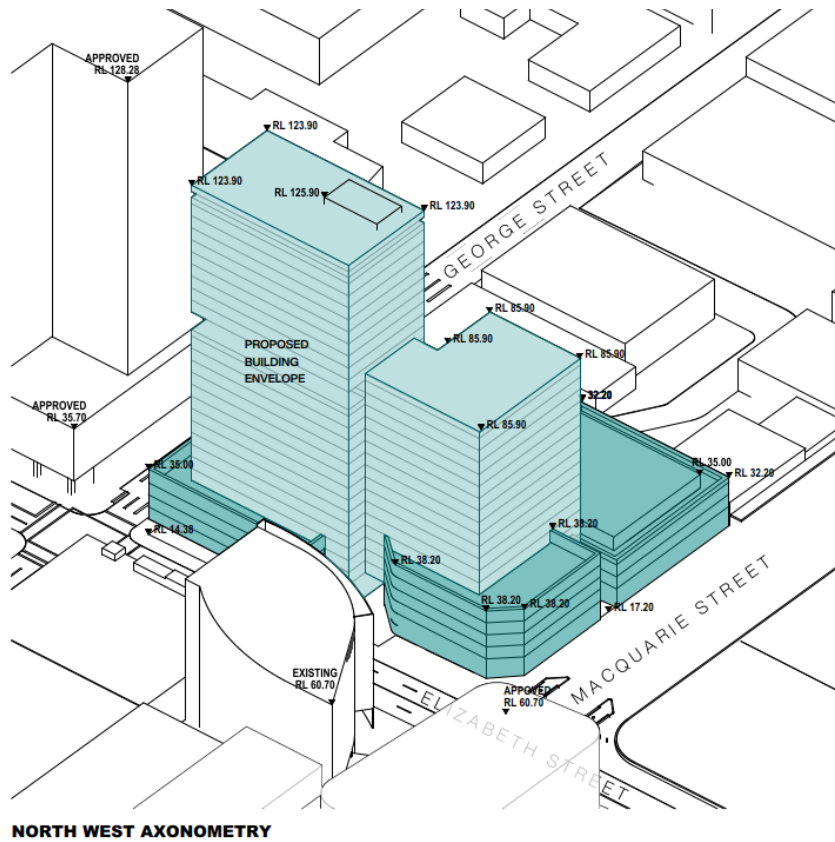


Figure 21: Indicative Northwest Perspective (Drawing No. A901, Issue B)

3.2 Detailed Description

The details of the concept application are covered below.

Demolition

All existing structures will be demolished to facilitate the proposed concept development application.

Land Amalgamation and Land Swap

The current five (5) lots will be amalgamated.

The application further proposes to both acquire land from and dedicate land to Liverpool City Council. The land acquisition plan was submitted with the application, which is shown in Figure 22 below.

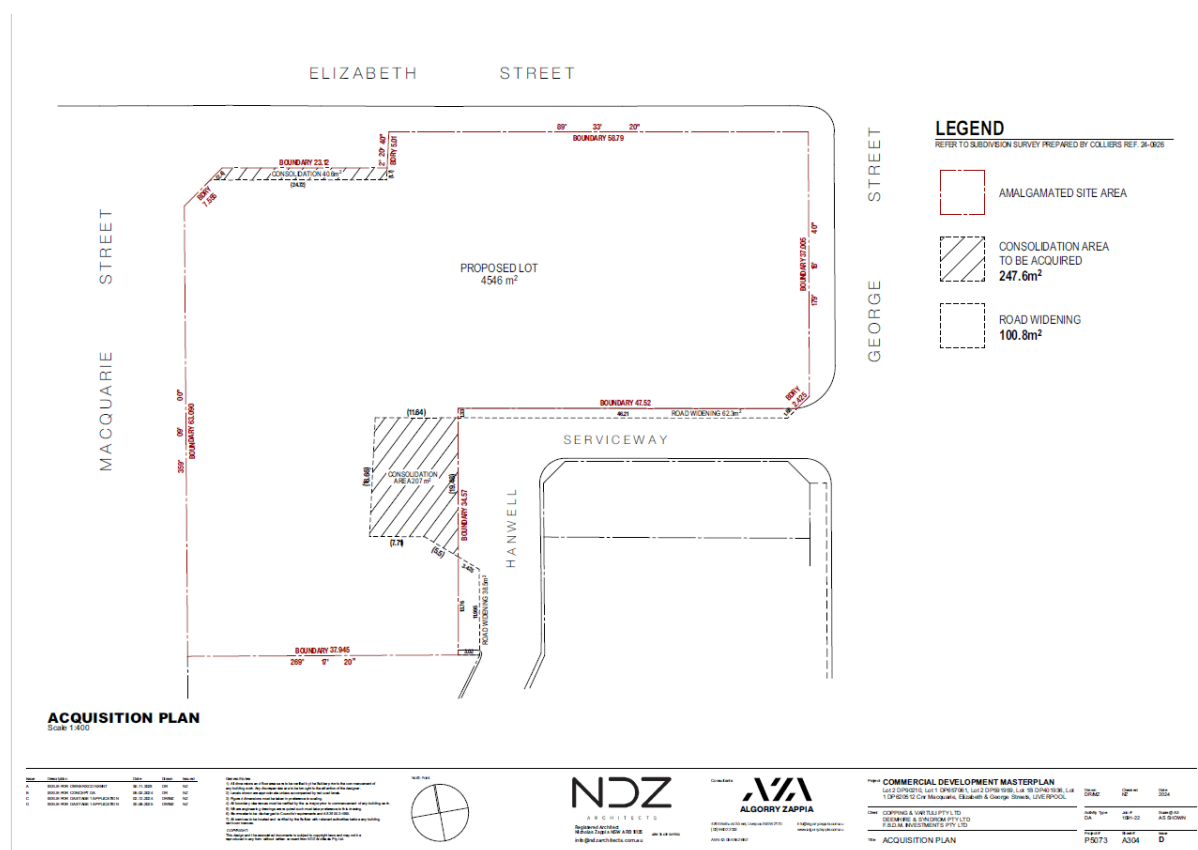


Figure 22: Land Acquisition and Dedication Plan (Source: Drawing No. A304 Issue D)

The land to be acquired from Liverpool City Council (shown in hatch on the plan above) includes:

- A 40.6m² portion of the public domain in the northwest of the site on the Elizabeth Street frontage at the corner with Macquarie Street.
- A 207m² portion of Hanwell Serviceway that facilitates access to the loading areas at the rear of the site.

The land to be dedicated to Council (labelled as road widening on the plan above) includes:

- A 62.3m² portion of the site on the northern side of Hanwell Serviceway.
- A 38.5m² portion of the site on the western side of Hanwell Serviceway.

The plan in Figure 22 identifies the new total site area as 4,546m². It is noted that the calculation of the land to be dedicated and acquired has a net site area increase of 146.6m². The areas provided equate to a new site area of 4,540.6m², less than the stated 4,456m². This discrepancy would need to be addressed at the built form development application stage.

The acquisition and dedication primarily serve to facilitate vehicle access and manoeuvring while simplifying the lot shapes and ultimately the building envelope, particularly as it fronts the Serviceway.

Council's owner's consent has been obtained, and an agreement is in place for the land swap. The transfer has not yet occurred.

Proposed Building

The concept envelope is expressed in the envelope plans. The development comprises a maximum 21m high podium and two commercial towers, approximately 70m and 111m in height. The towers are 17 and 28 storeys respectively.

The towers are positioned toward Elizabeth Street, the northern end of the site, with the taller tower closer to George Street (east) rather than the pedestrianised section of Macquarie Street (west).

Through-Site Link

A through-site-link is proposed connecting Macquarie Mall and George Street (east-west). The link is proposed with a 5m width and has a direct line of sight between the two street frontages. Refer to the street level indicative envelope plan below.

A 5m wide link also connects to Elizabeth Street.

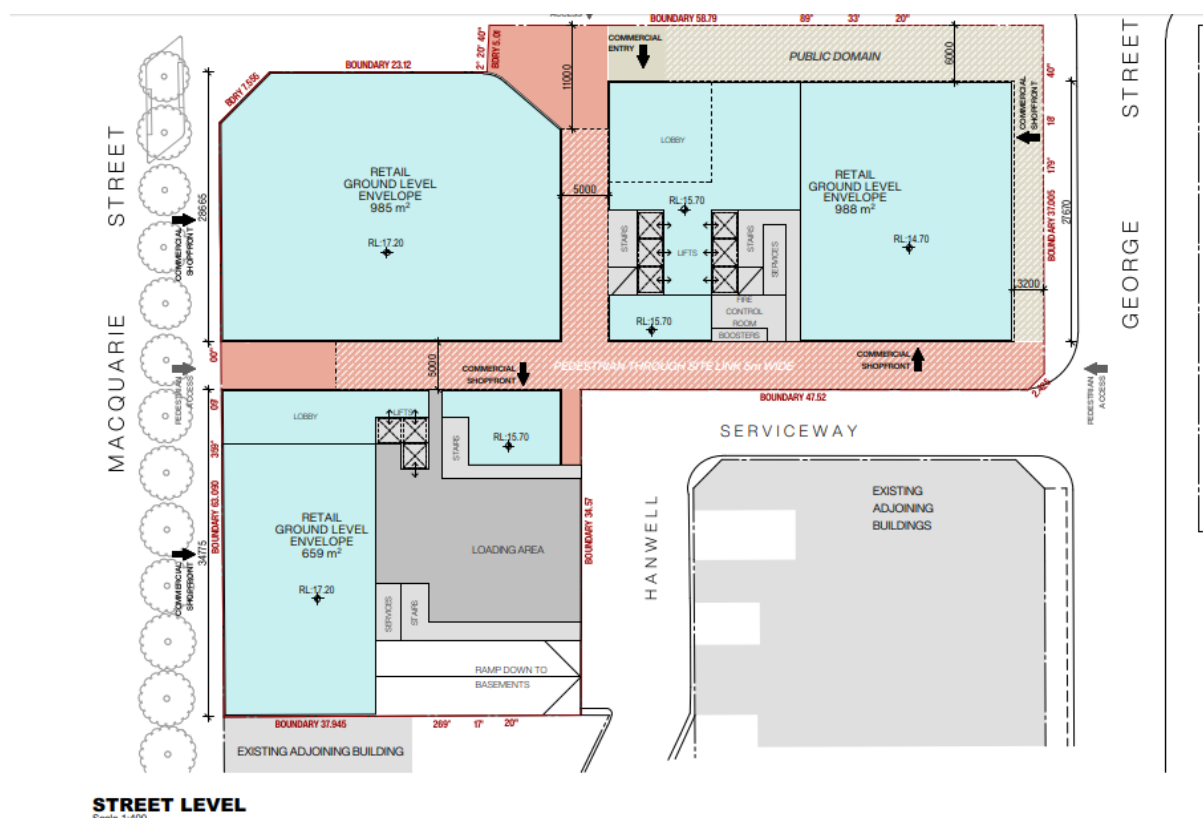


Figure 23: Street Level Indicative Envelope (Drawing No. A604, Issue A)

The application was submitted with an indicative landscape plan identifying the treatment of the through-site link. The plan is replicated below (noting it was not updated to reflect the amended through-site link), with the assessment of the detailed design of the link subject to the subsequent development application.

