

SYDNEY WESTERN CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-58
DA Number	DA-82/2020
LGA	Liverpool City Council
Proposed Development	<p>Concept DA to establish building envelopes for the future development of the site for mixed use purposes, incorporating a 32-storey tower with 3 levels of basement parking, providing retail/commercial floorspace and serviced apartments.</p> <p>Liverpool City Council is the consent authority and the Sydney Western City Planning Panel has the function of determining the application</p>
Street Address	LOT 6 DP 628996 167 NORTHUMBERLAND STREET, LIVERPOOL NSW 2170
Applicant/Owner	KARIMBLA CONSTRUCTIONS SERVICES PTY LTD
Date of DA Lodgement	3 February 2020
Number of Submissions	3 objections
Recommendation	Approved – Subject to Conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	The future proposal has a capital investment value of over \$30 million
List of all relevant s4.15(1)(a) matters	<ol style="list-style-type: none"> <i>List all of the relevant environmental planning instruments: Section 4.15(1)(a)(i)</i> <ul style="list-style-type: none"> <i>State Environmental Planning Policy (State and Regional Development) 2011</i> <i>State Environmental Planning Policy No.55 – Remediation of Land.</i> <i>Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.</i> <i>Liverpool Local Environmental Plan 2008.</i> <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: Section 4.15(1)(a)(ii)</i> <ul style="list-style-type: none"> <i>N/A</i> <i>List any relevant development control plan: Section 4.15(1)(a)(iii)</i> <ul style="list-style-type: none"> <i>Liverpool Development Control Plan 2008.</i> <ul style="list-style-type: none"> <i>Part 1: General Controls for All Development.</i> <i>Part 4 – Development in the Liverpool City Centre.</i> <i>List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: Section 4.15(1)(a)(iia)</i>

	<ul style="list-style-type: none"> ○ <i>No planning agreement relates to the site or proposed development.</i> <p>5. <i>List any relevant regulations: 4.15(1)(a)(iv)</i></p> <ul style="list-style-type: none"> ○ <i>Consideration of the provisions of the Building Code of Australia.</i>
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> 1. Draft Conditions of Consent 2. Concept Plans 3. Design Report 4. Design Excellence Panel meeting minutes from 15 April 2020 and 27 October 2020. 5. Site Isolation Response and Study 6. Valuation Report 7. Council letter to adjoining owner at 179 Northumberland Street, Liverpool 8. Statement of Environmental Effects 9. Clause 4.6 Variation parking 10. Traffic report
Clause 4.6 requests	Yes
Summary of key submissions	<ol style="list-style-type: none"> 1. Overshadowing 2. Privacy Impacts 3. Traffic congestion and poor access arrangements 4. Inconsistent with character of the area 5. Damage to buildings during construction
Report prepared by	Development Assessment
Report date	26 July 2021

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.11EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	No
Conditions Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Yes

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

The Sydney Western City Planning Panel is the determining body as the Capital Investment Value of any future development proposed with the Concept DA is over \$30 million, pursuant to Clause 2 in Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011.

1.2 The proposal

The application seeks consent for a Concept DA to establish building envelopes for the future development of the site for mixed use purposes, incorporating a 28-storey tower on 4 storey podium (32 storeys in total) with 3 levels of basement parking, providing retail/commercial floorspace and serviced apartments.

1.3 The site

The subject site is identified as Lot 6 in DP 628996, being 167 Northumberland Street, Liverpool. An aerial photograph of the subject site is provided below.



Figure 1: Aerial Photograph of the site

The site is regular in shape with a total area of 1,565m². The site has a frontage of 37.955 metres to Northumberland Street and the rear laneway.

The subject site is zoned B4 Mixed Use, pursuant to the Liverpool Local Environmental Plan (LLEP) 2008.

1.4 The issues

The predominant issues with the proposal are that:

- Orderly development - it does permit the future orderly development of the block as it comprises the ability of the adjoining development of the site at 179 Northumberland Street, Liverpool to redevelop in accordance with Clause 7.5A of LLEP 2008. The principles under *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 therefore have been considered.

As a result of considering the above principles, the applicant has demonstrated that the site can be redeveloped as a fully commercial site to the maximum permitted FSR of 3:1. However, the applicant has not been able to demonstrate a satisfactory means of site access for any redevelopment at this site.

More specifically, the applicant indicates a vehicle lift that provides access to and from the site. This is an unacceptable arrangement in that it will cause traffic conflicts and congestion within the serviceway, which is even more pronounced given the planned densities within the CBD. This is discussed in further in the report and it has ultimately been resolved that a right of way that benefits the adjoining site be established to enable suitable basement parking access to the adjoining site.

- Parking – the proposed development is required to comply with the car parking rates in Clause 7.3 of LLEP 2008. Clause 7.3 generates a car parking requirement of 104 parking spaces. The applicant proposes to cater for 94 spaces. The applicant has submitted a Clause 4.6 variation to support the shortfall. The Clause 4.6 is discussed further in this report.

