

**COUNCIL ASSESSMENT REPORT**  
SYDNEY WESTERN CITY PLANNING PANEL

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|----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PANEL REFERENCE &amp; DA NUMBER</b>                                     | PPSSWC-512- DA-565/2024                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>PROPOSAL</b>                                                            | Concept Development Application for the Construction of a 34 Storey Mixed Use Building, Comprising of Ground Floor Commercial/Information & Educational Facility, a Child Care Centre, 118 Hotel Suites, 190 Residential Apartments, and Four (4) Levels of Basement Parking.                                                                                                                                                                                                                                                                                                                                        |
| <b>ADDRESS</b>                                                             | 2 Charles Street and 134 Terminus Street, Liverpool                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>APPLICANT</b>                                                           | Chanine Design Pty Ltd                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>OWNER</b>                                                               | Mr N David and Mr P Costi                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>DA LODGEMENT DATE</b>                                                   | 6 December 2024                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>APPLICATION TYPE (DA, Concept DA, CROWN DA, INTEGRATED, DESIGNATED)</b> | Concept Development Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>REGIONALLY SIGNIFICANT CRITERIA</b>                                     | Clause 2, Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021: CIV over \$30 million                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>CIV</b>                                                                 | \$81,907,711.82(excluding GST)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>CLAUSE 4.6 REQUESTS</b>                                                 | No Clause 4.6 has been submitted                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>KEY SEPP/LEP</b>                                                        | <p>Environmental Planning and Assessment Act 1979</p> <p>Environmental Planning and Assessment Regulation 2021</p> <p>State Environmental Planning Policy (Planning Systems) 2021.</p> <p>State Environmental Planning Policy (Transport and Infrastructure) 2021.</p> <p>State Environmental Planning Policy (Biodiversity and Conservation) 2021.</p> <p>State Environmental Planning Policy (Resilience and Hazards) 2021.</p> <p>State Environmental Planning Policy (Housing) 2021.</p> <p>State Environmental Planning Policy (Sustainable Buildings) 2022.</p> <p>Liverpool Local Environmental Plan 2008</p> |

|                                                                 |                                                                                                                                                                             |
|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>TOTAL &amp; UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b> |                                                                                                                                                                             |
| <b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>                    | Attachment A – Refusal Notice<br>Attachment B- Compliance Tables, ADG, LEP and LDCP<br>Attachment C – Architectural Plans<br>Attachment D – Design Excellence Panel Minutes |
| <b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>            | N/A                                                                                                                                                                         |
| <b>RECOMMENDATION</b>                                           | Refusal                                                                                                                                                                     |
| <b>DRAFT CONDITIONS TO APPLICANT</b>                            | N/A                                                                                                                                                                         |
| <b>SCHEDULED MEETING DATE</b>                                   | 13 August 2025                                                                                                                                                              |
| <b>PLAN VERSION</b>                                             | N/A                                                                                                                                                                         |
| <b>PREPARED BY</b>                                              | Emily Lawson                                                                                                                                                                |
| <b>DATE OF REPORT</b>                                           | 1 August 2025                                                                                                                                                               |

## EXECUTIVE SUMMARY

### 1. The Proposal

The Application seeks Development Consent under Section 4.22 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) for the Concept Approval the Construction of a 34 Storey Mixed Use Building, Comprising of Ground Floor Commercial/Information & Educational Facility, a Child Care Centre, 118 Hotel Suites, 190 Residential Apartments, and Four (4) Levels of Basement Parking.

The subject site is known as 2 Charles Street and 134 Terminus Street Liverpool, being legally known as Lot 2527 DP 1111436 and Lot 1 DP834810.

The existing development consists of the Local Heritage item 78 being Lyndeer House, including stables, interiors, front fence, and landscaping at 2 Charles Street, and an existing attached commercial building at 134 Terminus Street.

The site is located within MU1 Mixed Use Zone pursuant to the Liverpool Local Environmental Plan 2008 (LLEP).

The application was advertised from the 18<sup>th</sup> of December 2024 to the 23 of January 2025 and received one (1) submission objecting to the proposal. This will be discussed within Section 4.3 of this report.

The application is referred to the Sydney Southwest City Planning Panel (the Panel) as the development is considered *regionally significant*, pursuant to Clause 2 of Schedule 6 Regionally significant development of State Environmental Planning Policy (Planning Systems) 2021.

The key issues associated with the proposal include:

1. *Clause 7.5A* – The proposed development is seeking to rely upon the application of Clause 7.5a under the LLEP, in which it has been raised the site does not benefit from given the Clause, as both allotments are independent of one another and amalgamation has not occurred prior to the lodgement of the application, therefore the development does not benefit from the additional height and FSR. The applicant was requested to demonstrate how the development benefits from the Clause, for which a response has not been received.
2. *Building Separation* – The development does not comply with the required Building separation requirements pursuant to Clause 7.4 of the LLEP. A Clause 4.6 Variation request has not been submitted to ascertain or justify the noncompliance and the impacts it may have on neighbouring properties and future developments.
3. *Urban Design* - The proposed built form does not achieve a sympathetic response to the existing and desired future context, and the building facades fail to contribute positively or provide visual interest to the existing streetscape character. The design has failed to adequately and succinctly incorporate the Heritage Item appropriately into the design, in which the built form will dominate over the heritage building and gardens. Front setbacks are insufficient, and the basement driveway presents a poor outcome, resulting in adverse impacts to surrounding properties and the streetscape. A shortfall of proposed communal space and insufficient dimensions to ascertain compliance with apartment layout and balcony dimensions are further issues.
4. *Site Isolation* – The proposed development has not adequately considered the attached building at 126 Terminus Street, Liverpool, in which the development would reduce the viability and economic redevelopment of the site, rendering it obsolete. The Applicant was requested to consider the integration of the property within the development's envelope, in which no response has been received.
5. *Integration of Heritage Item into Building Envelope* – The design of development has not adequately considered the local heritage item into the site's building envelope and overarching design, in which the dominance of the tower over the building and gardens has not been ameliorated.
6. *Contamination* – The applicant was requested to provide a Preliminary Site Investigation Report on three (3) occasions, in which no response was received within the allocated period. Council can not ascertain that the proposal complies with Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021.
7. *Amenity* – The application does not comply with the objectives and controls within the Apartment Design Guide (ADG) in particularly to setbacks, building separation, solar access, and cross ventilation.
8. *Insufficient Information* – The applicant was requested to provide information on several occasions, but no responses have been provided to the Council.

**Further details are provided in the Key Issues section of this report.**

Other issues include inadequate information to appropriately and thoroughly assess the proposal due to insufficient information provided to Council. A number of requests for further information

was afforded to the applicant in but a response was not provided to Council during the allotted timeframes as demonstrated below:

- Application lodged with Council: 6 December 2024
- Stop-the-Clock (STC) – RFI issued: 17 December 2024
  - o Extension granted: from 13 January 2025 to 24 January 2025
- Notification and advertising period: 18 December 2024 to 23 January 2025
- Design Excellence Panel (DEP) meeting: 27 February 2025
- SWCPP briefing: 17 March 2025
- Additional information requested: 22 April 2025
  - o Extension granted on 20 June 2025 to submit RFI by 4 July 2025
  - o Further extension request submitted on 3 July 2025 – not granted
- RFI response remains outstanding.
- Partial Additional Information was received by Council on the 23<sup>rd</sup> of July 2025 in which a number of matters still remain outstanding. The applicant requested another extension to the 16<sup>th</sup> of August 2025, which was not accepted by the Council.

The development proceeded to the Design Excellence Panel on the 27<sup>th</sup> of February 2025, in which the panel did not support the proposal and raised fundamental concerns about the site designs, application, and integration of the heritage item at 2 Charles Street, as well as the impacts the development may have on the southern, eastern, and western neighbours.

A briefing was held with the Panel on 17 March 2025, where key issues were discussed, in particular the reliance of Clause 7.5a of the LLEP, integration of the heritage item into the site's design, as well as the Design Excellence Panel's comments. The applicant declined to attend the meeting with the Regional Panel.

Following consideration of the matters under Section 4.15 (1) of the EP&A Act, the provisions of the applicable State Environmental Planning Policies, in particular to 4.15 (1)(a)(b)(c)(d) and (e), the proposed development can not be supported.

## **1. THE SITE AND LOCALITY**

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### **1.1 The Site**

The subject site consists of two (2) individual allotments, which are commonly referred to as No. 134 Terminus Street and No. 2 Charles Street. The sites are legally known as Lot 1 in DP 834810, and Lot 2527 in DP 1111436.

The is located on the southern corner of Terminus Street and Charles Street and adjoins Nagle Service way to the rear. The site is irregular in shape due to the oblique subdivision pattern of Charles and Terminus Streets. The site has a total frontage to Charles and Terminus Street of 51.695m, and a total frontage to Nagle Service way of 20.025m.



Figure 1: Subject Site (outlined in red)

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

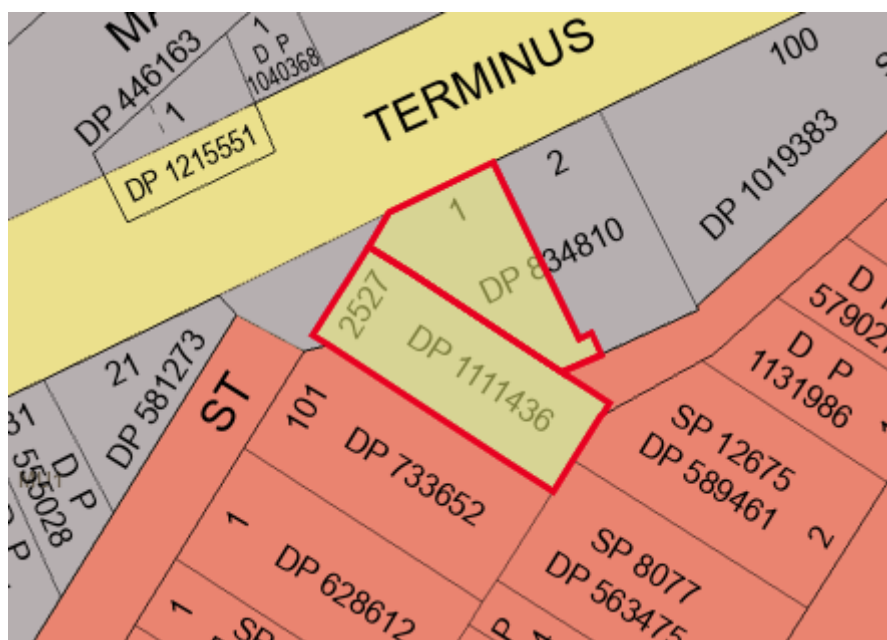


Figure 2: Zoning Map extract

The site is prescribed a maximum Floor Space Ratio of 3.0:1 as identified for those sites located within V1.