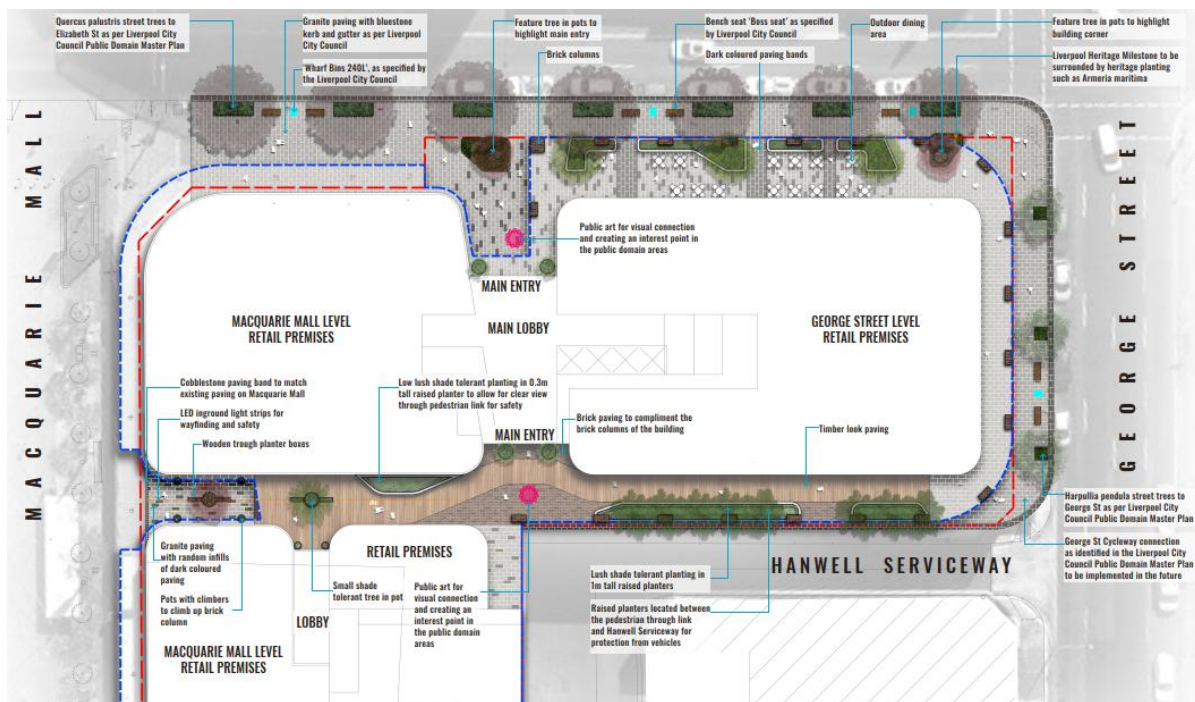


Figure 24: Indicative Landscape Plan of the Street Level (Drawing No. LDC-03 by Geoscapes)

3.3 Background

A pre-lodgement meeting was held prior to the lodgement of the application on 25 November 2020 where various issues were discussed. The main items raised for further consideration as part of the formal lodgement were:

- Clearly identifying the proposed land uses on any envelope plans.
- The maximum height will be defined by the obstacle height limit around the Bankstown Airport.
- The calculation of 10:1 FSR can only include the site area of land in Area 8 and not in Area 7, on the Floor Space Ratio Map under the LEP.
- A site specific DCP or concept development application must be submitted that appropriately addresses Clause 7.5A and specifically subclause (4).
- An urban form analysis must be submitted to consider the relationship of any development on the site with surrounding existing, proposed or approved development and potential future development.
- Shadow diagrams should be submitted to assess the impact. Avoid overshadowing of St Luke's Church Grounds.
- Separation under Clause 7.4 of the LEP should be addressed.
- The podium is inconsistent with the street setbacks and podium heights in the DCP.
- A through-site link shall be provided in alignment with the location identified in the DCP. The applicant should incorporate a two storey height, consider public art and incorporate dual facing tenancies to activate the laneway.
- A summary of the sustainability principles being incorporated as part of the project should be provided.

- Landscape plan should detail public domain upgrades.
- Various technical and expert documents should be submitted, including traffic, heritage, archaeological, contamination assessments, wind report, stormwater, etc.

The development application was lodged on **7 May 2024**. A chronology of the development application since lodgement is outlined below, including the Panel's involvement (briefings, deferrals, etc) with the application:

Table 3: Chronology of the DA

Date	Event
7 May 2024	DA lodged
24 May 2024	DA referred to external agencies
30 May 2024	Exhibition of the application (28 days)
11 July 2024	Design Excellence Panel meeting
16 October 2024	Request for information from Council to the applicant
21 October 2024	Preliminary Panel briefing
23 October 2024	Amended plans lodged
3 December 2024	Additional information submitted
2 April 2025	Additional information submitted
23 June 2025	Panel briefing
1 August 2025	Renotification of the application (14 days)
15 August 2025	Additional information submitted

3.4 Request for Additional Information

A request for additional information was issued on 16 October 2024. The request related to:

- An updated Clause 4.6 for FSR is to be submitted incorporating the suggested amendments in the RFI.
- The application is to further justify how the zone objectives of the MU1 Mixed Use zone are achieved if no residential portion is being sought.
- A response to the Design Excellence Panel meeting minutes [discussed later in this report].
- A concept design of the child care centre is to be submitted as it may affect the building layout.
- Further detailed information regarding the reconfiguration of Hanwell Serviceway, including its realignment and road width, as it may affect proposed setbacks, separation and public domain works.
- The concept architectural design lacks sufficient detail for assessment regarding the building envelope and its relationship with the GFA calculation.
 - Lack of depth and length measurements.
 - Absence of high level assumptions of the intended uses and internal layouts create uncertainties in GFA calculation.
 - Absence of yield calculations or assumptions raises doubt about the building envelope containing sufficient flexibility for detailed design stages to

accommodate various internal layouts, articulation and other architectural designs.

- Further information on the site testing and design process that led to the preferred option, including whether the density of all three options was the same, evaluation criteria used in the testing, and shadow diagrams for each option factoring in potential developments.
- The tower setback variations are not supported and compliance with Part 4 of the DCP is required to avoid impacts on the human scale.
- Further information on building separation from adjoining potential development.
- Concerns over the larger floor plates from the bulk and scale perspective along Elizabeth Street and George Street.
- Recommendation to increase floor to floor heights to 3.7m.
- Additional street views from Elizabeth Street and George Street are to be submitted to assess the scale and visual impact.
- Additional hourly shadow diagrams (2D and 3D) of existing and future scenarios to assess impacts and ensure the through-site link receives natural light for 50% of the length, and solar access to the child care centre outdoor play area.
- Consideration for additional community benefits in the proposal under Clause 7.5A(3)(b).
- Internal referral comments requesting:
 - A Social Impact Assessment.
 - Clarity on the Plan of Subdivision to clearly show areas to be dedicated as public roads and areas where roads are to be closed, etc.
 - Update the survey, as it was 6 years old.
 - Update to the Traffic Impact Assessment, including trip generation rates according to TfNSW guide, impacts of surrounding approved and proposed development, key intersection analysis, and more information on the basement.
 - Economic Impact Assessment should be submitted with the detailed DA.
 - Additional heritage information, including an archaeological assessment, interpretation strategy and light spill analysis on St Luke's Church.
 - Consideration of public art.
 - The submitted Stage 1 Preliminary Site Investigation was not satisfactory to Council's Environmental Health officer and a Stage 2 Detailed Site Investigation is to be submitted.
- General additional information including:
 - Detailed assessment of the DCP, Part 4 in the Statement of Environmental Effects.
 - Further consideration of materials and finishes, sustainability, public domain works and landscaping, possibility of deep soil area.

The applicant submitted a response in the form of additional documentation and amended concept plans. Some of the above information was requested to be deferred to a development application.

Additional information was further requested throughout the remainder of the assessment process, primarily regarding the contamination documentation and absence of detail or inconsistencies with the concept plans. Further information was submitted between December 2024 and August 2025.

3.5 Site History

There are no notable development applications on the site relevant to the assessment of the current application.

A 34 storey mixed use commercial and residential development has been approved at 28 Elizabeth Street, Liverpool, directly east of the site across George Street. This application (DA-1408/2021) was approved on 24 October 2022 by the Sydney Western City Planning Panel.

4. STATUTORY CONSIDERATIONS

4.1 Environmental Planning and Assessment Act 1979 (“EP&A Act”)

Part 4, Division 4.4 Concept development application, Section 4.23 states:

4.23 Concept development applications as alternative to DCP required by environmental planning instruments

(1) An environmental planning instrument cannot require the making of a concept development application before development is carried out.

(2) However, if an environmental planning instrument requires the preparation of a development control plan before any particular or kind of development is carried out on any land, that obligation may be satisfied by the making and approval of a concept development application in respect of that land.

Note.

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

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

The subject development has been submitted as a concept development application and is, in accordance with Section 4.23(2), a valid pathway to address the requirement for a development control plan to be submitted under Clause 7.5A Additional provisions relating to certain land at Liverpool city centre, a prerequisite to exceed the height of buildings and FSR development standards under Clauses 4.3 and 4.4 of the Liverpool Local Environmental Plan 2008.

Additionally, Section 4.22 Concept development applications states:

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

(a) consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or

(b) the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.

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

Approval of this concept application would not authorise the carrying out of development. Further consent will be required to carry out the works within the framework established by a concept application.

(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.

The assessment below considers the likely impact.

Section 4.15 of the EP&A Act states:

4.15 Evaluation

(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—

(a) the provisions of—

(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),

(v) (Repealed)

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 considered below.

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 4** and considered in more detail below.

Table 4: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Chapter 2: Vegetation in non-rural areas Chapter 6: Water Catchments	Yes
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development Section 2.19(1) declares the proposal regionally significant development pursuant to Clauses 2 and 3 of Schedule 6 as it comprises general development with an estimated development cost over \$30 million and is Council related development over \$5 million as Council is the owner of part of the land the concept development is to occur on.	Yes
State Environmental Planning Policy (Resilience & Hazards) 2021	Chapter 4: Remediation of Land Section 4.6 – following the submission of a DSI and RAP, Council’s Environmental Health officer is satisfied that matters of contamination and remediation are satisfactory.	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure - Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions. - Section 2.121(4) - Traffic-generating development	Yes
Proposed Instruments	No compliance issues identified.	N/A
Liverpool Local Environmental Plan 2008	- Clause 2.3 – Permissibility and zone objectives - Clause 7.4 – Building Separation in Liverpool city centre - Clause 7.5A – Additional provisions relating to certain land at Liverpool city centre	No

Consideration of the relevant EPIs is outlined below.

(a) State Environmental Planning Policy (Biodiversity and Conservation) 2021 (“Biodiversity and Conservation SEPP”)

Chapter 2: Vegetation in non-rural areas

Not relevant, as the site contains no vegetation that would need to be removed to facilitate the works identified in this concept development application.

Chapter 6: Water catchments

The site is within the Georges River Catchment, and this Chapter therefore applies to development on this land.

The concept development application does not permit physical work, only the building envelope within which a detailed built form application must fit. Consequently, there is no impact on the Georges River Catchment that needs to be assessed at this stage.

The matters within Chapter 6 will be assessed as part of the built form development application to ensure the objectives are met.

(b) 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 as the proposal is development for general development over \$30 million and is Council related development over \$5 million as Council is the owner of part of the land to which the development is proposed. Accordingly, the Sydney Western City Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

(c) State Environmental Planning Policy (Resilience and Hazards) 2021 (“Resilience and Hazards SEPP”)

Chapter 4: Remediation of Land

The provisions of Chapter 4 of the Resilience and Hazards SEPP have been considered in the assessment of the development application.