1.5 Exhibition of the proposal

The development application was advertised for a period of 14 days from 4 March 2020 to 17 March 2020. Three objections were received in relation to the proposal.

1.6 Conclusion

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act (EP&AA) 1979. Based on the assessment of the application it is recommended that the application be approved, subject to the attached conditions of consent.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The subject site is identified as Lot 6 in DP 628996, being 167 Northumberland Street, Liverpool. An aerial photograph of the subject site is provided below.

The site is regular in shape with a total area of 1,565m². The site has a frontage of 37.955 metres to Northumberland Street and the rear laneway. Existing on the premises is a two-storey commercial building consisting of multiple commercial tenancies. The centre of the site is the highest point in terms of ground floor level and slopes both to the laneway at the rear and Northumberland Street at the front of the site. The high point of the site RL 20.46 and the low point of the site is RL 19.77.

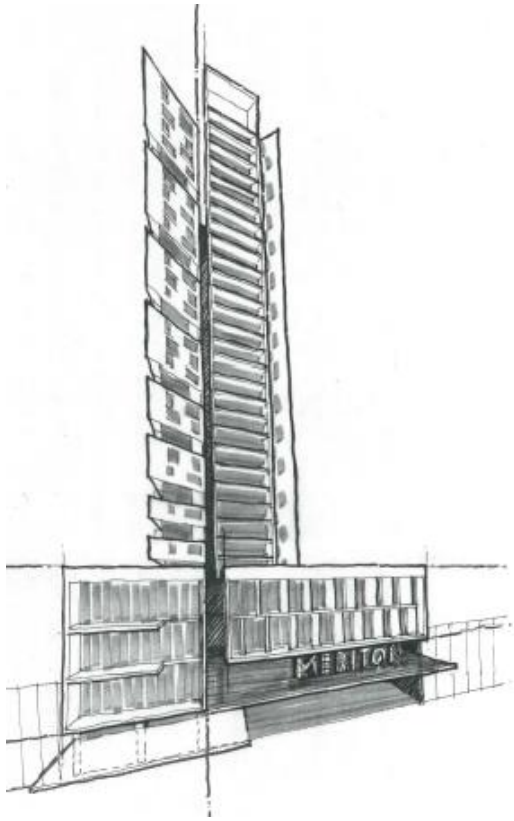


Figure 2: Draft Concept of Built Form

2.2 The locality

The subject site is located towards the centre of Liverpool CBD. It occupies the large block bounded by Bathurst Street, Moore Street, Northumberland Street and Elizabeth Street.

Liverpool CBD is located in an area that is effectively bounded by the Hume Highway to the north and west, the railway line to the east and Terminus Street/Macquarie Street to the south. This area also includes a number of schools, hospitals and community facilities.

Adjoining the site to the north is an existing 2 storey commercial building, to the west of the site (opposite the laneway) is a 6 storey mixed use development with commercial on ground floor and residential apartments above, to the south of the site is an existing 2 storey commercial premises that is bounded by the laneway (ingress only) further south of this property. Liverpool Shopping Plaza is located to the east of the site, opposite Northumberland Street.



Figure 3: Locality of the Site

2.3 Site affectations

2.2.1 Heritage

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

The subject site is located within the immediate vicinity of the following local heritage items in Schedule 5 of the Liverpool LEP 2008:

- Plan of Town of Liverpool (early town centre street layout – Hoddle 1827)

2.3.2 Airport Noise Impact

The subject site is located within Bankstown Airport Obstacle Limit of 120 - 130m AHD.

3. BACKGROUND

1. A pre-DA meeting was held on 4 December 2019 for the proposed development.
2. DA-82/2020 was lodged on 3 February 2020.
3. Application neighbour notified from 4 March 2020 to 17 March 2020. Three objections were received in relation to the proposal.

3.2 Related applications

1. DA-96/2020 was approved on 20 February 2020 for the demolition of existing structures onsite. A subsequent 4.55 modification was also approved on 20 October 2020.
2. DA-222/2020 was lodged on 11 March 2020 for excavation to create basement levels associated with the proposed mixed-use development. This DA was approved on 11 February 2021.

3. DA-270/2020 was lodged on 25 March 2020 for Stage 2 of the Concept DA. This DA was withdrawn on 31 August 2020.
4. DA-822/2020 was lodged on 2 October 2020. The DA was neighbour notified from 4 March 2020 to 17 March 2020. One objection was received in relation to the proposal. This DA proposes to construct the mixed-use development and depends on the determination of DA-82/2020.
5. DA-222/2020/A was lodged on 10 May 2021. The modification application approved additional excavation to cater for an additional basement level associated with the proposed mixed-use development. The modification to DA-222/2020/A was approved on 6 July 2021. The modification will result in the development being able to cater for an additional basement level and an additional 30 car spaces. This will still result in a shortfall of 10 spaces, however is considered a considerable improvement of the initial proposal submitted which sought a 40-space shortfall.