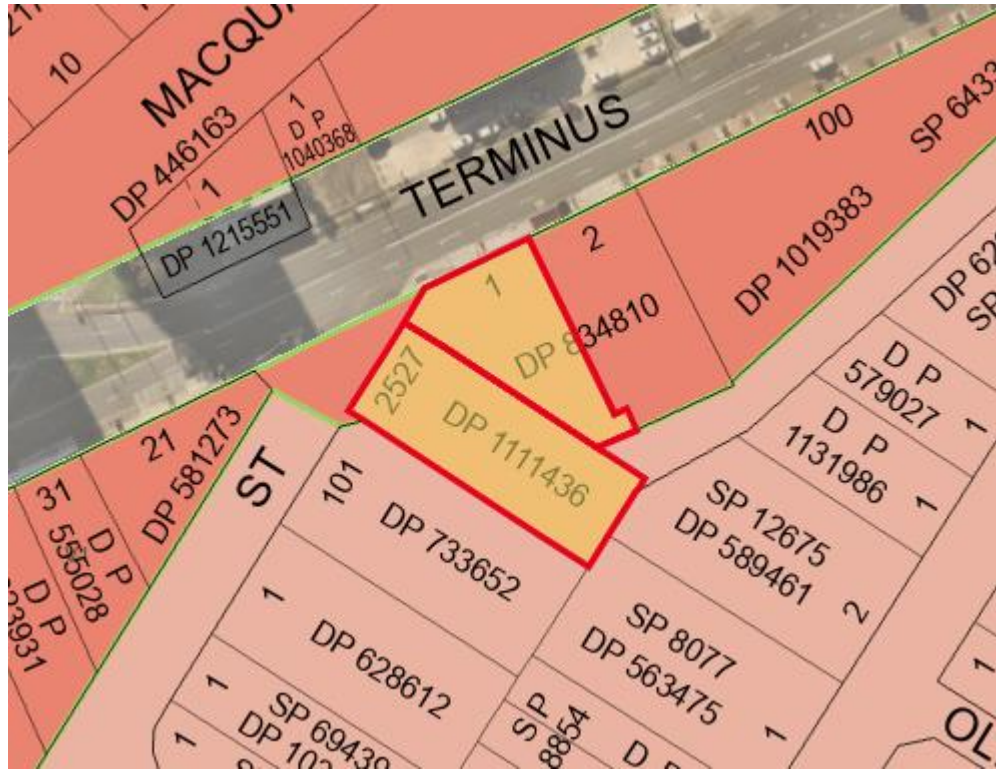


Figure 3: Floor Space Ratio Map

Clause 4.4 prescribes maximum height of 28m pursuant to the LLEP for areas identified within the T2 Zone.

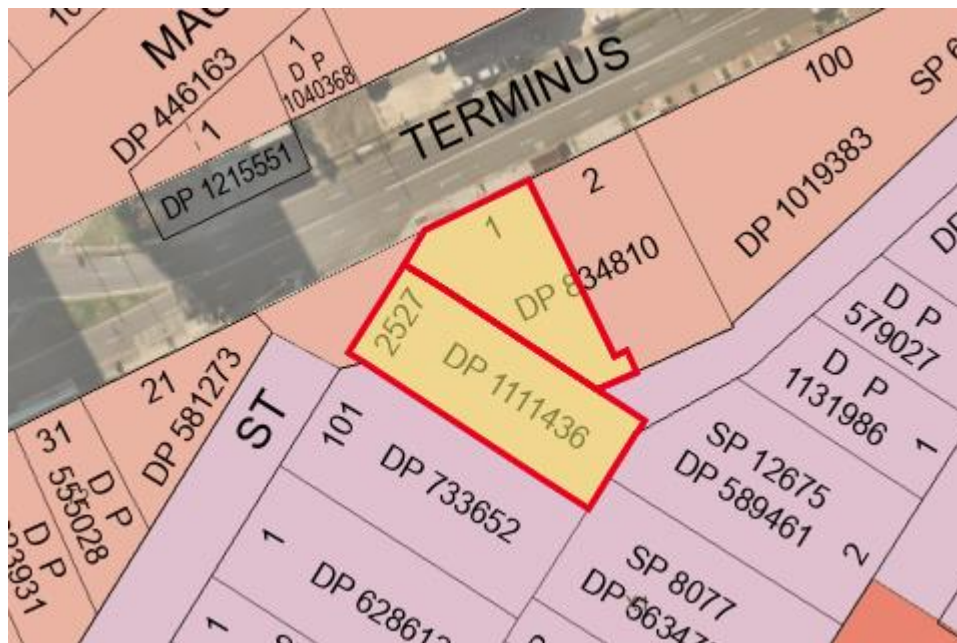


Figure 4: Height of Buildings

## **2. THE PROPOSAL AND BACKGROUND**

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### **2.1 The Proposal**

The application seeks Concept Approval for a 34 Storey Mixed Use Building, Comprising of Ground Floor Commercial/Information & Educational Facility, a Child Care Centre, 118 Hotel Suites, 190 Residential Apartments, and Four (4) Levels of Basement Parking.

The development includes the following:

- Demolition of existing structure at 134 Terminus Street
- Removal of fence between both properties.
- Proposed removal of 39 Trees at 2 Charles Street
- Partial Demolition of rear extension of Heritage Item at 2 Charles Street.
  
- Hotel operations including:
  - 73 Studio rooms
  - 38 one (1) bedrooms
  - Seven (7) two (2) bedroom rooms

The Hotel will operate over Levels 3-9, with a separate entrance for hotel guests to arrive on the Ground Floor.

- Residential Units consisting of:
  - 25 studio apartments
  - 49 one (1) bedroom apartment
  - 105 two (2) bedroom apartments
  - 11 three (3) bedroom apartments

The Residential Apartments will operate over Levels 10-23.

- Childcare Centre consisting of:
  - 110 childcare places
  - Outdoor play area

The childcare facility is intended to operate over Levels 1 and 2.

- The Ground floor will include the following:
  - A commercial tenancy measuring 185m<sup>2</sup>, which has an active frontage to Terminus Street, and frontage to the proposed internal forecourt area.
  - Separate hotel, childcare, and residential foyers and lift cores are proposed, accessed from the internal forecourt area.
  - A back of house area inclusive of a loading bay with waste storage and collection zone, chemical storage, and is proposed at the rear of the development adjacent to the frontage with Nagle Service way.
  - A chamber substation is proposed adjacent to Nagle Service way.
  - The existing Heritage listed buildings on No. 2 Charles Street are to be retained and are proposed to be used as information and education facility. The specific layout and use will be subject to a future built form DA.
  - A forecourt area is proposed to be used as a public recreation between the proposed built form, and the existing and retained heritage buildings.

- Roof level
  - The roof level will consist of a communal open space measuring 716m<sup>2</sup>



3D VIEW



3D VIEW WITH FUTURE DEVELOPMENT

5.28  
05 CONCEPTUAL PLANNING  
3D VIEWS

*Figure 5: Proposed Conceptual Plan*

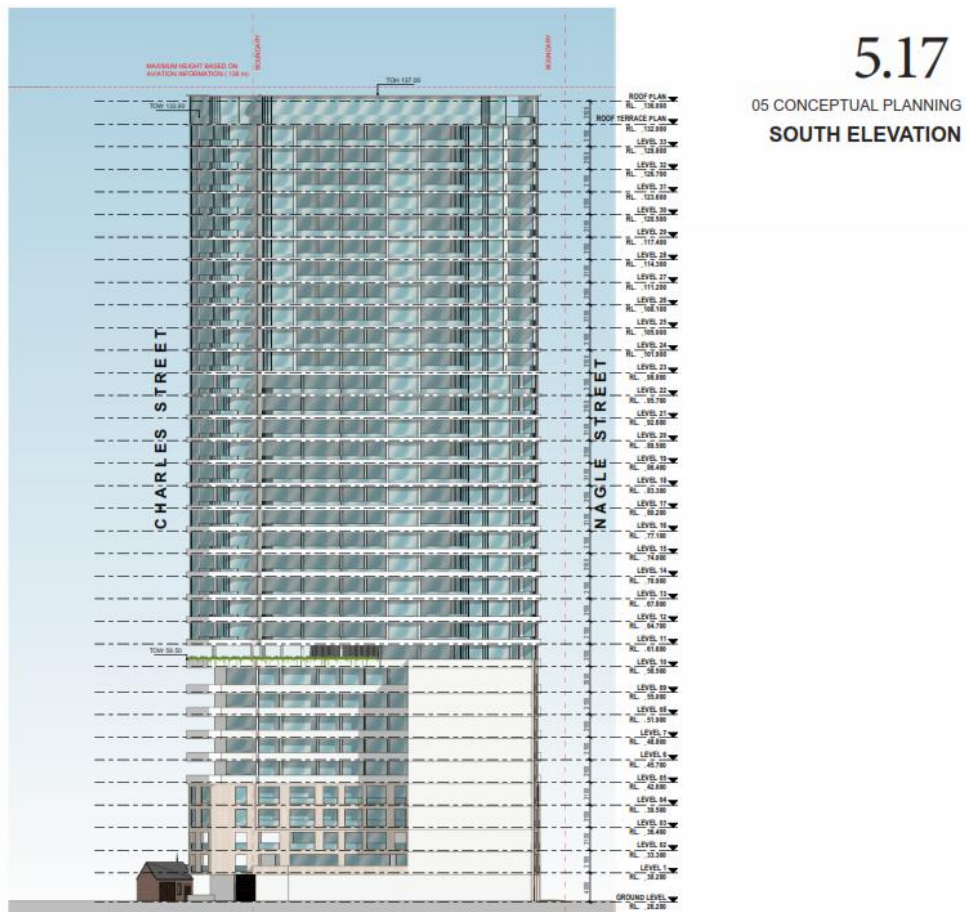


Figure 6: Proposed South Elevation Plan



Figure 7: Proposed Ground Floor Plan

## 2.2 Background

The development application was lodged on **6 December 2024**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

**Table 1: Chronology of the DA**

| Date                    | Event                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>6 December 2024</b>  | DA lodged                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>18 December 2024</b> | Exhibition of the application until the 23 <sup>rd</sup> of January 2025.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>17 December 2024</b> | Stop the Clock – pertaining to the following: <ul style="list-style-type: none"><li>- Detailed Historical Archaeological Assessment</li><li>- Structure Engineers Certificate</li><li>- Preliminary Site Investigation Report</li><li>- Stormwater Plans</li><li>- Acoustic Report</li><li>- Plan of Management</li><li>- Waste Management Plan</li><li>- Information pertaining to Childcare.</li></ul> An extension was granted until the 24 <sup>th</sup> of January 2025.                                                                                                                                                                                                                                                               |
| <b>27 February 2025</b> | Design Excellence Panel Meeting                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>17 March 2025</b>    | Panel briefing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>22 April 2025</b>    | Request for Information pertaining to the following: <ul style="list-style-type: none"><li>- Planning matters in particular to Clause 7.4, 7.5a of the LEP</li><li>- Setbacks, bulk and scale issues</li><li>- Site Isolation</li><li>- Heritage Matters</li><li>- Urban Design</li><li>- Fire Safety</li><li>- Flooding</li><li>- Public Art</li></ul> The RFI was granted an extension from the due date, being 22 <sup>nd</sup> of May to the 20 <sup>th</sup> of June, with a final extension granted until the 4 <sup>th</sup> of July 2025.<br><br>The applicant requested an extension until the 16 <sup>th</sup> of August 2025, which was declined by the Council.<br><br>No adequate response to the April RFI has been received. |

## 3. STATUTORY CONSIDERATIONS

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

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

### **3.1 Section 4.22 Concept Development Applications**

The proposed development is submitted pursuant to Section 4.22 Concept Developments Applications under the EP& A Act. Section 4.22 outlines the following:

#### *4.22 Concept development applications (cf previous s 83B)*

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

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

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

*(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.*

*(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 application has been assessed in relation to the above request for the application to be treated as a concept application as per Section 4.22 (3) of the EP&A Act.

### **3.2 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 *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation) are considered below.

#### **(a) 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 (Housing) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022
- Liverpool Local Environmental Plan 2008

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 2** and considered in more detail below.