The objectives of SEPP (Resilience and Hazards) 2021 are:

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

Clause 4.6(1) prescribes the contamination and remediation matters that must be considered by Council before determining the development application. Specifically, the consent authority must consider:

- whether the land is contaminated; and
- if the land is contaminated, the Council must be satisfied that the land is suitable in its contaminated state (or will be suitable after remediation); and
- if the land requires remediation to be made suitable, Council is satisfied that the land will be remediated before it is used.

The applicant submitted a Preliminary Site Investigation (“PSI”) prepared by Canopy Enterprises. The PSI identified four areas of environmental concern surrounding the lengthy history of commercial or industrial use, former service stations being present on and adjacent to the site, hazardous materials in the building and possible fill across the site under current buildings. The PSI concluded that, subject to the soil from the entire site being excavated for the basement levels, the site was suitable for the proposed commercial development (including a child care centre on an upper level).

Council’s Environmental Health Officer reviewed the report and required further assessment, including a search of records of SafeWork NSW and soil sampling, and further testing due to

the historic presence of service stations on the site and adjoining it. Consequently, a request for additional information was issued for the submission of a Detailed Site Investigation (“DSI”).

A DSI and Remediation Action Plan (“RAP”) prepared by Canopy Enterprises were later submitted. Due to the largely complete site coverage of the current site structures, and the intended full site envelope excavation associated with the basement envelope, the RAP was primarily concerned with addressing best practice contamination resolution methods during excavation and construction including waste classification by a suitably qualified consultant in accordance with the EPA Waste Guidelines Part 1: Classifying Waste (2014) and other related requirements and an Unexpected Finds Protocol. No soil samples were taken.

Council’s Environmental Health Officer reviewed these reports. The reports were noted to have not been prepared or reviewed by a suitably qualified and experienced contaminated land consultant to meet Council’s requirements. Notwithstanding this, these matters could be addressed at the time of the development application, subject to the submission of a B2 Site B2 Site Audit Statement and associated report from an EPA Accredited Site Auditor to determine the appropriateness of the contamination investigation reports and the proposed remedial action plan.

An Interim Site Audit Advice letter was submitted, prepared by Environmental Earth Sciences. The document concluded that the contamination documentation and the approach taken by Canopy’s reporting were appropriate and the RAP was practical to address contamination of the site.

Council’s Environmental Health Officer reviewed the Site Audit Statement and raises no objection subject to conditions, should the application for the concept building envelope be recommended for approval. Further information will be required and further conditions will be applied at the time of the subsequent development application.

Pursuant to Clause 4.6(1) the following shall be addressed:

Table 5: Clause 4.6 of Resilience and Hazards SEPP

Clause 4.6 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	Due to the historic commercial and industrial use of the site and the nearby historic use of land as a service station, it was determined that there was potential contamination of the site.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	The DSI and RAP conclude that the site will be made suitable for the proposed land use subject to the recommendations of the reports. The Interim Site Audit Advice concludes that the reporting prepared by Canopy is sound and, provided the RAP is implemented appropriately, the site can be made suitable for the proposed use subject to a site remediation and validation report being prepared.

	Council's Environmental Health Officer has reviewed the submitted documentation. No objection is raised to the application subject to recommended conditions being included should the concept DA be recommended for approval.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	As above.

In view of the above, Council's Environmental Health Officer is satisfied that the contamination matters are satisfactorily addressed for the concept DA, subject to recommended conditions for this consent (should it be approved). Any subsequent DA for building works will also be subject to recommended conditions of consent relating to contamination/remediation works.

(d) State Environmental Planning Policy (Transport and Infrastructure) 2021 ("Transport and Infrastructure SEPP")

Chapter 2 Infrastructure

Section 2.48 Determination of development applications—other development

Endeavour Energy was referred the application as the site contains a substation which will be removed to facilitate the works identified in the concept application. Endeavour Energy provided concurrence (approve with conditions) for the concept application with several conditions relating to a replacement substation.

The Endeavour Energy conditions form part of the conditions of consent which inform the resolution of this matter at the built form development application stage.

Section 2.122 Traffic-generating development

The proposed concept development identified a basement car park of over 200 parking spaces. Pursuant to Schedule 3 of the Transport and Infrastructure SEPP, the development will be defined as a traffic-generating development.

A referral to Transport for NSW under Section 2.122 was undertaken during the assessment of the application. TfNSW was supportive of the proposal and provided an advisory comment that the applicant should be conditioned to prepare a Travel Demand Management strategy to reduce traffic generated by the site and to support sustainable transport for future development users.

Consequently, the condition is recommended. Section 2.122 has been satisfied.

(e) Liverpool Local Environmental Plan 2008

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

- (a) to encourage a range of housing, employment, recreation and services to meet the needs of existing and future residents of Liverpool,*

- (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,
- (j) to promote a high standard of urban design that responds appropriately to the desired future character of areas,

The proposal is generally consistent with these aims as the commercial development will deliver employment generating land uses in Liverpool City Centre that reinforce the land zone objectives, Liverpool's importance in Sydney's South West as an employment centre and is in an area close to public transport and within a centre. Further, the building envelope has the appropriate potential to deliver a high standard of urban design, subject to its detailed built form assessment at the next stage.

Zoning and Permissibility (Part 2)

The site is located within the MU1 Mixed Use zone pursuant to Clause 2.2 of the LEP. Refer to the Land Zoning Map below.

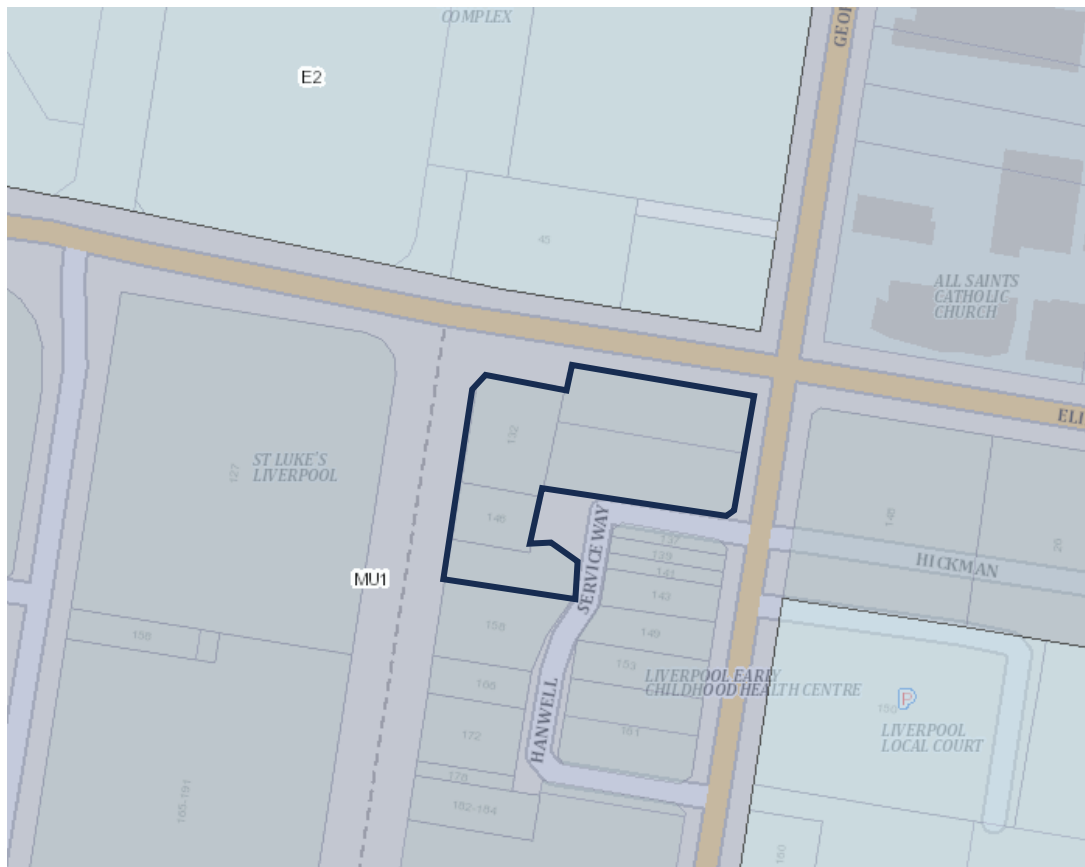


Figure 25: Land Zoning Map (Source: NSW Planning Portal Digital EPI Viewer)

The application has been presented as an entirely commercial development.

According to the definitions in Clause 1.4 (contained in the Dictionary), the proposal would satisfy the definition of commercial premises, which is a permissible use with consent in the Land Use Table in Clause 2.3.

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 for the following reasons:

- The fully commercial development is capable of facilitating a diversity of business, retail and office land uses that generate employment opportunities.
- The indicative envelope at the street level is capable of delivering an active street frontage to attract pedestrian traffic and contribute to vibrant, diverse and functional streets and public spaces.
- The surrounding land uses are primarily commercial and educational. No conflict between land uses will arise from the concept application.
- As the entire building is forecast for commercial uses, the ground floor would consist of non-residential land uses.
- No residential is proposed. The development is permissible with consent.

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 6** below.

Table 6: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Minimum subdivision Lot size (CI 4.1)	1,000m ²	4,546m ²	N/A No subdivision
Height of buildings (CI 4.3(2))	28 metres 21 metres	Refer to the comments below this table	Yes Subject to (in part) Clause 7.5A
FSR (CI 4.4(2))	3:1 (Area 8) 2.5:1 (Area 7)	Refer to the comments below this table	Insufficient Information to confirm
Land acquisition (CI 5.1/5.1A)	SP2 Local Road	Refer to the comments below this table	Yes
Heritage (CI 5.10)	The land adjoins or is proximate to four (4) items of heritage:	Refer to the comments below this table	No

	Item 83: Milestone (Local) Item 84: St Luke's Anglican Church Group (State) Item 85: All Saints Roman Catholic Church (Local) Item 89: Plan of Town of Liverpool (streets) (Local)		
Flood planning (CI 5.21)	Provisions relating to development on flood prone land.	The site is not identified within LEP maps as being affected by flood	N/A
Objectives for development in Liverpool city centre (CI 7.1)	Before granting consent for development on land in the Liverpool city centre, the consent authority must be satisfied that the proposed development is consistent with such of the following objectives for the redevelopment of the city centre as are relevant to that development—	Insofar as it applies to a concept development application, the development meets the objectives for development in Liverpool city centre. This will be further assessed at the detailed development application stage when the built form is formally proposed. Notwithstanding this, the concept preserves the street layout, does not cast an unreasonable degree of overshadowing in the context of its permitted density, and is capable of enhancing public spaces in the city centre.	Yes
Sun access in Liverpool city centre (CI 7.2)	Despite clause 4.3, development on land to which this clause applies is prohibited if the development results in any part of a building on land specified in Column 1 of the Table to this clause projecting above the height specified opposite that land in Column 2 of the Table. <u>Location:</u> Land within 4m of the public right of way on either side of Macquarie Street, between Elizabeth Street and Memorial Avenue (except the most southern 60m) <u>Maximum Height:</u> 21m	The concept development application identifies a maximum 21m height for the podium. The towers are setback greater than 4m from the public right of way on Macquarie Street.	Yes

Car parking in Liverpool city centre (CI 7.3)	Development consent must not be granted on land in Liverpool city centre that is zoned E2 Commercial Centre or MU1 Mixed Use that involves the erection of a new 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.	The specifics of basement car parking and the quantum of parking provided are subject to the detailed development application stage. The applicant indicated the required parking could be provided within 2.5 basement levels. This will be assessed in the next application stage.	N/A
Building separation in Liverpool city centre (CI 7.4)	(a) 12 metres for parts of buildings between 25 metres and 45 metres above ground level (finished) on land in Zone MU1 Mixed Use, and (b) 28 metres for parts of buildings 45 metres or more above ground level (finished) on land in Zone MU1 Mixed Use.	The indicative envelope plans illustrate a minimum separation of 28m for the tower portion of the building.	Yes
Design excellence in Liverpool city centre (CI 7.5)	Development in Liverpool City Centre is to exhibit design excellence.	Refer to the comments below this table.	Insufficient Information