**Table 2: Summary of Applicable Environmental Planning Instruments**

| <b>EPI</b>                                                             | <b>Matters for Consideration<br/>(Brief summary)</b>                                                                                                       | <b>Comply<br/>(Y/N)</b> |
|------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| State Environmental Planning Policy (Biodiversity & Conservation) 2021 | Chapter 2- Vegetation in Non-rural Areas<br>Chapter 6: Water catchments                                                                                    | N                       |
| State Environmental Planning Policy (Housing) 2021                     | Chapter 4 – Design of Residential Apartment Development                                                                                                    | N                       |
| State Environmental Planning Policy (Planning Systems) 2021            | Chapter 2: State and Regional Development<br>• Clause 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6. | Y                       |
| SEPP (Resilience & Hazards)                                            | Chapter 4: Remediation of Land<br>• Section 4.6 - Contamination and remediation have been considered and the proposal is not satisfactory.                 | N                       |

|                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                       |   |
|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|
| State Environmental Planning Policy (Transport and Infrastructure) 2021 | Chapter 2: Infrastructure <ul style="list-style-type: none"> <li>• Clause 2.119(2) Impact of road noise or vibration on non-road development</li> <li>• Clause 2.120</li> <li>• Clause 2.122(4) - Traffic-generating development</li> </ul> Chapter 3: Educational Establishments <ul style="list-style-type: none"> <li>• Section 3.23 - Centre-based childcare facility—matters for consideration by consent authorities</li> </ul> | N |
| State Environmental Planning Policy (Sustainable Buildings) 2022        | No compliance issues identified subject to imposition of conditions on any consent granted                                                                                                                                                                                                                                                                                                                                            | Y |
| LEP                                                                     | <ul style="list-style-type: none"> <li>• Clause 2.3 – Permissibility and zone objectives</li> <li>• Clause 5.10 – Heritage Conservation</li> <li>• Clause 7.4</li> <li>• Clause 7.5 Design Excellence in Liverpool City Centre</li> <li>• Clause 7.5A</li> </ul>                                                                                                                                                                      | N |
| DCP                                                                     | Liverpool Development Control Plan                                                                                                                                                                                                                                                                                                                                                                                                    | N |

The proposed development is considered to inconsistent with a number of SEPPs, LEP and DCP and therefore is not supported.

Consideration of the relevant SEPPs is outlined below:

**a) State Environmental Planning Policy (Biodiversity and Conservation) 2021**

**I. Chapter 2 – Vegetation in non-rural areas**

The proposal intends to remove existing trees, plants and shrubs located at 2 Charles Street. An Arboricultural Impact Assessment and Tree Management Plan has been submitted to outline the removal of 39 trees on the site due to the proposed works.

The report has not adequately considered the heritage nature of the landscaping present at 2 Charles Street, in which the Heritage Impact Assessment is devoid of environmental planning grounds to justify the removal of the landscaping. The removal of the vegetation is purely for the proposed developments construction of a basement carpark and vehicular access to the site.

The Design Excellence Panel (DEP) raised concerns pertaining inconsistency between the Architectural and Landscaping plans, to ascertain the number and area for the removal of vegetation, as well as the recommendation for vegetation to be retained as much as possible on the site.

The applicant has not provided a response to the DEP comments.

**II. Chapter 6 – Water Catchments**

The subject land is located within the Georges River Catchment and as such Chapter 6 applies within the Biodiversity SEPP. The Biodiversity SEPP aims to protect the environment of the Georges River system by ensuring the impacts of future land uses and development in general are considered in a regional context.

The relevant parts of the SEPP are:

### Table 3 – Chapter 6 -Water Catchments

[illegible]

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>(i) the erosion of land abutting a natural waterbody, or</p> <p>(ii) the sedimentation of a natural waterbody,</p> <p>(d) whether the development will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,</p> <p>(e) whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology,</p> <p>(f) if the development site adjoins a natural waterbody—whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody.</p>                                                                                                                                                                     | <p>Development is not identified as being in proximity to wetlands or littoral rainforest area.</p> <p>Impacts to the Georges River Catchment have not been considered suitable given the locality of the development.</p> <p>The development has not demonstrated the impact on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and the impacts on water quality will be minimised.</p> |
| <p><b>6.8 Flooding</b></p> <p>(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems.</p> <p>(2) Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not—</p> <p>(a) if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or</p> <p>(b) have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.</p> | <p>The subject property is not flood affected.</p>                                                                                                                                                                                                                                                                                                                                                                                                |
| <p><b>6.9 Recreation and public access</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>The development is not considered to impact public access to recreational land. Noted the site is not adjacent to a recreation land or foreshores.</p>                                                                                                                                                                                                                                                                                         |
| <p><b>6.10 Total catchment management</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>The development is not anticipated to impact on total catchment management.</p>                                                                                                                                                                                                                                                                                                                                                                |

The submitted information has been assessed and has not demonstrated the proposed development would achieve the stormwater and water quality design requirements of Liverpool City Council. The development has been reviewed by Council's Land Development Engineering and Flooding section, in which Council Flooding Engineering's were not supportive of the application due to insufficient information.

It is considered the proposal cannot satisfy the provisions of the Biodiversity SEPP and the consent authority cannot be satisfied the proposed development demonstrates potential impacts on the water quality and quantity and aquatic ecology is reasonable as expressed within the provisions.

## **b) State Environmental Planning Policy (Housing) 2021**

The development is classified as “*mixed use development with a residential accommodation component*” and as such Chapter 4 – Design of residential apartment development applies to the subject application.

The requirements of Chapter 4 are as follows:

**Table 4 – Housing SEPP**

| <b>Clause</b>                | <b>Requirement</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>Comment</b>                                                                                                                                                                                                   |
|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 144 – Application of chapter | <p>(1) In this policy, development to which this chapter applies is referred to as <b>residential apartment development</b>.</p> <p>(2) This chapter applies to the following—</p> <p>(a) development for the purposes of residential flat buildings,</p> <p>(b) development for the purposes of shop top housing,</p> <p>(c) mixed use development with a residential accommodation component that does not include boarding houses or co-living housing, unless a local environmental plan provides that mixed use development including boarding houses or co-living housing is residential apartment development for this chapter.</p> <p>(3) This chapter applies to development only if—</p> <p>(a) the development consists of—</p> <p>(i) the erection of a new building, or</p> <p>(ii) the substantial redevelopment or substantial refurbishment of an existing building, or</p> <p>(iii) the conversion of an existing building, and</p> <p>(b) the building is at least 3 storeys, not including underground car parking storeys, and</p> | <p><b>Noted</b></p> <p>The proposed development is for the construction of a mixed-use building which consists of a residential apartment complex, in terms of a shop top housing pursuant to clause (2)(b).</p> |

|                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                     | (c) the building contains at least 4 dwellings.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                         |
| 145 – Referral to design review panel for development applications                                                  | Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development.                                                                                                                                                                                                                                                              | <b>Does not comply</b><br>The application has been referred to the Liverpool Design Excellence Panel, who were not supportive of the proposal.                                                                                                                                                                                                                          |
| 147 – Determination of development applications and modification applications for residential apartment development | Development consent must not be granted to residential apartment development unless the consent authority has considered the following—<br>(a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,<br>(b) the Apartment Design Guide,<br>(c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel. | <b>Considered</b><br>(a) The development has been evaluated in accordance with the design principles in Schedule 9<br><br>(b) The Apartment Design Guide has been considered in the assessment of the application<br><br>(c) As detailed above, the LDEP were not supportive of the proposal and their advice has been considered in the assessment of the application. |

It is important to note as stipulated within Clause 4.22 (4) of the EP&A Act an assessment against Housing SEPP has been undertaken to ascertain the extent deemed appropriate for the concept application. A detailed assessment would be further required once subsequent applications

#### Apartment Design Guide

In accordance with Clause 147(1)(b) of the SEPP (Housing) 2021, the application has been assessed against the Apartment Design Guide (ADG). A full assessment of the development against the requirements of the ADG is provided in Attachment B; there is insufficient information to establish the full extent of the proposal, noting the application is for a Concept approval.

#### **c) 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 Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is development with an estimated development cost of more than \$30 million. Accordingly, the Sydney Western

City Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

#### **d) State Environmental Planning Policy (Resilience and Hazards) 2021**

##### **Chapter 4: Remediation of Land**

- i. Clause 4.6 Contamination and remediation to be considered in determining development application

The proposal has been assessed under the relevant provisions of SEPP (Resilience and Hazards) 2021, specifically Chapter 4 – Remediation of Land, as the proposal involves the development of land to accommodate a change of use.

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 must be considered by Council before determining the development application. Specifically, Council 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.

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

**Table 5 – Clause 4.6 of Resilience and Hazardous SEPP**

| <b>Clause 4.6 - Contamination and remediation to be considered in determining development application</b>                                                                                                                  | <b>Comment</b>                                                                                                                                                                                                       |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (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                                                                                                                                                                | A Preliminary Site Investigation Report was submitted and noted the site was contaminated. A Stage 2 Detailed Site Investigation was requested on two (2) occasions which has not been submitted by the application. |
| (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 | Insufficient Information has been presented to ascertain the extent of contamination.                                                                                                                                |

|                                                                                                                                                                                                                              |                                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose. | The land may require remediation. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|

Based on the above assessment the application has failed to address the SEPP, and the consent authority is not satisfied that the site is suitable for the proposed use.

#### **e) State Environmental Planning Policy (Transport and Infrastructure) 2021**

##### **(i) Clause 2.119 – Development with frontage to classified road**

The subject application fronts Terminus Street, which is a classified road, and as such the provisions of Clause 2.119 of the SEPP apply to the development. Clause 2.119(2) provides the following:

**Table 6 – T&I SEPP**

| <b>Clause</b>                                                                                                                                                                                                                                                                                                                                                                     | <b>Comment</b>                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—                                                                                                                                                                                                                                     |                                                                                                                                      |
| (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and                                                                                                                                                                                                                                                            | <b>Complies</b><br>Vehicular access to the land is provided from Nagle Street,                                                       |
| (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—<br>(i) the design of the vehicular access to the land, or<br>(ii) the emission of smoke or dust from the development, or<br>(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and | <b>Complies</b><br>The proposed development would not impact on the safety, efficiency and ongoing operation of the classified road. |
| (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.                                                                            | See discussion of Clause 2.120 below.                                                                                                |

##### **(ii) Clause 2.120 – Impact of road noise or vibration on non-road development**

The subject application includes development for the purposes of residential accommodation and centre based childcare facility adjacent to the road corridor for a road with an annual average daily traffic volume of more than 20,000 vehicles and is likely to be adversely affected by road noise or vibration, and as such the provisions of Clause 2.120 apply to the subject development.

Clause 2.120(3) provides requirements for the maximum noise level in a bedroom or other space within residential accommodation. An acoustic report has been provided which addresses noise impacts from the classified road on the development, and conditions of consent can be imposed requiring construction to adhere to the requirements of the report

The application was referred to TfNSW in which on the 8<sup>th</sup> of May 2025 provided a response and is address further within this report.

(iii) Clause 2.122 – Traffic-generating development

The application involves a total of 180 residential apartments and childcare facility with access provided within 90m of a classified road. As such, Clause 2.122 of the SEPP applies to the application. The applicable provisions under this clause are Subsection 4(b) (i)-(iii), which are discussed below.

*(4) Before determining a development application for development to which this section applies, the consent authority must—*

*(b) take into consideration—*

- (i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and*

The application has been referred to Transport for NSW (TfNSW) and they have advised they are supportive subject to imposition of conditions.

*(ii) the accessibility of the site concerned, including—*

- (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
- (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*

The site is fairly accessible, being located in the Liverpool CBD with multiple bus stops within reasonable walking distance. The proposed use would principally generate individual car trips, with some small- to medium-sized trucks providing occasional services.

- (iii) any potential traffic safety, road congestion or parking implications of the development.*

The proposed development was referred to Councils Traffic Engineers who did not support the proposed development and requested further information which has not been responded to by the applicant. It has been identified the site has a shortfall of parking, in particular to the proposed Hotel Use in which a shortfall of 82 spaces and 1 space per two employees is identified.

(iv) Chapter 3 Educational Establishments and Childcare Facilities

Chapter 3 of the SEPP aims to facilitate the effective delivery of educational establishments and early education and care facilities. The proposed development includes a centre based childcare centre and is subject to the provisions of the SEPP.

A compliance table of the relevant clauses of Chapter 3 specific to the development is provided within Attachment B.

The applicant was requested to provide further information in relation to internal and external unencumbered space requirements identified under the SEPP and the Education and Care Services National Regulations.

**f) State Environmental Planning Policy (Sustainable Buildings) 2022**

*State Environmental Planning Policy (Sustainable Buildings) 2022* applies to the proposal. The objectives of this Policy are to ensure the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

Given the application seeks concept approval, the application was not required to have submitted a BASIX Certificate to comply with the requirements under the SEPP.

**g) Liverpool Local Environmental Plan 2008**

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

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to encourage a range of housing, employment, recreation and services to meet the needs of existing and future residents of Liverpool,*
- (b) *to foster economic, environmental and social well-being so that Liverpool continues to develop as a sustainable and prosperous place to live, work, study and visit,*
- (c) *to provide community and recreation facilities, maintain suitable amenity and offer a variety of quality lifestyle opportunities to a diverse population,*
- (d) *to strengthen the regional position of the Liverpool city centre as the service and employment centre for Sydney's southwest region,*
- (e) *to concentrate intensive land uses and trip-generating activities in locations most accessible to public transport and centres,*
- (f) *to promote the efficient and equitable provision of public services, infrastructure and amenities,*
- (g) *to conserve, protect and enhance the environmental and cultural heritage of Liverpool,*
- (h) *to protect, connect, maintain and enhance the natural environment in Liverpool, and promote ecologically sustainable development which takes into account the environmental constraints of the land,*
- (i) *to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bush fires, by managing development in sensitive areas,*
- (j) *to promote a high standard of urban design that responds appropriately to the desired future character of areas,*
- (k) *to improve public access along waterways and vegetated corridors while ensuring the natural environmental values of riparian and bushland corridors and the habitat they provide are protected and enhanced,*
- (l) *to improve public transport accessibility, and facilitate the increased use of public transport, cycling and pedestrian activity,*

- (m) *to enhance the amenity and positive characteristics of established residential areas,*
- (n) *to ensure the agricultural production potential of rural land and prevent its fragmentation,*
- (o) *to encourage development opportunities for business and industry so as to deliver local and regional employment growth.*

The proposal is consistent with these aims as the proposal:

- May provide housing, employment and recreation to meet the needs of existing and future residents of Liverpool.
- May provide intensive land uses and trip-generating activities in locations most accessible to public transport and centres.
- May constitutes a development opportunity for business and industry to deliver local and regional employment growth.

The site is located within the Mixed-Use Zone pursuant to Clause 2.2 of the LEP.

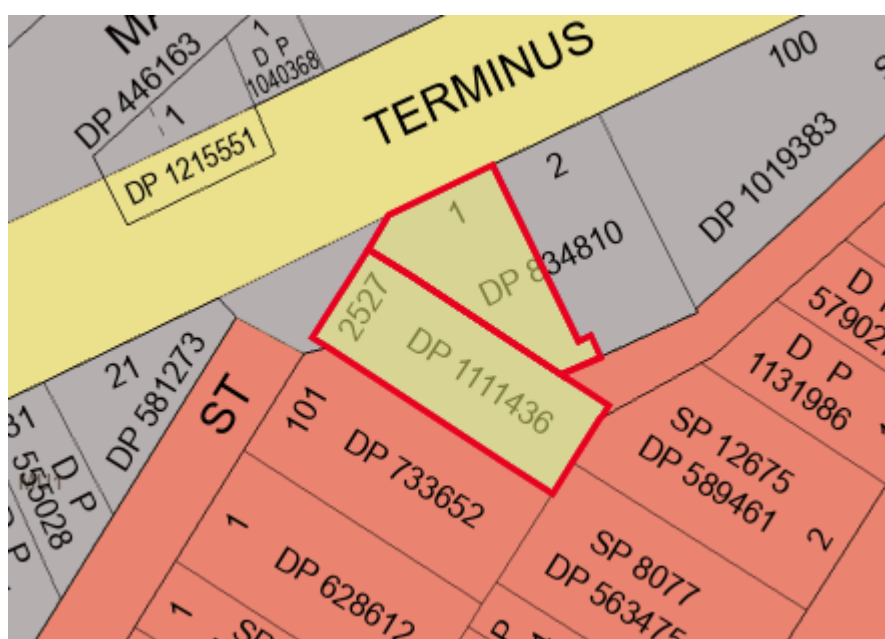


Figure 8: Mixed Use Zoning under the LLEP

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 not be consistent with these zone objectives for the following reasons:

- The proposed development has not succinctly incorporated an existing heritage item into the scheme to ensure it achieves an active street frontage
- The proposed development does not minimise a conflict between land uses, in particular to due to the site isolation and expansive building envelope design.
- The development does not allow for residential development to occur without impacting upon other proposed land uses on the site and neighbouring properties.

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

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below. The proposal does not comply with the development standard/s in Part 7 of the LEP and accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the minimum building separation.

**Table 7: Consideration of the LEP Controls**

| Control                                                             | Requirement                                                                                                                                                                                                                                      | Proposal                                                                                                                                                                                                                                                                                                                                                                          | Comply                    |
|---------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| Height of buildings<br>(CI 4.3(2))                                  | 28metres                                                                                                                                                                                                                                         | The proposal seeks to benefit under Clause 7.5A to seek approval for 110m.                                                                                                                                                                                                                                                                                                        | No – See Clause 7.5a      |
| FSR<br>(CI 4.4(2))                                                  | 3:1                                                                                                                                                                                                                                              | The proposal seeks a GFA of approximately 19,374.5sqm meaning an FSR of 9.99:1.                                                                                                                                                                                                                                                                                                   | No- See Clause 7.5a       |
| Heritage<br>(CI 5.10)                                               | Development consent is required for the alterations of heritage item.                                                                                                                                                                            | The proposed development has not adequately considered the Local Heritage item.                                                                                                                                                                                                                                                                                                   | No- see below.            |
| Objectives for development in Liverpool City Centre<br>(Clause 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 | The development has not adequately considered the existing street character, layout in terms of building alignments, as well as passive, direct and convenient pedestrian links through the site. Furthermore, the development has not appropriately considered the impacts the development would have on solar access to the rear properties, rendering access to sunlight moot. | No- see discussion below. |

|                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                  |                            |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| Carparking in Liverpool City Centre (Clause 7.3)                                       | Minimum parking requirements for E2 and MU1 zones.<br>1 car space per 200sqm gross floor area on the ground floor; 1 car space per 100sqm retail premises not on ground floor; 1 car space per 150sqm of any other purpose not on ground floor.                                                                                                                                                 | The proposed development seeks 134 parking spaces a shortfall of parking spaces required.                                                                                                                        | No – See discussion below. |
| Building Separation in Liverpool City Centre (Clause 7.4)                              | 12m for parts of buildings 25-45m above finished ground level in MU1.<br>28m for parts of buildings 45+m above finished ground level in MU1                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                  | No – See discussion below  |
| Design Excellence in Liverpool City Centre (Clause 7.5)                                | Development must exhibit design excellence.                                                                                                                                                                                                                                                                                                                                                     | The application has been referred to the Design Excellence Panel, who were no supportive of the proposed development.                                                                                            | No - see discussion below  |
| Additional provisions relating to certain land at Liverpool City Council (Clause 7.5a) | 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 childcare 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— | The development seeks utilisation of the Clause in terms of additional Height and FSR provisions. The applicant has not demonstrated <i>how</i> the site benefits from the clause and therefore does not comply. | No – see discussion below. |
| Ground floor development in Zones E1 and MU4 (CI 7.16)                                 | This clause applies to land in E1 and MU1 zones; development consent must not be granted unless the ground floor is to be used for business                                                                                                                                                                                                                                                     | The proposed development includes a hotel on the ground, however, has not adequately demonstrated how it will enhance the streetscape.                                                                           | No - see discussion.       |

|  |                                                                                                                                                   |  |  |
|--|---------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
|  | premises or retail premises, and will have at least one entrance and at least one other door or window facing a street other than a service lane. |  |  |
|--|---------------------------------------------------------------------------------------------------------------------------------------------------|--|--|

The proposal is considered not to be generally inconsistent with the LEP.

## 5.10 Heritage Conservation

### 5.10 Heritage conservation

#### **Note—**

*Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the [Heritage Map](#) as well as being described in Schedule 5.*

*(1) **Objectives** The objectives of this clause are as follows—*

- (a) to conserve the environmental heritage of Liverpool,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

*(2) **Requirement for consent** Development consent is required for any of the following—*

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—*
  - (i) a heritage item,*
  - (ii) an Aboriginal object,*
  - (iii) a building, work, relic or tree within a heritage conservation area,*
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
- (d) disturbing or excavating an Aboriginal place of heritage significance,*
- (e) erecting a building on land—*
  - (i) on which a heritage item is located or that is within a heritage conservation area, or*
  - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*
- (f) subdividing land—*
  - (i) on which a heritage item is located or that is within a heritage conservation area, or*
  - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*

*(4) **Effect of proposed development on heritage significance***

*The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed*

*development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5), or a heritage conservation management plan is submitted under subclause (6).*

*(5) Heritage assessment the consent authority may, before granting consent to any development—*

*(a) on land on which a heritage item is located, or*

*(b) on land that is within a heritage conservation area, or*

*(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),*

*require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

*(6) Heritage conservation management plans the consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.*

Council requested the applicant to provide a detailed Historical Archaeological Assessment, a Landscape Analysis in relation to the heritage item, and proposed landscaping and a Conservation Management Plan, which has not been provided by the applicant.

Furthermore, the applicant has not appropriately considered the heritage item in terms of the impacts the development will cause on the item and the surrounding locality. Council's Heritage Officer, therefore can not support the proposed development in line with Clause 5.10 of the LEP.

## **Clause 7.1 Objectives for Development in Liverpool City Centre**

### **7.1 Objectives for development in Liverpool city centre**

*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—*

*(a) to preserve the existing street layout and reinforce the street character through consistent building alignments,*

*(b) to allow sunlight to reach buildings and areas of high pedestrian activity,*

*(c) to reduce the potential for pedestrian and traffic conflicts on the Hume Highway,*

*(d) to improve the quality of public spaces in the city centre,*

*(e) to reinforce Liverpool railway station and interchange as a major passenger transport facility, including by the visual enhancement of the surrounding environment and the development of a public plaza at the station entry,*

*(f) to enhance the natural river foreshore and places of heritage significance,*

*(g) to provide direct, convenient and safe pedestrian links between the city centre (west of the rail line) and the Georges River foreshore.*

The development has appropriately or succinctly demonstrated it meets the objectives of Clause 7.1 of the LEP due to the following:

- It does not preserve or provide passive solar access to existing buildings
- The applicant has not demonstrated the proposed built form benefits from Clause 7.5a of the LEP in which contributes to the excessive bulk and scale.
- The applicant has failed to address the concerns of the DEP, in which is to be consistent with Clause 7.4 of the LEP, in particular for convenient and safe pedestrian routes, public open space and reinforcement of the streets character.