Additional provisions relating to certain land at Liverpool city centre (CI 7.5A)	Development on certain land and meeting certain prerequisites may exceed the height and FSR shown on the LEP maps.	Refer to the comments below this table.	Insufficient Information
Acid sulphate soils (CI 7.7)	Provisions relating to development on land affected by acid sulfate soils.	The subject site is not affected by acid sulfate soils.	N/A
Airspace Operations (CI 7.17)	The objective of the clause is to protect airspace around airports.	The application was referred to Bankstown Airport. No concerns were raised with the overall height of 111.70m AHD as it would not penetrate the OLS for the Bankstown Aerodrome. The amended concept DA increased the height of the tallest tower to 125.9m AHD. Concurrence from Bankstown Airport has been obtained for the amended height.	Yes
Hospital Helicopter Airspace (CI 7.17A)	The objective of this clause is to protect hospital helicopter airspace.	The application was referred to the Liverpool Hospital no confirmation whether the building height will impact the helicopter flight path. After multiple communications with the South-Western Sydney Local Health District (SWSLHD) Capital Works & Infrastructure Division, no support or confirmation was provided regarding whether the proposed building would affect the hospital's emergency helicopter flight path. It was acknowledged that the proposal is currently impacting the temporary flight path and that future adjustments to the flight path may occur. However, when specifically asked, no confirmation was given as to whether the proposed top of roof reduced level (RL) would intrude into the designated flight path.	No

Earthworks (CI 7.31)	Considerations of earthworks.	Will be assessed during the detailed development application. A Geotechnical Investigation was submitted with the application and identified standard recommendations.	N/A
-------------------------	----------------------------------	--	-----

The proposal is considered to be generally consistent with the LEP.

Clause 4.3 Height of Buildings

The site is partly prescribed a 28m and partly a 21m building height under the LEP. Refer to the Height of Buildings Map in Figure 26.

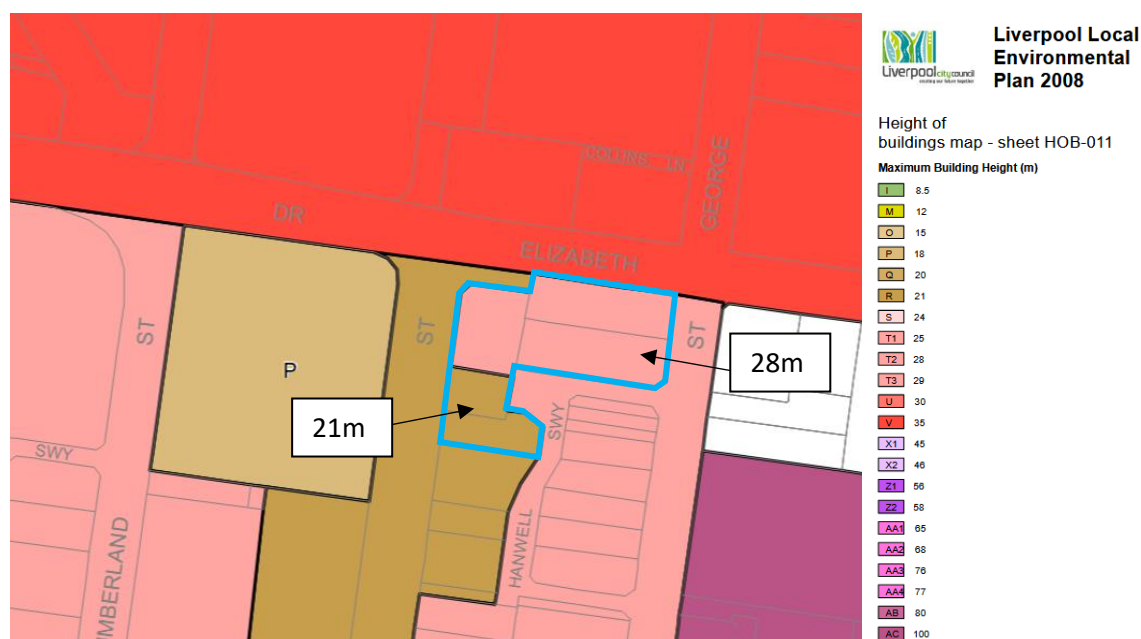


Figure 26: Height of Buildings Map (Source: NSW Legislation website)

Clause 7.5A applies to the portion of the land prescribed a height of 28m. Subject to satisfying the requirements of Clause 7.5A, the building height on that portion of the site is unrestricted by the Liverpool LEP 2008 (though capped by airport requirements). The details of this assessment are covered in a later section of this report. However, the development does satisfy said requirements and thus no height applies to land prescribed a 28m height (Area 8).

The remainder of the site, being 146 and 152 Macquarie Street, is prescribed a 21m building height. The plans submitted identify a maximum 17.8m height, as illustrated in Figure 16. While this does not account for any roof structures or lift overrun, these are reasonably likely to be contained within the 21m height.

Consequently, the development is acceptable regarding Clause 4.3 in defining the maximum envelope within Area 7.

Clause 4.4 Floor Space Ratio

The site is partly prescribed a 3:1 FSR and partly a 2.5:1 FSR under the LEP. Refer to the Floor Space Ratio Map in Figure 27.

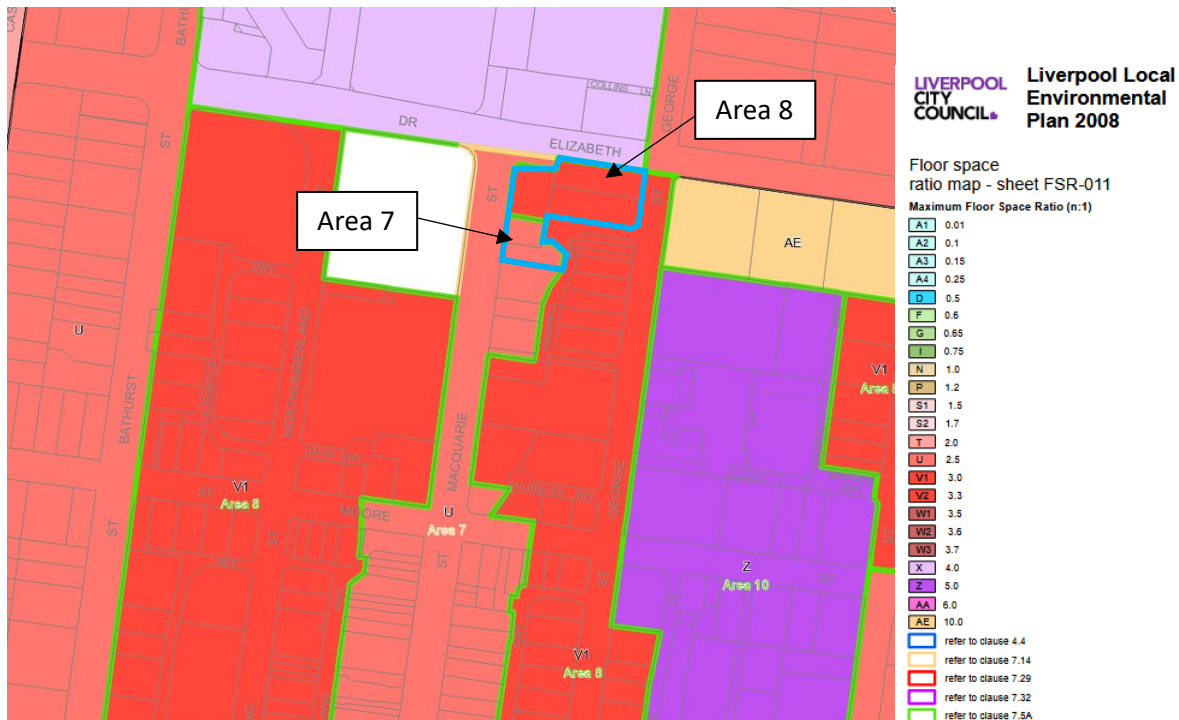


Figure 27: Floor Space Ratio Map (Source: NSW Legislation website)

The map further articulates that the majority of the site is within Area 8 and the remainder, fronting Macquarie Mall, is in Area 7. Subject to satisfying the requirements of Clause 7.5A, the land within Area 8 could be permitted up to a 10:1 FSR. The details of the assessment of Clause 7.5A are covered later in this report.

The land within Area 7 is limited to the 2.5:1 FSR.

The site area associated with the Area 7 land is 993.5m² based on the applicant's submission, which permits a maximum GFA of 2,483.75m².

It is noted the development site control plan (based on the site survey) submitted with the application does distinguish the site area associated with the Area 7 and Area 8 lots (Drawing A305 Issue A). Within the amended architectural set of plans there is a drawing titled 'Layout Plans' (no drawing number reference) which states the proposed GFA for Area 7 is 2,449m², which is equivalent to a proposed FSR of 2.46:1.

However, the amended architectural plans submitted following the request for additional information do not include any detailed floor plans to enable an assessment of whether the envelope would facilitate a GFA equal to, above or below the equivalent 2.5:1 FSR on the Area 7 lots. While detailed floor plans are not a document that would be stamped with a concept application consent, the absence of any proof that the envelope is feasible, functional and delivers a FSR that is compliant (or otherwise) is considered information necessary to support the assessment.

Therefore, insufficient information has been submitted to enable a reasonable assessment of the proposed FSR.

Clause 5.1 Relevant Acquisition Authority

A portion of the site is identified on the Land Acquisition Map as SP2 'Local Road'. Refer to the map below.

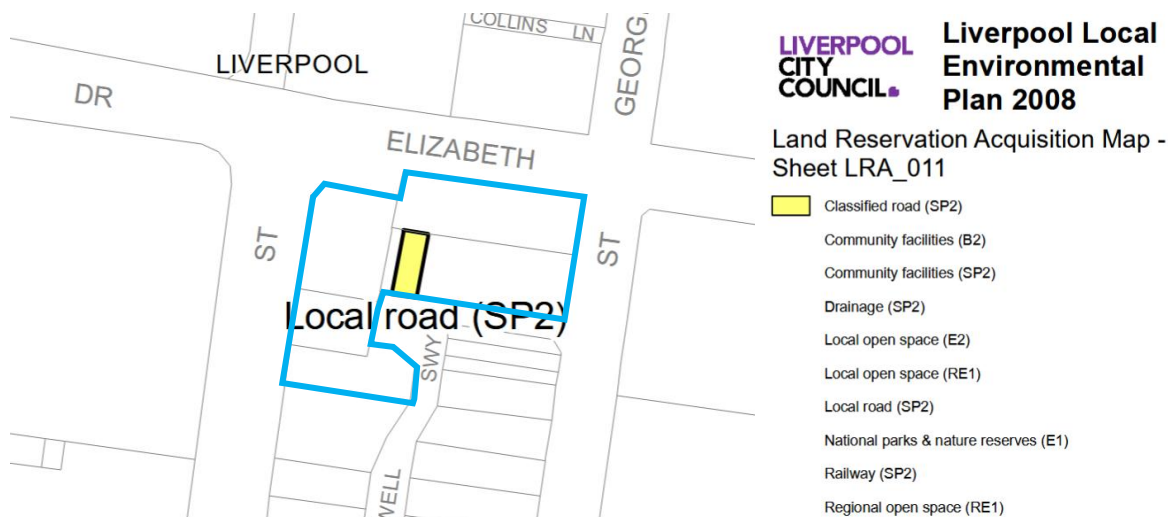


Figure 28: Land Reservation Acquisition Map (Source: NSW Legislation website)

The land associated with the map is currently a car park on the land known as 131 George Street.