Council has not received sufficient information to ascertain the above and therefore can not support the proposed development.

### **Clause 7.3 – Carparking in Liverpool City Centre**

#### **7.3 Car parking in Liverpool city centre**

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

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

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

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

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

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

*(3) Despite subclause (2), development consent may be granted to a development with less or no on-site car parking if the consent authority is satisfied that the provision of car parking on site is not feasible.*

*(4) In this clause, the following are to be included as part of a building's gross floor area—*

*(a) any area of the building that is used for car parking and is at or above ground level (existing), except to the extent permitted by a development control plan made by the Council,*

*(b) any area of the building that is used for car parking below ground level (existing), except where the car parking is provided as required by this clause.*

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

A Clause 4.6 has not been requested to vary the development standard applied to the site. The applicant has identified there is a shortfall of car parking spaces which is not supported by Council, given the lack of car parking within the City Centre and surrounding road networks.

An assessment of the proposal against the applied controls has identified the following parking requirements are required:

- Hotel – 4654sqm – 31 Spaces
- Childcare – 633sqm – 110 Children with 18 employees required = 29 Spaces Required

- Commercial/Retail tenancy Ground Floor – 265sqm – One (1) space

Totalling 61 spaces required.

- Residential Flat Building –
  - o 25 x studios -
  - o 49 x 1-bedroom units -
  - o 105 x 2-bedroom units. -
  - o 11 x 3-bedroom units-

The ADG refers to the Traffic Generating development which requires the following rates:

0.4 space for Studio and 1-bedroom apartments = 29.6 = 30 Spaces

0.7 space for 2 bedroom units = 7.35 = 74 spaces

1.2 space for 3 bedroom units – 13.2 = 14 spaces

1 space per 7 dwellings for Visitor = 27.1 = 28 spaces

Totally a requirement of 146 spaces for the Residential Flat Building.

The total parking requirement for the site 207 spaces.

Therefore, it is identified the total amount of parking required for the development is, in which the applicant proposed 134 a shortfall of 73 spaces. This further demonstrates the proposed development is not appropriate for the site or its locality due to the noncompliance with Clause 7.3 (2) and consent must not be granted.

#### **Clause 7.4 Building separation in Liverpool City Centre**

The application does not comply with required building separation for the development. The applicant was required to address this within the Request for Further Information (RFI) dated 22<sup>nd</sup> of April, and a response has not been received during the preparation of this Report. It is noted, on the 23<sup>rd</sup> of July, the applicant submitted a half response to the RFI due to being advised Council was proceeding with determining the application and no previous response to the RFI was submitted.

Nonetheless, the development standard to be varied is Clause 7.4 of the LLEP which reads as follows:

#### **7.4 Building separation in Liverpool city centre**

- (1) *The objective of this clause is to ensure minimum sufficient separation of buildings for reasons of visual appearance, privacy and solar access.*
- (2) *Development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least—*
  - (a) *9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished) on land in Zone R4 High Density Residential, and*
  - (b) *12 metres for parts of buildings between 25 metres and 35 metres above ground level (finished) on land in Zone R4 High Density Residential, and*
  - (c) *18 metres for parts of buildings above 35 metres on land in Zone R4 High Density Residential and*

- (d) 12 metres for parts of buildings between 25 metres and 45 metres above ground level (finished) on land in Zone E2 Commercial Centre or MU1 Mixed Use, and
- (e) 28 metres for parts of buildings 45 metres or more above ground level (finished) on land in Zone E2 Commercial Centre or MU1 Mixed Use

The portion of the building in which the setbacks for those levels are as follows:

| Levels | Setback to comply with Clause 7.4 | Southern Elevation | Eastern Elevation |
|--------|-----------------------------------|--------------------|-------------------|
| 8- 13  | 12m                               | 6m                 | 6m                |
| 14+    | 28m                               | 14m                | 14m               |

Assuming 50% of any building separation occurs on each lot, and as such the maximum noncompliance would be 50% (where there is no setback), the non-compliances with Clause 7.4 are as follows:

| Levels | Southern Elevation Noncompliance | Eastern Elevation | Western Elevation         |
|--------|----------------------------------|-------------------|---------------------------|
| 8-13   |                                  | N/A               |                           |
| 14     | 8m or 57.14%                     | 6.56M 46.89%      | 6.510m – 24.945m or 53.5% |

The rear boundary is zoned R4 with a maximum prescribed height limit of 45m, in which an existing Residential Flat Building exists.

Clause 46)3\_ of the LEP establishes a precondition which must be satisfied before a consent authority can exercise the power to grant consent. Clause 4.6(2) establishes the power to grant consent for a development which contravenes the development standard and states:

*(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

At the preparation of this Report a Clause 4.6 Variation request was not submitted to Council to assess or ascertain whether the noncompliance would be deemed acceptable. Given the development does not comply with a number of development standards as well as insufficient information has been provided to Council to undertake a thorough assessment, Council is unable to support such noncompliance in this instance.

## **Clause 7.5 Design Excellence in Liverpool city centre**

### **7.5 Design excellence in Liverpool city centre**

- (1) The objective of this clause is to deliver the highest standard of architectural and urban design.*
- (2) Development consent must not be granted to development involving the construction of a new building or external alterations to an existing building in the Liverpool city centre unless the consent authority considers that the development exhibits design excellence.*

- (3) *In considering whether development exhibits design excellence, the consent authority must have regard to the following matters—*
- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
  - (b) *whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*
  - (c) *whether the proposed development detrimentally impacts on view corridors,*
  - (d) *whether the proposed development detrimentally overshadows Bigge Park, Liverpool Pioneers' Memorial Park, Apex Park, St Luke's Church Grounds and Macquarie Street Mall (between Elizabeth Street and Memorial Avenue),*
  - (e) *any relevant requirements of applicable development control plans,*
  - (f) *how the proposed development addresses the following matters—*
    - (i) *the suitability of the site for development,*
    - (ii) *existing and proposed uses and use mix,*
    - (iii) *heritage issues and streetscape constraints,*
    - (iv) *the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
    - (v) *bulk, massing and modulation of buildings,*
    - (vi) *street frontage heights,*
    - (vii) *environmental impacts such as sustainable design, waste and recycling infrastructure, overshadowing, wind and reflectivity,*
    - (viii) *the achievement of the principles of ecologically sustainable development,*
    - (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*
    - (x) *the impact on, and any proposed improvements to, the public domain.*

(4)– (8) *(Repealed)*

The development application proceeded to the DEP on the 27<sup>th</sup> of February 2025, in which they did not support the proposed development and raised fundamental and significant concerns surrounding the proposal. The applicant was requested to respond to the DEP comments which has not been undertaken.

It is in Councils view and position the proposed development does not exhibit Design Excellence and therefore consent must not be granted pursuant to Clause 7.5(2).

The DEP minutes are provided within Attachment D.

## **Clause 7.5a Additional provisions relating to certain land at Liverpool City Council**

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

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

- (a) *is identified as "Area 8", "Area 9" or "Area 10" on the [Floor Space Ratio Map](#), and*
- (b) *has a lot size exceeding 1500m<sup>2</sup>, and*
- (c) *has 2 or more street frontages.*

(2) *Despite clauses 4.3 and 4.4, if at least 20% of the gross floor area of a development is used for the purpose of centre-based childcare 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.*

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

*(4) The development control plan must include provision for how proposed development is to address the following matters—*  
*(a) the impact on conservation areas,*  
*(b) encouraging sustainable transport, including increased use of public transport, walking and cycling, road access and the circulation network and car parking provision, including integrated options to reduce car use,*  
*(c) achieving appropriate interface at ground level between buildings and the public domain,*  
*(d) the excellence and integration of landscape design,*  
*(e) the matters specified in clause 7.5(3)(f)(i)–(viii) and (x).*

The applicant was requested to demonstrate *how* the proposed development benefits from Clause 7.5a noting lot consolidation has not been proposed and each existing lot is less than 1500sqm and only has one (1) street frontage each.

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

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

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

The following Development Control Plan is relevant to this application:

- ***Liverpool Development Control Plan 2008*** ('the DCP')

Part 1 – General Controls for all Development and Part 4 – Development in Liverpool city centre are applicable to the development. Detailed compliance tables are located in Attachment B. Given the application is for Concept application, a detailed assessment will be provided during next stages of the application.

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

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

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

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

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

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

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

- Context and setting – The proposal is considered to be not consistent with the context of the site, in the proposed mixed-use development does not comply with the relevant controls and standards and is not consistent with development on similar sites within the immediate locality.
- Access and traffic – The proposal would result in an increase in traffic around the development. Additionally, insufficient parking spaces are provided within the development, and the adjoining streets do not have sufficient space to support on-street parking for this development.
- Heritage – The site adjoins a local heritage item and has not considered the impact the proposed development would have on the item. Insufficient information has been provided to ascertain the full extent of the impacts the development would have on both the built form and landscaping.
- Noise and vibration – Significant excavation is proposed as part of the application. Appropriate conditions of consent will be imposed to mitigate any potential impacts to the vicinity.
- Natural hazards – The site is not affected by natural hazards.
- Social impact – The proposal would not have a positive social impact to the community due to insufficient information provided to allow for a thorough and competent assessment to occur.
- Economic impact – The provision of a hotel, residential accommodation, childcare and retail may provide employment opportunities within the local area, would encourage economic investment in Liverpool and would facilitate tourism which would also provide economic benefits.
- Site design and internal design – The proposal is situated has not been appropriately sited to minimise privacy, noise and overshadowing impacts to adjoining lots.
- Cumulative impacts – The proposal is not consistent with the planning controls and therefore would result in an adverse cumulative impact.

Accordingly, it is considered that the proposal will result in any significant adverse impacts in the locality as outlined above.

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

The proposed development, whilst permissible within zone, does not appropriately service the existing heritage constraints of the site, nor has it adequately taken into consideration the

surrounding built form, particularly to the adjacent attached development at Terminus Street, which abuts the site.

The proposed development would render the attached property obsolete in terms of redevelopment potential due to the significant site isolation proposed.

As such, Council cannot support the proposed development and does not consider it suitable.

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

These submissions are considered in Section 5 of this report.

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

The proposed development is considered not to be consistent with the applicable planning controls; furthermore, it is not consistent with the requirements under the applicable SEPP's and provisions under the EP&A Act in terms of a Concept Application.

Therefore, it is not considered to be in the public interest.

## 4. REFERRALS AND SUBMISSIONS

### 4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

**Table 1: Concurrence and Referrals to agencies**

| Agency                                | Concurrence/<br>referral trigger                                                                          | Comments<br>(Issue, resolution, conditions)                                                          | Resolved |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|----------|
| <b>Referral/Consultation Agencies</b> |                                                                                                           |                                                                                                      |          |
| Bankstown Airport                     | Obstacle Limitation Surfaces                                                                              | Conditions are imposed pertaining to any constructed methods which may include a crane installation. | Y        |
| Electricity supply authority          | Advice                                                                                                    | Standard Conditions of consent.                                                                      | Y        |
| Sydney Water                          | Advice                                                                                                    | Detailed information is required to be present during a built form application.                      | Y        |
| Transport for NSW                     | Section 2.119 and S2.122 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> | Conditions of consent imposed.                                                                       | Y        |

|                     |                                                                                |                                                                                                                                                 |   |
|---------------------|--------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|---|
|                     | Development that is deemed to be traffic generating development in Schedule 3. |                                                                                                                                                 |   |
| Design Review Panel | CI 7.4 of the LEP and Chapter 4 of the Housing SEPP.                           | The advice of the DRP has been considered in the proposal and is further discussed in the assessment and the Key Issues section of this report. | N |

## 4.2 Council Officer Referrals

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

**Table 2: Consideration of Council Referrals**

| Officer     | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Resolved |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| Engineering | Council's Engineering Officer reviewed the submitted stormwater concept plan and considered that there were no objections subject to conditions.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Y        |
| Traffic     | Council's Traffic Engineering Officer reviewed the proposal and raised concerns in relation to traffic generation and car parking. These issues are considered in more detail in the Key Issues section of this report.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | N        |
| Building    | No issue raised.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Y        |
| Flooding    | The proposed development is not affected by mainstream flooding under 1%AEP event. Since, the development is the mixed-use development comprising of commercial and residential development, the applicant is requested to submit the onsite water quality treatment facilities to ensure that stormwater runoffs leaving the site comply with Council's water quality standards.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | N        |
| Health      | <p><b>1. Stage 2 – Detailed Site Investigation</b></p> <p>The preliminary contamination assessment prepared by EI Australia (report number E26400.E02_Rev0, dated 2 July 2024) submitted with the application has identified that a Stage 2 – Detailed Site Investigation is required. The relevant assessment is to be undertaken by a suitably qualified and experienced contaminated land consultant with regard to the potential effects of any contaminants on public health, the environment and building structures and shall meet the sampling density outlined in the NSW EPA Contaminated Sites Sampling Design Guidelines (1995).</p> <p>Where the Stage 2-Detailed Site Investigation indicates that the site poses unacceptable risks to human health or the environment, a Remedial Action Plan (RAP) shall be prepared by a suitably qualified and experienced Contaminated Land Consultant in</p> | N        |

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|  | <p>accordance with applicable guidelines made or approved by the NSW EPA under the Contaminated Land Management Act 1997. In these circumstances, the Remedial Action Plan shall be referred to Liverpool City Council for review.</p> <p><b>2. Acoustic Assessment</b></p> <p>The proposed development may be a source of offensive noise and potentially impact upon human health and amenity. An acoustic report shall be prepared by a suitably qualified acoustic consultant in accordance with the NSW Environment Protection Authority's 'Noise Policy for Industry' (2017). The cumulative effect of noise must be considered when assessing the impact upon receivers.</p> <p>Where necessary, the report shall assess potential sleep disturbance and road traffic noise impacts in accordance with the NSW Environment Protection Authority's 'Noise Policy for Industry' (2017) and 'NSW Road Noise Policy' prepared by the Department of Environment, Climate Change and Water NSW (DECCW NSW) dated March 2011. The project noise trigger levels for the proposed development shall be selected according to the most stringent intrusive or amenity criteria. If required, recommendations and noise control measures shall be specified to achieve compliance with the assessment criteria. The assessment shall be representative of all noise generating activities on-site including but not limited to mechanical plant, patrons, deliveries and motor vehicle movements.</p> <p>When assessing noise levels at commercial or industrial premises, the noise level shall be determined at the most affected point on or within the property boundary. Alternatively, when gauging noise levels at residences, the noise level shall be assessed at the most affected point on or within the residential property boundary. Where necessary, sound levels shall be adjusted in accordance with NSW Environment Protection Authority's guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content.</p> <p><b>3. <u>Construction Noise and Vibration Assessment</u></b></p> <p>The location of the proposed development, the inclusion of an underground basement carpark and the close proximity to existing residential dwellings, a site-specific Construction Noise and Vibration Assessment prepared by a suitably qualified acoustic consultant shall be submitted for review. The Construction Noise and Vibration Assessment must include an assessment of expected noise impacts and detail feasible work practices to be adopted to avoid, remedy or mitigate construction noise and vibration impacts.</p> <p>The Construction Noise and Vibration Assessment shall take into consideration and be consistent with the following documents:</p> |  |
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|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|
|             | <ul style="list-style-type: none"> <li>· 'Interim Construction Noise Guideline' published by the Department of Environment and Climate Change NSW (DECC 2009/265) dated July 2009,</li> <li>· Assessing Vibration: A Technical Guideline published by the Department of Environment and Conservation (NSW EPA), February 2006</li> <li>· Structural damage criteria as presented in German Standard DIN4150-Part 3 "Structural vibration in buildings – Effects on structures" and British Standard BS7385-Part 2: 1993 "Evaluation and Measurement for Vibration in Buildings.</li> <li>·</li> <li>- The assessment is to include, but not necessarily be limited to the following information: <ul style="list-style-type: none"> <li>· Identification of nearby residences and other noise sensitive land uses.</li> <li>· Assessment of expected noise and vibration impacts.</li> <li>· Detailed examination of feasible and reasonable work practices that will be implemented to minimise noise and vibration impacts.</li> <li>· Strategies to promptly deal with and address noise and vibration complaints.</li> <li>·</li> <li>· Details of performance evaluating procedures (for example, noise and vibration monitoring or checking work practices and equipment).</li> <li>·</li> <li>· Methods for receiving and responding to complaints.</li> <li>·</li> <li>· procedures for notifying nearby residents of forthcoming works that are likely to produce noise and vibration impacts; and</li> </ul> </li> </ul> |   |
| Uran Design | <p>Council's Urban Design in Public Domain team raised the following issues with the proposal:</p> <p><i>1. Context</i></p> <p>1.1. CDPD notes the site is in the Liverpool LEP FSR Map Area 8 therefore additional requirements apply as described in Claus 7.5A in order for the additional FSR and Height to apply.</p> <p>1.2. The local Indigenous history and culture is of great value to the Liverpool LGA community. This development is a unique opportunity to acknowledge the Aboriginal community and Country and set a precedent for future CBD developments. CDPD encourages the development to refer to the GANSW Connecting with Country Framework undergo a Connecting with Country process, and ensure there is room in the design process for Connecting with Country narratives and initiatives to meaningfully be incorporated into the design, especially the public domain. The LCC Public Domain Masterplan page 246, can be referred to. In consultation and guided</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | N |

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|  | <p>by the local community, CDPD encourages Connecting with Country to be considered in many ways including the envelope, key views, façade, public domain, landscape, public art etc.</p> <p>1.3. The Liverpool DCP Part 4.2.4 requires retail uses at ground, to contribute to street activation, however the proposal only states 'Commercial' at ground. CDPD requests greater clarity, retail be annotated and indicative layout to be provided, demonstrating street activation will be achieved. Commercial could include many other uses such as office space that will not offer the same type of street activation that retail offers.</p> <p>1.4. Georges River and surrounding bushland is of high environmental and cultural significance. The Liverpool LLEP Design Excellence 7.5.3.c) references view corridors and the DCP Part 4 Claus 4.2.12 Public Open Space and Communal Open Space Objectives states <i>'Open Space must provide an attractive outlook for residents, respond to and enhance site characteristics and context.'</i> CDPD requests view analysis is undertaken, and the submission to demonstrate how this has informed the design, orientation, particular of the communal spaces and balconies.</p> <p>2. <i>Built Form + Scale</i></p> <p>2.1. <u>Setbacks and Separation</u></p> <p>The Liverpool LEP, DCP City Centre and ADG have setback and separation requirements for this site. While the SEE has comprehensive text describing the building separation it is very difficult to understand when not illustrated and noted on the drawings. There are several non-compliances, that are minor at the lower levels, but are exacerbated at the higher levels. CDPD request the drawings are revised, to illustrate the ADG, DCP and LEP setbacks and building separation requirements, and these should differentiate as the building transitions to the higher levels, as per the planning controls.</p> <p>Further to the above, the intent of the separation requirements as per the LEP, DCP and ADG includes visual appearance, amenity, privacy and solar access. The Liverpool City Centre is undergoing significant uplift and it is critical that adequate amenity is maintained for residents and the public domain, to facilitate the success of the CBD.</p> <p>CDPD requests urban design analysis, shadow and privacy analysis is undertaken to inform an appropriate envelope for this site, and provided to demonstrate to Council that the proposal will result in a development that achieves good solar access, privacy and amenity, while also not negatively impact surrounding developments, particularly where non-compliances are sought.</p> <ul style="list-style-type: none"> <li>· Basement - 1-4</li> </ul> <p>Minimal deep soil to accommodate canopy trees has been provided.</p> <ul style="list-style-type: none"> <li>· Heritage Building</li> </ul> <p>CDPD refers to Council's Heritage Officer for appropriate separation from the heritage Building, however has requested further design detail</p> |  |
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|  | <p>throughout this referral, to assist Council in reviewing the separation proposed and whether it is sufficient from public domain perspective.</p> <ul style="list-style-type: none"> <li>· Ground</li> </ul> <p>The Ground level appears consistent with planning controls, subject to clarity on the public domain.</p> <ul style="list-style-type: none"> <li>· Street and Podium Setback</li> </ul> <ul style="list-style-type: none"> <li>• There is a 7m setback from L2-L4 along the side/north boundary, which has childcare outdoor play area in place. This results in a non-compliance with Council's 0m setback control to the street. In CDPD's opinion, from UD perspective it is important the 0m setback is maintained on the street frontages. In the proposal, the outdoor play area is located on the street frontage where there should have been built form, this is also a poor amenity outcome for the child-care outdoor play area, therefore not supported. CDPD recommends the outdoor play area removed from the street frontage and 0m setback/streetwall is maintained up to 21m.</li> <li>• The development is located in the 'Midrise Precinct' in the Liverpool DCP Part 4.2, therefore Figure 4.5 and a 21m high street wall with 0m setback applies, with a 3m setback after 21m. Street wall heights contribute to a human scale public realm, and should respect the massing and pattern of the existing and future desired neighbourhood. While the applicant has provided some justification, in CDPD's opinion, there is already a strong 4 storey street wall to the east of the site along Terminus Street, and then to the west is the low scale Heritage building. Therefore a 21m street wall is the contextually appropriate response for this site to respond to the local character, streetscape and continue a consistent and defined street edge (as described in the DCP). CDPD recommends a 21m street wall with minimum 3m setback above is incorporated, consistent with the DCP.</li> <li>• Further to the above, a higher podium level that does not align with the neighbouring street wall/podiums results in large blank walls, that are highly visible from the surrounding area. This is not supported and a suboptimal urban design outcome for the Liverpool City Centre.</li> </ul> <ul style="list-style-type: none"> <li>· North/Side boundary setback</li> </ul> <p>There is a 7m setback highlighted in below all the way up the tower, deviating from the LDCP. Since the built form is breaking from the 0m podium setback, DCP 'standalone building' setbacks and ADG setbacks apply. The child care outdoor play, hotel balconies and residential above all count as habitable areas therefore the setbacks should be increased to 9m between 12-25m (ADG) height, and 12m for over 25m height (ADG), and 14m for over 45m height (LEP).</p> |  |
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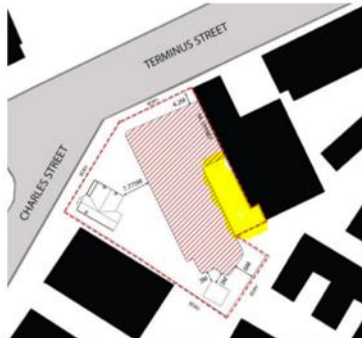
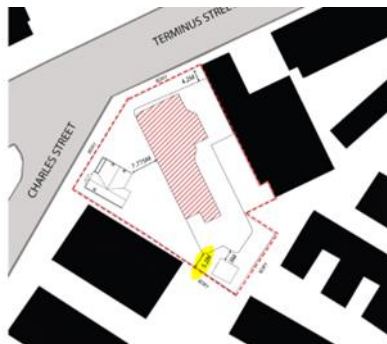
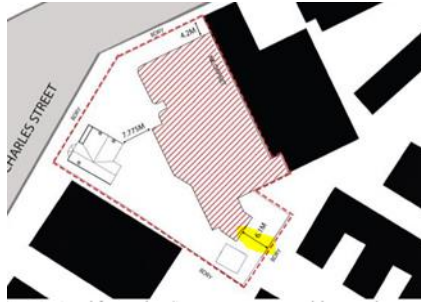