The concept development application identifies a land swap/sale between the applicant and Liverpool City Council. The land associated with this exchange is separate from the SP2 zoned land. However, Council's Property team has confirmed that the land is no longer required to be acquired.

Clause 5.10 Heritage Conservation

The site is not an item of heritage, nor is it within a heritage conservation area. However, the site adjoins or is proximate to four (4) items of heritage. Refer to the Heritage Map below.



Figure 29: Heritage Map (Source: NSW Legislation Website)

The items of heritage that are within proximity of the site are as follows:

- Item 83: Milestone, corner of Elizabeth Drive and George Street; local significance.

- Item 84: St Luke's Anglican Church Group, including landscaping, church, hall, interiors, headstone and memorial gates (former St Luke's Church of England); 127 Macquarie Street; State significance.
- Item 85: All Saints Roman Catholic Church, including interiors; 48 George Street; local significance.
- Item 89: Plan of Town of Liverpool (early town centre street layout–Hoddle 1827); Streets in the area bounded by the Hume Highway, Copeland Street, Memorial Avenue, Scott Street, Georges River and Main Southern Railway Line (excluding Tindall Avenue and service ways); local significance.

A Statement of Heritage Impact (SOHI) prepared by Weir Phillips was submitted with the application.

Council's Heritage Officer reviewed the SOHI and proposal and advised/requested the following information:

- A referral to Heritage NSW is required due to the proposed development being adjacent to a State Heritage listed property.
- A Historic Archaeological Assessment is to be completed and submitted.
- A Heritage Interpretation Strategy is to be prepared and submitted.
- A light spill analysis is to be submitted with consideration of any lighting impacts on St Luke's Church.

Heritage NSW was referred the application and submitted SOHI. The referral feedback recommended the following conditions be included on the development application:

- A Visual Impact Assessment must be prepared to consider potential impacts to significant views to, from and in conjunction with St Lukes Anglican Church.
- Amended plans including a sympathetic material schedule, colour palette and signage strategy must be prepared to demonstrate consideration of the setting and views of the St Lukes Anglican Church.

Heritage NSW also noted that it is the proponents responsibility to ensure they will comply with Part 6 of the National Parks and Wildlife Act 1974, being that no impact occurs to Aboriginal objects or artefacts. If Aboriginal objects are present, or likely to be present, and the proposed activity will harm those objects, an Aboriginal Cultural Heritage assessment must be undertaken.

Council's Heritage Officer makes the following comments to the feedback received from Heritage NSW:

"On review of these recommendations, as this is a concept development with the absence of detailed design including materials, finishes and colour palette, it is considered that this recommendation could be treated as a condition of consent to be addressed as a part of a future Development Application."

However, in terms of point 1, reference is made to G&J Drivas Pty and Telado Pty Ltd vs City of Parramatta City Council [2025] NSWLEC 1033 and specifically paragraph 66 of the judgement where the commissioner states: "the effect of s4.24(2) of the EPA Act is that while a consent on a Concept DA for a site remains in force, the determination of any other application for the site cannot be inconsistent with the Concept DA".

In the instance of the above case, the commissioner noted that a key component of the proposed three-dimensional building envelope was its siting relevant to the site

boundaries and the Murrays Building. This is further reinforced by *Uniting Church v Parramatta*.

The proposed visual impact assessment will allow for the assessment of the siting and bulk of the proposed development of the urban landscape associated with St Lukes Church, including impacts on views to, from and concurrent with the item. As this relates to siting and bulk, items up for consideration with a concept DA, determination cannot occur until this visual assessment has been prepared and provided to Council for review.

Further, the applicant has still failed to provide a preliminary historical archaeological assessment to determine the potential for historical archaeology, which would be followed by a full historic archaeological assessment for the full development application."

The concept development application is therefore not considered to satisfy Clause 5.10.

Clause 7.4 Building separation in Liverpool City Centre

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

The development standard requires a separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building, of at least 28 metres for parts of buildings 45 metres or more above ground level (finished) on land in Zone MU1 Mixed Use.

The amended architectural plans submitted include floor plans and elevations showing the 28 metre separation from the towers to the approved development on the opposite side of Hanwell Serviceway to the south-east. The 28m separation distance is circled in red in Figure 30.

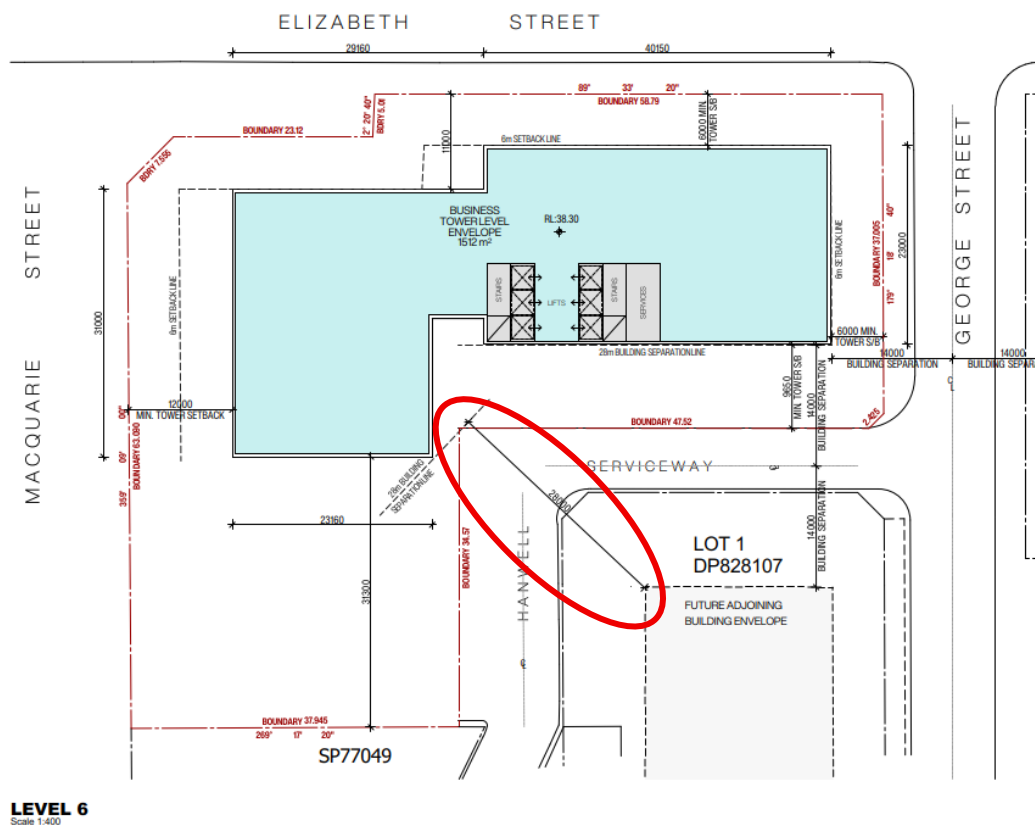


Figure 30: Level 6 Floor Plan (Source: Drawing No. A610, Issue A)

Clause 7.5 Design excellence in Liverpool city centre

The concept development application indicates a building that will be subject to Clause 7.5 *Design excellence in Liverpool city centre*. Further, Clause 7.5A *Additional provisions relating to certain land at Liverpool city centre* requires consideration of a number of matters under the design excellence clause. Consequently, the application was referred to Council's Design Excellence Panel. A meeting was held on 11 July 2024.

The main elements of the Design Excellence Panel meeting minutes that requested action from the applicant are provided in **Table 7** below, along with the response from Council's Urban Design Officer (CDPD) following the submission of amended plans from the applicant.

Table 7: Summary of Design Excellence Panel Comments

Design Excellence Panel Comment	Applicant's Response / Comments on RFI Submission to DEP Minutes
4.1 Context	
The Panel emphasises the strategic location of the project within the Liverpool CBD, adjacent to a range of key destinations such as Macquarie Mall, Westfield Shopping Centre, St. Luke's church and other public facilities. The Panel recommends conducting a more detailed place analysis and developing a place activation strategy. This approach will provide a fine grain understanding of the project in relation to its immediate surrounding context, ensuring seamless integration into its urban setting and contributing to creating a vibrant and successful civic place.	No specific information was provided in response to the request for a place and activation strategy. The detailed design of the specific envelope is relevantly assessed at the built form DA stage; however, Council's Urban Design Team was not satisfied with the information provided at this concept DA stage.
4.2 Built Form + Scale	
The Panel highlights that the current preferred concept scheme features six components: three distinct podium forms and three tower forms. They inquire whether a simplified built form, such as two connected/separated towers, has been considered as part of the design process. A simplified built form with a height differential between the two towers would achieve a better outcome in terms of visual interest (aesthetics) and breaking down of the massing, making a more elegant design and further minimising the bulky form experienced from the street level.	This has been partially addressed. The amended submission from the applicant adopted the approach of two towers, which is an improvement. However, it is not as simplified as the case studies referenced by the DEP.
Additionally, from an urban design perspective, the Panel discussed that an increased the podium height closer to a 1:1 ratio with the width of Macquarie Mall could create a more desirable street enclosure and relationship. Moreover, the raised podium would improve vibrancy and	The amended podium height is consistent with the DCP. The 1:1 ratio has not been demonstrated. The envelope plans show an inconsistent podium design on the Macquarie Mall frontage.

attractiveness of the Mall. The applicant is encouraged to comply with the Council DCP guidance in achieving a desirable podium height to achieve the outcomes recommended in these minutes, whilst managing any potential overshadowing impacts onto the public domain.	The Macquarie Mall elevation identifies a 14m street wall and 3.8m height recessed element (sheet A801 Issue D). The Hanwell Serviceway elevation shows this same section as 13.5m high and 4.3m for the street wall and recessed element, respectively (sheet A804 Issue D). The inconsistency would need to be resolved to allow approval of the concept envelope.
The Panel inquired about the awning treatment. The applicant confirmed that it generally aligns with the LDCP requirement. A minimum of 3.5m wide glass awning is proposed along Macquarie Mall. Additionally, where the upper podium overhangs along Elizabeth Street and George Street, the colonnades form part of the awning structure. The Panel recommends the awning comply with the LDCP and be solid (i.e.: not glass) as Liverpool can get very hot, and the wide open spaces of the street and Mall will allow enough light to the immediate environs of the proposal.	Has not been addressed, however it could be conditioned.
The Panel notes the columns appear excessively heavy in the expression and should benefit from reduction and a finer grain treatment to keep them more in-line with the pedestrian scale.	Has not been addressed. While it could be conditioned, it would be of benefit to address it now.
The Panel inquired to the vision and detailed design treatment for the main lobby area along Elizabeth Street. It is recommended to leverage this space, integrating it with additional public domain design to effectively enhance formalisation and break up the built form at upper levels.	Has not been addressed. No additional renders, elevations or design has been provided for the DEP or CDPD for review.
The Panel inquired about the clearance of the E-W through-site link. The applicant confirmed that the lowest point is 5m, complying with LDCP Part 4 - 4.3.1 requirements, and increases to the east due to site topography. The Panel raised concerns about potential wind modulation issues and requested that the applicant consider appropriate solutions when revising the design.	Has not been addressed. From CDPD's review of the Wind Report, there are no testing spots throughout the EW or NS through-site links.
The Panel recommends the applicant should investigate re-alignment possibilities for the orientation of the western tower in relation to the Macquarie Mall. The current skewed built form may not effectively mitigate solar access and overshadowing	The tower has been realigned.