**Figure 20: Level 3-4 envelope** (Source: Drawing No. 4.04 of the masterplan report prepared by CD Architects)

- South/Side boundary setback
  - Level 1 and 2 side setback highlighted below is 5.2m to the boundary, when it should be 6m (ADG) increasing up to 14m at the higher levels. In CDPD's opinion, considering the setback along the rest of this boundary is significant due to the Heritage building, CDPD recommends the setback be increased to 6m, however could accept the non-compliance of no additional setting back on the upper levels, as long as it is demonstrated that solid walls, privacy screening are incorporated, are at the corners within the setback. Visual privacy is particularly of concern for the child-care centre and should be addressed. The acoustic Report should also demonstrate how acoustic concerns between the development and adjacent towers are mitigated, considered the reduced setback



- East/Rear Setback
  - Level 4 setback is non-compliant with ADG. The Liverpool DCP states if a podium is adjoining stand-alone development the ADG applies to side and rear setbacks. The rear boundary highlighted below is adjoining stand-alone high density residential and only has a 6m setback. In CDPD's opinion, full compliance is required along this boundary, particularly because due to neighbouring R4. The setbacks should be increased to 9m between 12-25m (ADG) height, and 12m for over 25m height (ADG), and 14m for over 45m height (LEP).



**2.2. Envelope and GFA** – The Concept Envelope drawings are the main drawings of the Concept DA, however, are currently just part of the masterplan report, as opposed to part of a drawing set. CDPD recommends a full set of plans, sections, elevations, and 3D views (from different angles, especially the street), of the concept envelope, with scale and north point shown. The reference drawings should illustrate the concept DA overlayed, to clearly illustrate how the reference scheme sits within the envelope.

### 2.3. Tower

-The tower is significant in height, in a highly visible location, and at a landmark location for the City Centre. It will play a crucial precedent for future developments, form part of the Liverpool CBD skyline and is required to achieve design excellence by the Liverpool LEP:

*'whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,'

- Design studies have not been provided, and the tower appears to be irregular in shape and proportion, driven by tight internal planning. CDPD recommends urban design studies, and greater design consideration and rationalisation of the tower form, and its relation to the existing and future context.

## 2.4. Facade

-The material palette has not been provided, the façade strategy is unclear, and in the drawings the podium and tower appears uniform and monochrome in material and colour, with little response to the streetscape, local existing and future desired character, Heritage building, sun orientation or views. CDPD notes this is a reference scheme only, however the façade design play a key role in communicating the bulk, scale, visual impact and appropriateness of the built form for the site. In addition, the reference scheme should demonstrate adequate space for the façade design has been allowed for within the envelope to determine the GFA. CDPD requests additional 3D visualisations of the building when viewed from different sides, and how it sits within the streetscape, and part of the city skyline.

CDPD requests a material palette, and materiality illustrated on 3D visualisations and elevations, demonstrating the tower form is of a high standard, and will have well considered materiality, articulation and visual interest, to improve it's presentation to the public domain. A variety of materials is encouraged, and robust, sustainable materials prioritised.

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|  | <p>2.5. <u>Heritage Building</u> - The Heritage building is a unique part of this development, and it is important the architecture and materiality relate and respond to this building. The Heritage building façade is masonry and the proposed building is in close proximity to this fabric. As such, in CDPD's opinion, the façade facing the Heritage Building for the first 3-4 floors should be lightweight, transparent and glazed, as opposed to solid wall proposed, that will compete and detract from the Heritage fabric. The cores and stairs are adjacent to the building, therefore this recommendation will affect uses and internal planning, and should be addressed as part of the Concept DA. Precedent images should also be investigated and provided.</p> <p>2.6. Further to the above, there is significant tall blank wall overlooking the public space to the south. This is not an appropriate interface for public space. CDPD recommends this facade is revised to provide improved activation, passive surveillance and appropriate overlooking to the public space.</p> <p>2.7. <u>Ceiling Heights</u> - CDPD notes based on industry trends, and outcomes of the Design and Building Practitioners Act, floor to floor heights are recommended at 3200mm, to accommodate a 2700mm ceiling and 500mm for services and structure. This will have significant impact on the height and GFA. As such, CDPD suggests ceiling heights are increased to 3200mm, in response to this requirement that will arise in the CC stage, to ensure a realistic height is proposed.</p> <p>2.8. <u>Shadow Analysis</u> – Solar access and shadow impacts are an important amenity criteria as outlined in the LLEP Part 7, DCP Part 4.2 and ADG. Particularly in a high-density environment with towers in close proximity to existing developments and future towers, detailed solar analysis needs to be undertaken, to establish an appropriate built form.</p> <p>The Reference scheme states that solar access compliance is achieved, however it is evident that shadows from surrounding existing and future developments have not been considered.</p> <p>CDPD recommends that a Susceptibility Analysis including Overshadowing Impact Analysis is undertaken as part of the design process, and provided to support this development. This should include both existing and future scenarios and demonstrate that future surrounding developments impacted by the shadows from this development can still achieve the ADG solar access requirements. It should also demonstrate the shadow impacts of potential future developments surrounding, demonstrating that this development will still be able to receive ADG compliant solar access. In addition these studies can be used to justify non-compliances proposed, in terms of solar access. Privacy and overlooking concerns still need to be addressed.</p> <p>3. Density</p> <p>3.1. In the Liverpool LEP Part 7.5A in relation to the criteria for developments able to exceed FSR and building height, the submission must include how <i>'the excellence and integration of landscape design'</i>. Liverpool LGA and particularly the City Centre are at great risk of the Urban Heat Island Effect, and there is a crucial need for increased canopy coverage in the city centre. Landscaping and trees play a key role in ameliorating these effects, and deep soil is critical in supporting large native trees to be able to grow and reach maturity. There is minimal deep soil being proposed, and this is not a design excellence outcome. CDPD encourages deep soil zones</p> |  |
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|  | <p>and canopy trees to be incorporated into the design, with soil volumes that will support trees to reach maturity. Canopy coverage drawings should be provided demonstrating Council's canopy targets as prescribed in the Draft Tree Management Strategy 4.2 – Mixed-Use zoning to achieve 15% canopy cover.</p> <p>3.2. The proposed use of the Heritage Building will influence the public space and landscape design surrounding it and the spaces between the Heritage building and the development. CDPD notes the proposed use is 'Information and Education Facility' and this is in line with the requirements for providing this type of public benefit in the LLEP Part 7.5A. There is no other information or detail on how this space will be used, and there are no landscape spaces that can be occupied surrounding it. CDPD requests greater detail of the future use and for improvements to the landscape and public domain design surround the Heritage building, the space between it and the proposed development. This can include a variety of gathering, seating, dwelling spaces integrated with planting and public domain elements, contributing to creating a successful and activated public domain. Heritage buildings are a unique and high value contribution to the public domain, and this a unique opportunity for public space in the city centre. This information is important for Council to be able to review whether there is adequate space between the heritage building and the proposed development, and the public space and use of the Heritage Building will provide public benefit.</p> <p>4. Sustainability</p> <p>4.1 CDPD notes the site is fronting proposed off road cycle-paths on Terminus Street in the Liverpool Bike Plan, however notes the shared path is proposed on the north side of Terminus Street and not in front of this development. Council's Traffic team should be consulted. Since the shared-path connecting to the broader cycle-path network is along Terminus Street a safe travel route from Terminus and Charles Street to the bike parking should be accommodated for in the Ground floor and Basement layouts.</p>  <p>(dashed blue is proposed off road, dashed red is proposed on road)</p> <p>4.2. As part of the façade design development, CDPD encourages consideration of each façade's orientation, so that each is responsive to its specific environmental requirements, such as reducing the impacts of excessive solar access in summer, while enabling adequate light in winter. For example the approach to the western façade will be quite different to the south façade, therefore the façade's should present differently.</p> <p>4.3. CDPD sees merit in the justification provided for the proposal of a reduced number of car parking, and could support if the development could provide additional public benefit, through providing a percentage of spaces dedicated to public parking. This would take the pressure off on street parking thus improving the public domain and parking in the City</p> |  |
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|  | <p>Centre. This is subject to coordination with Council's internal traffic and team and strategic planning team. In addition, generous share care provisions should be incorporated.</p> <p>4.4. The basement car park will be servicing a significant number of cars and bikes, and there is risk of conflicts between the two. CDPD encourages a separate path for bicycles to enter and exit the driveway and travel to the Bicycle parking.</p> <p>5. Landscape</p> <p>5.1. CDPD notes the submission outlines the road widening to Terminus Street proposed by TfNSW. This road widening may occur many years into the future, therefore, is important that the public domain before the road widening and after the widening is well resolved. CDPD requests a public domain plan with the current road (before the road widening) and the public domain proposed after the road widening, demonstrating appropriately designed public domain is being achieved, and there is adequate room for pedestrian footpaths, landscaping, trees, gardens and public domain elements. Street tree and planting locations should be located to ensure they are positioned appropriately in the first instance and will not need to be removed after the widening.</p> <p>5.2. The proposal includes a childcare centre on Level 1 and Level 2. The proposal must demonstrate full compliance with the Education and Care Services National Regulations and Child Care Planning Design Guidelines. While some aspects require greater detail that may not be required as part of this Concept DA, a detailed review of the Guideline should be undertaken to demonstrate the proposed location, footprints and areas proposed in the Concept DA can achieve a compliant Child Care Centre.</p> <p>5.3. The drawings note the landscape design of the Child Care Centre Outdoor Play area is to be confirmed. CDPD agrees that further detail can be shown as part of the future Detailed DA, however the location and size currently shown poses significant concerns in relation to the size, orientation, solar access, noise and air quality. As per the Child Care Planning Design Guidelines, a child's first 5 years of life are formative years, and connection with the natural Environment is a critical part of their development. Outdoor play areas within a tower in a high-density environment need particular consideration to ensure adequate solar access, ventilation and landscaping can be achieved:</p> <p>5.3.1. CDPD requests as part of the Shadow Analysis, light to play areas and the outdoor play area is demonstrated, including overshadowing from neighbour existing and potential future developments.</p> <p>5.3.2. The outdoor play area should have space and soil depths to enable a generous amount of planting and trees to grow, in line with the imagery illustrated in the Child Care guidelines.</p> <p>5.3.3. Terminus Street is a high traffic and harsh road environment. As described in the Child Care Guideline 3.6:</p> <p><i>'The location of child-care facilities should be selected to avoid or minimise the potential impact of external sources of significant noise.'</i> And</p> |  |
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|  | <p><i>'To ensure air quality is acceptable where child-care facilities are proposed close to external sources of air pollution such as major roads and industrial development.'</i></p> <p>As such an Acoustic report and Air Quality Assessment Report should be provided to support the development, and guide the location of the Child Care Centre and Outdoor Play Areas. CDPD does not support outdoor play area fronting Terminus Road. Council's Environmental Health Officer should be consulted.</p> <p><b>1. Safety</b></p> <p>1.1. The Child Care Centre is on Level 1 and 2, therefore in the case of an emergency all children will have to escape down the fire stair, that is shared with the Hotel above. In the Liverpool LGA child-care centres that are multi-storey typically have children aged 0-2 at ground level, due to the amount of assistance they need escaping and to avoid fire stairs. CDPD queries how safe escape in an emergency can be achieved in the current arrangement, with all children on higher levels, and sharing a fire stair with hotel users on levels above. CDPD notes Building Compliance and Fire Safety is the expertise of other referral teams and Council's Building Officer should be consulted.</p> <p>5.4. From an urban design and public domain perspective, CDPD is supportive of no driveway entry on Terminus and Charles Streets, enabling uninterrupted pedestrian circulation and continuity of the public domain. The condition and presentation of the development to the Nagle Serviceway is important, particularly as everyone arriving by car and bicycle will see the building from this side. CDPD requests more information is provided, including 3D views, and more detail of the public domain and street interface from this side. This is important as part of the Concept DA, to demonstrate this is an appropriate location for the main driveway.</p> <p><b>2. Amenity</b></p> <p>2.1. The residential apartments corridor has no windows therefore no natural light or ventilation for the residents. CDPD encourages the corridor to have openings at the ends, to improve amenity for the residents. Refer to the ADG Figure 4F.7.</p> <p>2.2. As part of development of the façade strategy, CDPD requests demonstration of how privacy between the tower and neighbouring existing and potential proposed developments is achieved.</p> <p>2.3. CDPD queries why Communal Open Space for the hotel has not been provided.</p> <p>2.4. CDPD has concerns for the hotel balconies overlooking the child-care centre outdoor play, due to privacy for the children and falling objects, and seeks clarity of how these concerns are being addressed. Refer to Child Care Guidelines 3.5.</p> <p>2.5. CDPD is concerned that the main landscaping, deep soil and public space at ground is located at the southern portion of the site, subject to significant overshadowing by the new building. This will result in public space unlikely to be used and landscaping unable to grow. CDPD recommends the public domain at ground is included as part of the</p> |  |
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|          | <p>Shadow Impact Analysis requested in this referral, demonstrating adequate solar access is achieved. The location of public space, form and positioning of the built form may need to be adjusted to achieve adequate solar access in midwinter. CDPD notes the development is relying on this public space as part of the public benefit of this development to enjoy the bonuses in LLEP Part 7.5A, and amenity is an important factor in achieving a successful public space.</p> <p>3. <i>Housing Diversity and Social Inclusion</i></p> <p>3.1. A part of amendments to the Liverpool DCP currently under exhibition, Liverpool Council has identified a need for larger, family-friendly apartments in the Liverpool City Centre, proposing an increase of 25% 3 bedroom apartments. While the proposed changes are still in draft, CDPD encourages a 25% mix of 3/4 bedroom apartments, in response to this growing community need.</p> <p>4. <i>Aesthetics</i></p> <p>4.1. <u>Balconies</u> - The balcony designs do not present as very realistic, all the western balconies of the hotel are more like juliet balconies, yet have depth, therefore dirt and leaves will collect when they are not easily accessed for maintenance. These balconies present to the street therefore how they are articulated, used and maintained is important. CDPD recommends greater design resolution to the balconies, wholistically as part of the façade approach.</p> <p>4.2. CDPD is supportive of all the proposed parking being located in the basement, avoiding any above ground parking.</p> <p>4.3. Streetscape elevations should be provided for the Concept DA illustrating existing and potential proposed development in the streetscape, to demonstrate how the development integrates with the surrounding existing and proposed context.</p> |   |
| Heritage | <p>1. A detailed Historical Archaeological Assessment assessing the archaeological potential of all sites involved in the development and prepared in accordance with Heritage NSW requirements and by a State Excavation Director.</p> <p>2. A structural engineering assessment of the cottage and stables, prepared by a structural engineer with experience in heritage buildings, assessing the structural integrity of the building, impacts of the proposed basement and adjacent building works and inclusive of recommendations relating to design, mitigation and monitoring to be included in any site specific DCP or masterplan approval.</p> <p>3. The engineering assessment should include in the appendix CVs of all staff involved in the preparation of the report to demonstrate experience in the assessment of similar buildings and an understanding of traditional buildings and their structural performance.</p> <p>4 Landscape Analysis is to be completed by an experienced Landscape Architect including the identification of each plant</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | N |