impacts, and a parallel alignment with the Macquarie Mall may further reduce the overshadowing extent.	
It is recommended that the lobby area facing the E-W through-site link be oriented to address the Mall.	Has not been addressed. The lobby has not been moved and no justification has been provided. There may be a passive surveillance issue with the lobby facing Macquarie Mall.
As discussed earlier, the Panel encourages the applicant to reconsider the rigor in the overall built form including the building towers as part of the design refinement process. The suggestion is the applicant could look at simpler, more elegant tower forms as good design examples. For example: ▪ The Batesmart project at 175 Liverpool Street, Sydney, or the projects mentioned earlier in these minutes.	Partially addressed. While the tower forms have improved, design analysis demonstrating how they are shaped, rigour as described has not been provided, and as such the form is not as simple and elegant as the precedents provided by the DEP. In the absence of 3D visualisations and façade design, it is difficult to understand what the towers will look like, and whether they can achieve a good design outcome.
The Panel notes that the current concept design lacks details regarding the proposed childcare centre, including its location, relationship with other uses, internal and external layouts, solar access considerations, and other essential design aspects outlined in the Child Care Planning Design Guide. The applicant is required to provide comprehensive information on the proposed childcare centre in the next submission. The concept design of the childcare facility is crucial as it could significantly impact the overall building layout, pedestrian access, circulation, and carparking configuration.	The applicant has confirmed that a child care centre is no longer sought.
Due to the current design's open floor conditions, there is a concern about the functionality of the concentrated lift cores for the podium levels in the detailed design stage, given the potential for long travel distances. The Panel suggests conducting a test fit to ensure the functionality and reasonable distribution of the lift cores.	No further information on fit-outs were submitted. The onus is on the applicant to demonstrate compliance with NCC and demonstrate adequate amenity to the commercial floors at the detailed design stage. While it would have been preferable to explore that the building envelope in the concept plan accounted for a functional layout, this matter is reasonably deferred to the built form application.
Similarly, the Panel raises question about the building width and its implication to commercial productivity, noting that building depths exceeding 6m to 8m from the glass-line can adversely affect office productivity and therefore the space viability. The Panel recommends the applicant should conduct fit-out testing to	Has not been addressed.

ensure the commercial spaces remain viable and are likely to be successful.	
The current scheme provides a 3.6m floor-to-floor height for levels above ground / lower ground level, which is considered insufficient and potentially non-compliant with the minimum floor-to-ceiling height of 3.3m for commercial uses outlined in the LDCP Part 4 -4.2.9. The panel recommends a floor-to-floor height that will not compromise the minimum ceiling height requirement of 3.3m.	The floor to floor heights have increased.
4.3 Density	
The Panel inquired how the FSR is calculated, whether it is calculated from the efficiency-based approach or based on the detailed architectural drawings. Noting it is best practice to base the GFA calculations on detailed design drawings with correct dimensions and test fits to ensure an optimum match between the proposed floor space ratio and height controls.	Unresolved. The amended plans provided with the RFI response provided less detail than the original submission. The distribution of FSR across the two-tower design is unknown and inadequate information is available to prove the envelope delivers a GFA equal to or below the maximum FSR.
4.4 Sustainability	
The Panel appreciates the applicant's strategy of creating a dual glazed façade, however, this does not allow natural ventilation. The applicant should develop effective strategies to allow natural ventilation as part of the façade design, by allowing operable features, in combination with trickle vents at appropriate locations.	Limited further information was submitted. A Facade Design Principles sheet was introduced to the architectural package (Drawing No. A905), which includes potential amendments to avoid a fully glazed façade. However, no formal alternative design has been presented.
The extensive glazing on facades will not meet the expected sustainable performance regardless of the Engineered solutions offered by the applicant. In the Panel's view and experience, excessively glazed facades in Liverpool's hot climate simply will not work. A noted example of this issue is the University of Sydney Law School – that reports said was fine, but anecdotally reports the building is uninhabitable in winter because it is too cold, and in summer because it is too hot. The Panel considers that Good development, and Liverpool City cannot afford this level of failure.	Has not been addressed.
4.5 Landscape	
The Panel questions the use of faux timber flooring for the E-W through-site link, noting potential maintenance and suitability issues. The Panel suggests that material selection should align with the Connecting to Country strategy to ensure both durability and cultural relevance.	Has not been addressed, however can be conditioned.

The Panel encourages the applicant to enhance the main northern entry lobby area and links to the southern public domain to better engage with the public domain and surroundings, creating a more inviting and interactive space for the public.	Has not been addressed. There is no change to the lobby.
It is encouraged the applicant incorporating Water Sensitive Urban Design (WSUD) interventions wherever feasible, especially in the ground level landscape design and street upgrades. Referring to the LCC Public Domain Master Plan (PDMP) for guidance is recommended.	Has not been addressed.
4.6 Amenity	
Shadow diagrams, including 2D and 3D (sun-eye), at hourly intervals (from 9am to 3pm) for winter Solstice, Equinox, and Summer Solstice time periods are required for both existing conditions and future scenario incorporating potential nearby developments. The applicant is required to ensure: - o Assess and mitigate any shadowing impacts on future developments to the south to maintain ADG standard amenity and minimise adverse effects. - o Ensure that the proposed through-site link receives natural light for at least 50% of its length, adhering to DCP requirements. - o Comply with SEPP requirements for solar access to the unencumbered outdoor play area for the childcare centre.	Shadow analysis is provided.
4.7 Safety	
CPTED considerations for the ground plane and Thru-site-link crucial to the success of this project. Ensure sightlines, connectivity, thermal comfort and activation make for safe and enjoyable public domain environments.	Has not been addressed.
4.9 Aesthetics	
The Liverpool City Council Design Excellence Panel requires applicants and their designers to consider what a good contextual site and place response for all buildings in Liverpool will be. Ask yourself the questions – what does a Western Sydney building look and perform like? What are the materials of country and appropriate to this region? What does a building that will endure over time – in 50 years or more, look like? That is tough and robust as well as beautiful. These are the thought processes that help you design a	Has not been addressed. No additional information is provided.

design excellent and appropriate building in the Liverpool LGA. The current design featuring extensive blue glass façades are “very 1980’s” and will not capture the architectural essence of the 21st century. Glass façade in Liverpool will not achieve Design Excellence. Refer the design examples mentioned elsewhere in these minutes.	
The Panel encourages the applicant to conduct a precedent study on façade design, emphasising the reduction in glazing and refinement of architectural rhythm using a combination of bricks, sandstones, and glazing. It recommends exploring a balanced solid and void ratio in collaboration with feedback from the project's façade engineer. As a guide, building outcomes by the architect Harry Seidler are excellent examples of demonstrating this design principle.	Has not been addressed. No additional information is provided.

In summary, while the applicant did amend the concept design to align with the two tower form recommended by the Panel, many of the remaining elements have not been addressed. Some of these are appropriate to be addressed at the detailed built form stage, however, some should be addressed at this concept DA stage. The level of information is insufficient to confirm whether the application adequately is capable of satisfying the design excellence clause as required by Clause 7.5 and Clause 7.5A(4)(e).

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

The development application is submitted under Clause 7.5A, which permits the increase in development density across the majority of the site from 3:1 to 10:1 FSR. To utilise Clause 7.5A, certain prerequisites must be met.

A detailed assessment of the clause follows.

Each subclause is discussed separately.

- (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.*

As shown in Figure 27 earlier in this report, the majority of the site is located within Area 8 on the Floor Space Ratio Map.

The lot size, following the exchange of land, is 4,546.5m² overall based on the plan of proposed subdivision. The applicant states the portion solely within Area 8 has a land size of 3,553m², meeting the minimum size.

It is noted that the development site control plan (based on the site survey) submitted with the application does distinguish the site area associated with the Area 7 and Area 8 lots (Drawing

A305 Issue A), which is necessary to confirm the correct calculation of FSR within the built form development application.

The site has a frontage to Elizabeth Street and George Street, as well as Hanwell Serviceway and the pedestrian portion of Macquarie Street. Consequently, the site has at least two 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, or

(ii) in relation to a building on land identified as “Area 9” on the map—7:1.

The entire development is proposed for commercial premises. The development therefore satisfies the 20% requirement, removing the maximum height prescribed for the land on the Height of Buildings Map and the FSR is increased to 10:1.

The portion of the land identified as Area 8 has a site area of 3,553m², equating to a maximum GFA of 35,530m² on that portion of the site. The ‘Layout Plans’ within the amended architectural set (no drawing number) indicates that the land within Area 8 will have a proposed GFA of 35,538m². This is actually 8m² over the maximum allowed (35,530m² based on 10:1 FSR).

The amended architectural plans show the total GFA proposed at each floor level, however there is no delineation of Area 7 and Area 8. Therefore, an assessment of what floor areas apply to the different FSR controls, and whether the floor plate envelope delivers a FSR equal to, greater or less than 10:1, cannot be made.

It is observed that Clause 4.6(8)(ca) of the LEP lists Clause 7.5A, meaning that Clause 4.6 cannot be used to contravene Clause 7.5A. The built form application will be required to comply with the maximum 10:1.

However, it is not considered reasonable to approve the concept DA in the absence of further information that allows an indicative FSR to be determined. Consequently, insufficient information has been submitted to ensure the concept development application envelope complies with the 10:1 FSR.

(3) Development consent must not be granted under this clause unless—

(a) a development control plan that provides for the matters specified in subclause

(4) has been prepared for the land, and

(b) the site on which the building is located also includes recreation areas, recreation facilities (indoor), community facilities, information and education facilities, through-site links or public car parks.

In addressing subclause (3)(a), Section 4.23 of the EP&A Act permits a concept development to be made and approved instead of a development control plan. This approach has been taken as the subject of this assessment.

The proposed development is identified within the DCP, Part 4 Development in Liverpool city centre, as a location for a through-site link. The link is identified in Figure 4-12 of Part 4 of the DCP as an east-west link connecting Macquarie Mall and George Street (and is in the DCP section of this report).

The concept application identifies a 5m wide link in this location.

The assessment of the link (as it pertains to the concept application) occurs under the Design Excellence Panel comments of this report. In short, the link is located in the LEP and is generally satisfactory from a width and height perspective. The intimate design of the link will be subject to a full assessment of the detailed design at the built form application stage, including its paving, landscaping, wind mitigation measures, etc. However, it is noted that this Concept DA does not include the additional design details requested by the Design Excellence Panel.

(4) The development control plan must include provision for how proposed development is to 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).*

Section 4.23(3) of the Environmental Planning and Assessment Act 1979 states:

“Any such concept development application is to contain the information required to be included in the development control plan by the environmental planning instrument or the regulations.”

Accordingly, an assessment of the concept application has determined that the proposal:

- Is not in a conservation area.
- Is well located to Liverpool train station and bus services, particularly along Elizabeth Street, inherently encouraging public transport, walking and cycling. A detailed car parking design is to be assessed under a subsequent built form application in accordance with the standard environmental planning instrument and development control plan provisions.
- Shows, in the indicative layout plans, a nil setback to Macquarie Mall and the corner with Elizabeth Street, and a 3.2m to 6m setback along the northeastern portion of Elizabeth Street and George Street, allowing for a ground level active street frontage, space for food and drink premises, and weather protection via the podium overhanging the ground level setback. An appropriate interface can be achieved.
- Will need to provide a detailed landscape design with the built form development application. The preliminary landscape plan submitted with the application illustrates that excellence can be achieved, subject to refinement in materials and planting diversity.
- Has been assessed under clause 7.5(3)(f)(i)–(viii) and (x) below:

Table 8: Clause 7.5(3)(f)(i)–(viii) and (x)

Subclause	Comment
-----------	---------

(f) how the proposed development addresses the following matters— (i) the suitability of the site for development,	Contamination issues relating to previous uses on the site have been addressed through the DSI and RAP.
(ii) existing and proposed uses and use mix,	The development is entirely for commercial uses and is permissible with consent. Satisfactory.
(iii) heritage issues and streetscape constraints,	The heritage issues have not been resolved relating to a Visual Impact Assessment, material and colour schedule and an Aboriginal Cultural Heritage Assessment. The streetscape issues have been resolved via refinements to the podium and tower setbacks and design.
(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,	The location of the tower was amended during the assessment to resolve concerns over amenity and urban form, particularly to Macquarie Mall. Separation issues remain, as addressed under the response to Clause 7.4 of the LLEP.
(v) bulk, massing and modulation of buildings,	Unsatisfactory – see comments from Council’s Urban Design Officer.
(vi) street frontage heights,	The plans are inconsistent. The Macquarie Mall elevation identifies a 14m street wall and 3.8m height recessed element (sheet A801 Issue D). The Hanwell Serviceway elevation shows this same section as 13.5m high and 4.3m for the street wall and recessed element, respectively (sheet A804 Issue D).
(vii) environmental impacts such as sustainable design, waste and recycling infrastructure, overshadowing, wind and reflectivity,	Unsatisfactory – see comments from Council’s Urban Design Officer.
(viii) the achievement of the principles of ecologically sustainable development,	Unsatisfactory – see comments from Council’s Urban Design Officer.
(x) the impact on, and any proposed improvements to, the public domain.	Unsatisfactory – see comments from Council’s Urban Design Officer.

It is considered that insufficient information has been submitted to satisfy Clause 7.5(4).

4.2.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no proposed instruments that have been the subject of public consultation under the EP&A Act that are relevant to the proposal.

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

The following Development Control Plan is relevant to this application:

(a) Liverpool Development Control Plan 2008

The proposed concept development application generally complies with the controls outlined within the DCP. The exceptions, or controls where further detail is warranted, are discussed in the following sections.

A complete assessment of the DCP is provided in the Tables of Compliance attachment to this report.

4.3.1 Pedestrian Permeability – Through-site Link

Figure 4-12 in Part 4 of the DCP identifies a through-site link for the site. Refer to the extract of the figure below.

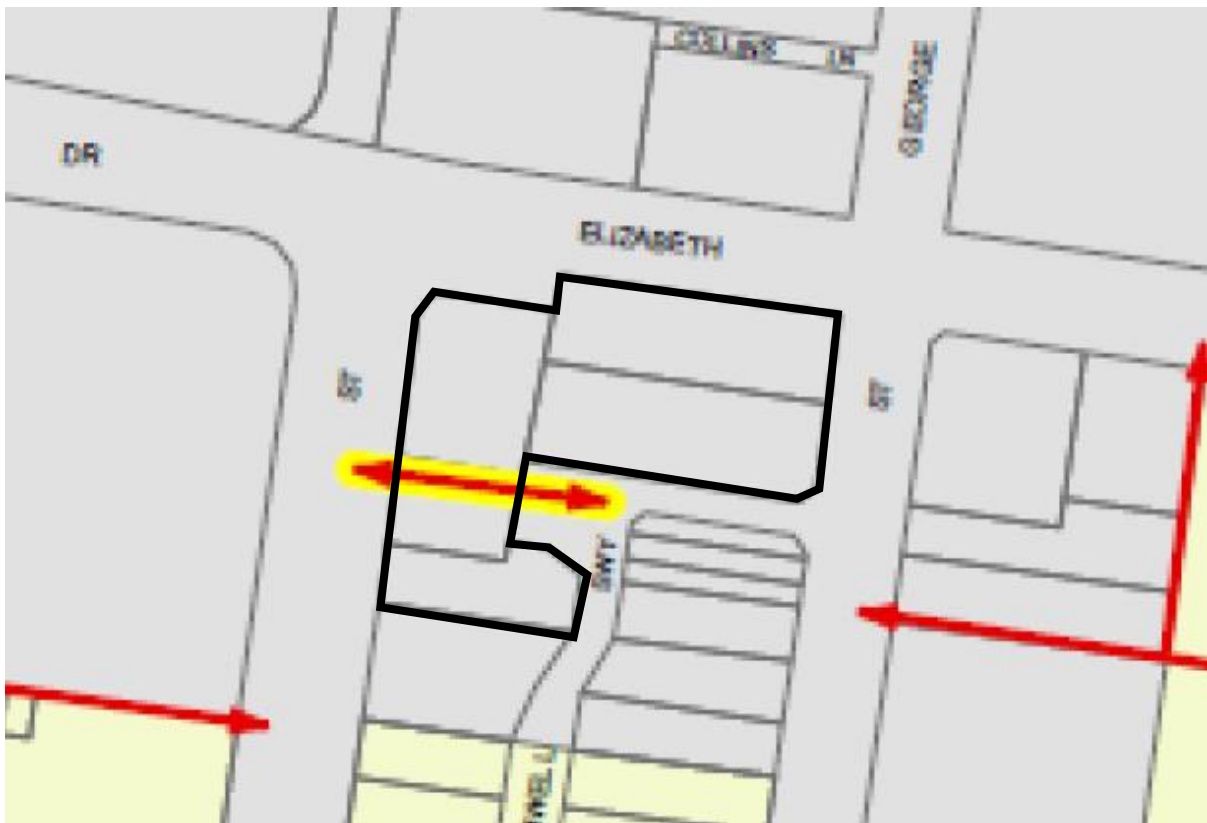


Figure 30: Extract of Figure 4-12 Through-site Links from Part 4 of the DCP (site outlined in black)

A through-site link has been incorporated into the proposal, generally in the indicated location in the figure above (see Figure 22 for the proposed link). The link is 5m wide and connects Macquarie Mall and George Street, delivering the intent of the Pedestrian Arcades and Through-site Links controls that apply in this instance.

The Design Excellence Panel recommended an additional north-south link be created between Elizabeth Street and the proposed east-west through-site link at the location of the main lobby area. The applicant amended the design and created the north-south link.

The link has a minimum height of 5m and increases to the east, generally aligning with the minimum two storey height of the link required by 4.3.1 of the DCP.

A detailed design of the link will be assessed at the built form application stage.

4.2.4 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 under Section 7.4.

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

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

4.2.6 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.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposal is considered to be generally consistent with the context of the site, in that the proposed commercial building is appropriate for the Liverpool City Centre. However, there are design considerations that will impact the concept envelope raised by the Design Excellence Panel and Council's Urban Design Officer which have not been addressed. There is a concern that if the Concept DA is approved with limited surety that a good design can be achieved within these envelopes, it will be difficult to request in the future DA for built form.
- Access and traffic – The submitted architectural plans indicate that parking for 249 spaces can be accommodated within the 2.5 levels of basement. A proper assessment of parking, traffic generation and capacity of the road network will be undertaken as part of any development application for built form.
- Public Domain – While any future development application for built form can provide greater detail, Council's Urban Design Officer considers that the concept development application should at least demonstrate enhancements to the design to respond to the recommendation so the Design Excellence Panel.
- Utilities – The relevant agencies (Endeavor Energy and Sydney Water) have been consulted as part of this application and utilities will be available to the site.
- Heritage – the applicant has not provided a visual impact assessment to allow for the assessment of the siting and bulk of the proposed development of the urban landscape associated with St Lukes Church, including impacts on views to, from and concurrent with the item. The applicant also has not provided a preliminary historical archaeological assessment to determine the potential for historical archaeology.
- Other land resources – There is no impact on the water catchment, mining, or agricultural land.
- Water/air/soils impacts – Contamination issues relating to previous uses over the site have been addressed through the DSI and RAP. More detailed information can be provided as part of any future development application for built form.

- Flora and fauna impacts – the site has been fully developed and there are no trees or vegetation to be removed.
- Natural environment – The site will be wholly excavated due to the basement levels. However, given the previous development on the site and the location of the site within the Liverpool City Centre, it is considered that the impact on the natural environment is acceptable.
- Noise and vibration – construction and operational impacts can be managed by way of conditions at the built form application stage.
- Natural hazards – The site is not affected by any natural hazards such as flooding or bushfire.
- Safety, security and crime prevention – a referral was made to NSW Police, who have advised that there is no objection to the proposed DA, subject to recommendations made by NSW Police to address the Principles of Crime Prevention Through Environmental Design (CPTED). However, Council's Urban Design Officer considers there is insufficient information submitted to address CTPEP considerations at ground level and within the through-site link.
- Social impact – as above. Council's Urban Design Officer considers there is insufficient information submitted to address CTPEP considerations at ground level and within the through-site link.
- Economic impact – concern was raised over the amount of commercial floor area given current difficulties in securing pre-leases. A detailed Economic Impact Assessment is recommended to be submitted with the DA for built works.
- Site design and internal design – the internal layout of the building will be subject to the DA for built form. As stated, there is insufficient information in relation to the urban design issues raised in this report.
- Construction – the potential impacts from construction will be addressed in the DA for built works.
- Cumulative impacts – the proposal is generally consistent with the planning controls, however more detail will be provided in the DA for built form.

Accordingly, it is considered that insufficient information has been provided to demonstrate that the proposal will not result in any significant adverse impacts in the locality as outlined above.

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

The concept proposal is considered suitable for the site and location within the Liverpool City Centre. The site will have access to services, transport infrastructure and open space. The site is not affected by any natural hazards (bushfire, flooding, coastal hazards, climate change, land slip) which would prohibit or restrict the development.

The site attributes are conducive to the development.

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

During the public exhibition, one (1) objection was received. The objection has been considered in Section 5.3 of this report.

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

Due to the insufficient information provided relating to heritage, urban design and compliance with the FSR development controls, it is considered that approval of this concept development application would not be in the public interest.

5. REFERRALS AND SUBMISSIONS

5.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment, concurrence, or referral as required by the EP&A Act and outlined below in Table 9.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent.

Table 9: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Rail authority for the rail corridor	Section 2.98(3) - State Environmental Planning Policy (Transport and Infrastructure) 2021	N/A	N/A
Electricity supply authority	Section 2.48 – State Environmental Planning Policy (Transport and Infrastructure) 2021 Development near electrical infrastructure	Though the building work is not sought in this application, Endeavour Energy was referred to the application due to the indicated removal and replacement of a substation (padmount substation no. 8448). Endeavour Energy provided approval with conditions relating to the design of the replacement substation, subject to confirming that one is required.	Yes
Bankstown Airport	Development within the approach slopes to Bankstown Airport (Airports Act 1996 and Protection of Airspace Regulations 1996)	Bankstown Airport Pty Limited advised that it has no objection to the maximum indicated height of 125.9m AHD.	Yes

Sydney Water	Sydney Water Act 1994, Section 78	No issues raised, subject to conditions	Yes
Heritage NSW	Heritage Act 1977, Section 57	Conditions provided, requiring a visual impact assessment and amended material schedule.	Yes
Referral/Consultation Agencies			
Transport for NSW	Section 2.122 – State Environmental Planning Policy (Transport and Infrastructure) 2021 Development that is deemed to be traffic generating development in Schedule 3.	Yes. Support was given, with a recommended condition for the applicant to prepare a Travel Demand Management strategy.	Yes
Design Excellence Panel	CI 7.5 Design excellence Advice of the Design Excellence Panel ('DEP')	The advice of the DEP has been considered in the proposal and is further discussed in the LEP assessment section of this report.	No
NSW Police		Supported with recommendations regarding CCTV, lighting and landscaping maintenance. These will be conditioned at the built form application stage.	Yes
Integrated Development (S 4.46 of the EP&A Act)			
RFS	S100B - Rural Fires Act 1997 bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	N/A	N/A
Natural Resources Access Regulator	S89-91 – Water Management Act 2000 water use approval, water management work approval or activity approval under Part 3 of Chapter 3	N/A	N/A

5.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 10**.