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|            | <p>species, the location of the species, the age of the plant and whether it is consistent with the types of plantings related to the period of the heritage item.</p> <p>5. A detailed conservation management plan including a room by room, elevation by elevation fabric analysis of the heritage item. The conservation management plan must include key design principles and requirements for the site which takes into account height, bulk, scale and materiality. The principles and requirements need to be sufficient to ameliorate the impacts of the bulk, scale and height of the proposed building. The conservation management plan should not be used as a vehicle to justify the existing proposal but as a means to guide the development of the proposal into a design which is sensitive to the heritage item and the clear differences in bulk, scale and height.</p> <p>As a minimum, the design should be amended to:</p> <p>6. Reduce the visual dominance of the proposed tower over the heritage item, including reducing competition within clear sightlines from the public domain.</p> <p>7. Provide a visual and physical transition from the bulk to the north and east of the site to the heritage item.</p> <p>Further information in relation to the future adaptive reuse and management of the heritage item are to be provided, including:</p> <p>8. Detailed proposal regarding the reuse of the cottage and stables in accordance with the conservation management plan.</p> <p>9. Required modifications to the buildings required to understand the potential heritage impacts of future reuse.</p> <p>10. A scope of conservation works and building upgrade works for the heritage buildings including fire and disability access upgrades.</p> |   |
| Public Art | <p>Part 4 - Development in Liverpool City Centre applies to this site and as such there is a requirement for public art.</p> <p>The site has extensive passive and active audiences due to the rail corridor, surrounding residents, Newbridge Road, the M5 and view lines from Liverpool, Moorebank, and Casula. Council recommends public art is embedded in elements of the facades and references aspects of the listed Heritage Garden, home and stables.</p> <p>Public art is a requirement under Liverpool Development Control Plan 2008 Part 4 – Development in Liverpool City Centre and will need to be addressed in future submissions.</p> <p>Council recommends that given the close proximity to Lynde House and stables that public art responds to the significance of this Heritage site. Council supports public art to be incorporated</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | N |

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|             | across the Northern, Southern, Eastern and Western Facades. This will ensure that the scale disparity between Lyndeer House and the proposed construction is addressed in an appropriate manner and embed relevant Heritage aspects across the facades of the new build. By integrating public art across a variety of mediums and materials in the new construction this will highlight and celebrate a visual and physical connection between the house and stables and the proposed construction.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |   |
| Fire Safety | <p>Additional Information Requested by Referral Officer</p> <ol style="list-style-type: none"> <li>1. The rear Heritage Building appears to be less than 6 m from the proposed building and less than 3 m from the boundary. The front Heritage Building appears to be less than 3 m from the boundary. A BCA report is to be prepared by Building Surveyor – Unrestricted (formerly A1 Accredited Certifier) or Certifier – Fire Safety (formerly C10 Fire Safety Engineer) for the FRL requirements of the wall and a Structural report prepared by Structural Engineer to confirm if the wall is compliant. Where the wall is non-compliant, what upgrades work are required being Heritage Building. Comment from Heritage consultant.</li> <li>2. It is not clear if there is change of use for Heritage Buildings. On floor plans it is indicated that the Heritage Building will be used as Information and Education Facility. The applicant is to advise if there is change of use for Heritage Buildings. If there is change of use, engage the services of a Building Surveyor – Unrestricted (formerly A1 Accredited Certifier) or Certifier – Fire Safety (formerly C10 Fire Safety Engineer) to inspect and prepare a detailed NCC Assessment Report subject to NCC2022 Sections C, D and E for the Heritage Buildings and provide fire safety upgrade strategies for any non-compliances identified. The report is to include a proposed fire safety schedule</li> </ol> | N |

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

### 4.3 Community Consultation

The application was advertised from the 18<sup>th</sup> of December 2024 to the 23 of January 2025 and received two (2) submissions objecting to the proposal

The Council received a total of one (1) unique submission, comprising of objections. The issues raised in these submissions are considered in the Table below.

**Table 3: Community Submissions**

| Issue | No of submissions | Council Comments |
|-------|-------------------|------------------|
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| Overshadowing | 1 | Insufficient Information has been provided to ascertain the impacts the proposed development will have on neighbouring properties. |
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## 5. 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:

1. *Clause 7.5A* – The proposed development is seeking to rely upon the application of Clause 7.5a under the LLEP, in which it has been raised the site does not benefit from given the Clause, as both allotments are independent of one another and amalgamation has not occurred prior to the lodgement of the application, therefore the development does not benefit from the additional height and FSR. The applicant was requested to demonstrate how the development benefits from the Clause, in which a response has not been received.
2. *Building Separation* – The development does not comply with the required Building separation requirements pursuant to Clause 7.4 of the LLEP. A Clause 4.6 Variation request has not been submitted to ascertain or justify the noncompliance and the impacts it may have on neighbouring properties and future developments.
3. *Urban Design* - The proposed built form does not achieve a sympathetic response to the existing and desired future context, and the building facades fail to contribute positively or provide visual interest to the existing streetscape character. The design has failed to adequately and succinctly incorporate the Heritage Item appropriately into the design, in which the built form will dominate over the heritage building and gardens. Front setbacks are insufficient, and the basement driveway presents a poor outcome resulting in adverse impacts to surrounding properties and the streetscape. A shortfall of proposed communal space and insufficient dimensions to ascertain compliance with apartment layout and balcony dimensions are further issues.
4. *Site Isolation* – The proposed development has not adequately considered the attached building at 126 Terminus Street, Liverpool in which the development would reduce the viability and economic redevelopment of the site rendering it obsolete. The Applicant was requested to consider the integration of the property within the developments envelope in which no response has been received to this.
5. *Integration of Heritage Item into Building Envelope* – The design of development has not adequately considered the local heritage item into the sites building envelope and overarching design, in which the dominance of the tower over the building and gardens have not been ameliorated.
6. *Contamination* – The applicant was requested to provide a Preliminary Site Investigation Report on three (3) occasions, with which no response was received. Council is unable to ascertain whether the proposal complies with Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

7. *Amenity* – The application does not comply with the objective and controls within the Apartment Design Guide (ADG) in particularly to setbacks, building separation, solar access, and cross ventilation.
8. *Insufficient Information* – The applicant was requested to provide information on several occasions, but no responses have been provided to the Council.

## 6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application cannot be supported.

The key issues around this application are building separation, street setback, susceptibility analysis and traffic & parking issues, site isolation, application of appropriate clauses, and integration of local Heritage lte.

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 refusal reasons at **Attachment A**.

## 7. RECOMMENDATION

That the Development Application DA-565/2024 for Concept Approval at 2 Charles Street and 134 Terminus Street, Liverpool, be **Refused** pursuant to Section 4.16(1)(a) or (b) of the Environmental Planning and Assessment Act 1979, subject to reasons for refusal attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Reasons for Refusal - 261124.2025
- Attachment B: Tables of Compliance - 262056.2025
- Attachment C:
  - Architectural Plans – 400486.2024
  - Floor Plans - 400504.2024
  - Amended Architectural plans in response to RFI – 245877.2025
- Attachment D – Design Excellence Panel Minutes – 097400.2025
- Attachment E:
  - Landscape Plans - 400492.2024
  - Amended Landscape Plans in response to RFI - 245878.2025