Table 10: Consideration of Council Referrals

Officer	Comments	Resolved
---------	----------	----------

Building	Council's Building Officer reviewed the proposal and determined that no consideration was necessary as the application is a concept development application.	Yes
City Design Heritage	Council's Heritage Officer reviewed the submitted Statement of Heritage Impact and provided comments. The Officer noted that the proposed development is adjacent to a state heritage listed property, St Luke's Church, and a referral was made to Heritage NSW. Heritage NSW has recommended a visual impact assessment and amended material schedule. <u>Outcome:</u> Council's Heritage Officer advises that the concept DA cannot be determined until the visual assessment has been prepared and provided to Council for review. The visual impact assessment will allow for the assessment of the siting and bulk of the proposed development of the urban landscape associated with St Lukes Church, including impacts on views to, from and concurrent with the item. The applicant has also not provided a preliminary Historic Archaeological Assessment to determine the potential for historical archaeology, which would be followed by a full historic archaeological assessment for the full DA for built works.	No
City Design Public Art	The proponent did not address 4.3.10 Public Artwork. <u>Outcome:</u> As the development is a concept application, the requirement for public art will be addressed during the DA for built works. Council will require a detailed Public Art Plan.	Yes
City Economy	Council's City Economy officer reviewed the application and was generally supportive of the new jobs the proposal will create. However, concern was raised over the amount of commercial floor area given current difficulties in securing pre-leases. A detailed Economic Impact Assessment was recommended to be submitted with the DA for built works. <u>Outcome:</u> A condition of consent is recommended to be imposed to require the submission of an Economic Impact Assessment with the detailed development application.	Yes (conditions)
Community Planning	Council's Community Planning Office reviewed the proposal and requested further information on the uses within the building, including how Clause 7.5A(3)(b), and the preparation of a Social Impact Assessment. <u>Outcome:</u> The detailed development application will require the submission of a Social Impact Assessment under Part 1 of the DCP. Similarly, further details of the uses will also accompany that application. This application presents sufficient information at the concept application stage to satisfy Clause 7.5A(3)(b) as it pertains to the through-site link, as discussed earlier in this report.	Yes (conditions)

Engineering	Council's Engineering Officer reviewed the application and requested a Plan of Subdivision to clearly show areas to be dedicated as public road and areas where part roads are to be closed, and other boundary adjustments and amalgamations. The survey plan was noted as 6 years old. <u>Outcome:</u> The applicant provided a survey to show the areas to be dedicated as public road and areas where part of the road is to form part of the development site. Following review of the additional information, Council's Engineer supports the proposal subject to conditions of consent.	Yes (conditions)
Environmental Health	Council's Environmental Health Officer reviewed the PSI and requested further information, including a DSI and RAP. <u>Outcome:</u> Following review of the DSI and RAP, Council's Environmental Health Officer supports the proposal subject to conditions of consent.	Yes (conditions)
Fire Safety	Council's Fire Safety Officer reviewed the proposal and provided a condition relating to the new substation that will be required.	Yes (conditions)
Flooding	Council's Flooding Officer determined the site was not flood affected; however the development must incorporate Water Sensitive Urban Design (WSUD) principles to ensure sustainable water management.	Yes (conditions)
Landscape	Council's Landscape Officer reviewed the landscape plan was supportive of the proposal at the concept stage.	Yes
Property	Council's Property team confirmed the agreement for the land swap was in place. A condition was recommended to be imposed requiring the execution and performance of the draft deed, should the application be recommended for approval. Furthermore, it was confirmed that the proposed SP2 land across the site is no longer required. Instead, the area has been designated as a link through the site, as reflected in the plans.	Yes (conditions)
Strategic Planning	Council's Strategic Planning Officer raised no objections to the initially submitted Clause 4.6 to redistribute some of the FSR from the Area 8 portion of the site to the Area 7 portion to create a better transition to the southern properties along Macquarie Mall. Additionally, Strategic requested that the applicant consider a mixed use development with residential above given the well-connected and located site. Further commentary was provided on materials and finishes, and the support for the through-site link with CPTED details to be provided.	Yes

	<u>Outcome:</u> The FSR variation was removed from the application during the assessment. The applicant maintained the intention to submit a strictly commercial building which is permissible in the zone and meets the zone objectives. The further details on materials and finishes and CPTED and through-site link design details will form part of a future detailed development application.	
Traffic and Transport	Council's Traffic Engineering Officer reviewed the proposal and raised concerns in relation to traffic generation and detailed car parking design and compliance. <u>Outcome:</u> It is deemed that these items were reasonable to be omitted from the concept development application assessment and are deferred to the detailed development application assessment.	Yes (conditions)
Urban Design	Council's Urban Design Officer was initially not supportive of the proposal due to variations to Council's DCP (Part 4) for street wall/podium heights and setbacks. Further information was also requested regarding the absence of information on the indicated childcare centre, inadequate information on GFA/GLA calculations, further exploration of tower options, consideration to increasing floor to floor height and further detail on the landscape design. The applicant submitted additional information, which was reviewed by Council's Urban Design Officer. <u>Outcome:</u> The proposal has improved by changing from a three tower design to the two tower design, and increasing the podium height to match the surrounding approved developments and DCP, pedestrian through-site link at Level 1 created double height running north-south, increased floor to floor heights, and some additional annotations on the drawings. However, there is still insufficient information which, in the officer's opinion, are important for a concept DA. The applicant also has not responded to the DEP minutes and recommendations. Therefore, insufficient information has been provided.	No
Waste Management	Council's Waste Officer provided considerations for the future detailed development application, including the need for a Waste Management Plan and adequate detail of the on-site collection area.	Yes

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

5.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 30 May 2024 until 27 June 2024. The notification included the following:

- A sign placed on the site;
- Notification letters sent to adjoining and adjacent properties, and
- Notification on the Council's website.

The application was re-notified from 1 August to 15 August 2025.

The Council received a total of one unique submission, being an objection to the proposal, during the first notification period. No submissions were received during the renotification period.

The issues raised in the submission are considered in Table 11.

Table 11: Community Submissions

Issue	No of submissions	Council Comments
Overshadowing of solar panels	1	The solar panels are located directly to the south of the proposed larger tower and are situated on a two storey building. The shadow diagrams illustrate that the solar panels will no longer receive solar access on June 21. They will continue to receive 1 hour of solar access on March/September 21 and 4 hours of solar access on December 21, including approved development. Given that the concept application presents a tower to the north of this, in an area informed by Design Excellence Panel and Council's Urban Design Advice and is compliant with the LEP separation distances, the impact is the consequence of orientation and the density of development. The high-density urban environment and development scale permitted render it difficult to impossible to retain solar access to panels on a lower scale building. The indicative impact is acceptable in this context.
Disruption to access and parking during construction and operation	1	The concept application approves no specific building works. Consequently, the potential to disrupt access to parking on adjoining land and any construction impacts are not relevant to this application. The next development stage, the detailed application, will need to consider these topics. Any development application approved would be conditioned to require the preparation of a Construction Environmental Management Plan to ensure construction impacts are minimised in accordance with relevant legislation.
Construction Impacts	1	As above, it is likely any built form application will be conditioned to require the preparation of a

		Construction Environmental Management Plan to ensure construction impacts are minimised in accordance with relevant legislation.
--	--	--

6. KEY ISSUES

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

- *Heritage* - The development application does not include information requested by Heritage NSW, including a visual impact assessment to consider potential impacts to significant views to, from and in conjunction with St Lukes Church; and amended plans including sympathetic material schedule, colour palette and signage strategy to demonstrate consideration of the setting and views of the St Lukes Anglican Church (SHR 00086); or details of a sympathetic material schedule, colour palette and signage strategy to demonstrate consideration of the setting and views of the St Lukes Anglican Church (SHR 00086).

These matters relate to the siting and bulk of the concept development and need to be considered under the concept development application.

Additionally, a preliminary historical archaeological assessment has not been provided to determine the potential for historical archaeology, which would be followed by a full historic archaeological assessment for the detailed development application.

- *Urban Design* – While the additional information shows some improvements to the design, there are still many recommendations that have not been responded to, or information not provided. The applicant's justification is that many of Council and the DEP's requests should not be requested for a Concept DA. CDPD's referral recommendation and the DEP recommendations were mostly in relation to design considerations that will impact the Concept Envelope. In CDPD's opinion, this information is important to demonstrate the proposed envelope will achieve a good design outcome for the CBD, in particular the public domain, including the through-site link. CDPD is concerned that if the concept DA is approved with limited surety that a good design can be achieved with these envelopes, it will be difficult to request in the future Detailed DA.
- In regard to energy conservation, the extensive glazing on the façades will not meet the expected sustainable performance. Excessively glazed façades in Liverpool's hot climate have been shown to not work. The concept design should develop affective strategies to allow natural ventilation by allowing operable features, in combination with trickle vents at appropriate locations.
- *Floor Space Ratio* – The development site control plan (based on the site survey) submitted with the application distinguishes the site area associated with the Area 7 and Area 8 lots (Drawing A305 Issue A). However, the amended architectural plans submitted following the request for additional information do not include any detailed floor plans to enable an assessment of whether the envelope would facilitate a GFA equal to, above or below the equivalent 2.5:1 FSR on the Area 7 lots, and 10:1 FSR on the Area 8 lots.
- *Insufficient Information* – The applicant was requested to provide information responding to issues raised by the Design Excellence Panel and Urban Design Officer on several occasions, but insufficient responses have been provided to the Council.

It is therefore considered that while redevelopment of the site is appropriate, insufficient information has been provided with the Concept DA and the application cannot be approved in its current form.

7. 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, issues raised in submissions and the key issues identified in this report, it is considered that the application cannot be supported.

It is considered that the key issues, as outlined in Section 6, have not been resolved satisfactorily through amendments to the proposal and/or in the recommended draft reasons for refusal at **Attachment A**.

8. RECOMMENDATION

That the Development Application DA-216/2024 for a concept development application for the demolition of all existing structures, amalgamation of lots and boundary adjustment, and the construction of two commercial towers of 17 and 28 storeys above a 4 storey podium with 2.5 levels of basement car parking and a pedestrian through-site link connecting George Street and Macquarie Mall at 132, 146, and 152 Macquarie Street and 127-131 George Street, Liverpool, be **REFUSED** pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* subject to the reasons for refusal attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Reasons for Refusal – Doc. Ref. 426646.2025
- Attachment B: Tables of Compliance – Doc. Ref. 426650.2025
- Attachment C: Architectural Plans – Doc. Ref. 281345.2025
- Attachment D: Landscape Plan - Doc. Ref. 281344.2025
- Attachment E: Addendum Statement of Environmental Effects – Doc. Ref. 252150.2025
- Attachment F: Survey Plan - Doc. Ref. 252135.2025
- Attachment G: Plan of Proposed Subdivision – Doc. Ref. 252140.2025
- Attachment H: Response to RFI – Doc. Ref. 281342.2025