The concept application and subsequent built form DA will still have a shortfall, however a shortfall of 10 spaces is considered a more appropriate outcome. The shortfall in car spaces is discussed in further detail under the LEP assessment of this report.

3.3 Design Excellence Panel Briefing

The subject application was considered by the Design Excellence Panel (DEP) on 15 April 2020 and 27 October 2020.

At the second and final meeting on 27 October 2020 the DEP made the below comments in relation to the project.

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

Panel Comments	Response
Context	
The Panel acknowledges the comprehensiveness of the draft Stage 1 DA document and the in-depth analysis and site isolation studies undertaken by the applicant for the adjacent site (i.e., 179 Northumberland Street).	Noted.
The Panel's primary concern is with the three levels (L4, L5 and L6) on the subject site above the building's four-storey podium which face the southern neighbour. The Panel notes that the adjacent site has the potential right to develop to a height of 28m and agrees that any new building on that site (because it would need to be set back from its three street frontages) would need to have nil setback from the subject site's southern boundary for its full height. This would impact on the daylight access and visual amenity of the three levels of concern on the subject site.	<p>The applicant has submitted site isolation and response study with the Concept DA to indicate how the proposed development to the south may be developed in the future.</p> <p>The study explores three options for redevelopment potential of the adjoining site:</p> <ul style="list-style-type: none"> • Option 1 – Mixed Use – Retail on the ground floor with residential above • Option 2 – Mixed Use – Retail on the ground floor, commercial on the first floor with residential above to ADG separation • Option 3 – Fully Commercial Development

	<p>These options are unlikely to redevelop to 28 metres in height, given the FSR constraints of the site and the design controls ultimately regulate the form of development at the site.</p> <p>Even if the site was to achieve a height of 28m, there are design measures that can be adopted in any design to reduce impacts between development due to a reduced separation distance.</p>
The Panel considers that the proposed development on the subject site (i.e. 167 Northumberland Street) should not impact adversely on the future development potential of the adjacent site (i.e. 179 Northumberland Street). Equally, habitable space on the subject site facing south for the first three storeys above the podium should not be rendered sub-standard in terms of amenity if the neighbouring site is redeveloped.	A detailed site development study for 179 Northumberland Street, explored three redevelopment options. The study demonstrates that the adjacent site could be redeveloped, except for the provision of site access. Council notes that this can be addressed via the provision of a right of way that enables site access to be achieved via the basement level of the development site.
The Panel recommends that the Concept Design DA for the subject site should reflect the scale of permissible development for the adjacent site and design the lower levels of the serviced apartment building to ensure visual/acoustic privacy and provide for an appropriate level of environmental amenity.	<p>The applicant has submitted site isolation and response study with the Concept DA to indicate how the proposed development to the south may be developed in the future.</p> <p>The study explores three options for redevelopment potential of the adjoining site:</p> <ul style="list-style-type: none"> • Option 1 – Mixed Use – Retail on the ground floor with residential above • Option 2 – Mixed Use – Retail on the ground floor, commercial on the first floor with residential above to ADG separation • Option 3 – Fully Commercial Development <p>These options are unlikely to redevelop to 28 metres in height, given the FSR constraints of the site and the design controls ultimately regulate the form of development at the site.</p> <p>Even if the site was to achieve a height of 28m, there are design measures that can be adopted in any design to reduce impacts between development due to a reduced separation distance.</p>
Built Form and Scale	
The Panel notes that the building envelope for the proposed development provides for a 3m tower setback from the southern boundary of the subject site above the podium level.	Noted.

<p>The Panel notes that the proposed 3m setback to the southern boundary is less than the DCP minimum setback of 12m.</p> <p>As a consequence, the applicant has undertaken a series of site isolation studies to demonstrate that the proposed 3m setback does not adversely impact on the development potential of the adjacent site.</p>	<p>Noted.</p>
<p>The Panel notes that the site isolation studies for the adjacent site indicate lift over run/plant equipment which will create a 3m slot between the two buildings and impact on the amenity for the proposed serviced apartments.</p>	<p>This matter can be dealt with in any subsequent application to Council via a well-conceived serviced apartment layout.</p>
<p>The Panel notes that the permissible building height for the adjacent site is 28m which could be achieved with a limited building footprint. In the Panel's judgement, this form of future development is possible and should be allowed for.</p> <p>In the Panel's view the applicant needs to consider such a development scenario and the impacts on the environmental amenity of both the proposed serviced apartments and future occupants of 179 Northumberland Street.</p>	<p>The applicant has submitted site isolation and response study with the Concept DA to indicate how the proposed development to the south may be developed in the future.</p> <p>The study explores three options for redevelopment potential of the adjoining site:</p> <ul style="list-style-type: none"> • Option 1 – Mixed Use – Retail on the ground floor with residential above • Option 2 – Mixed Use – Retail on the ground floor, commercial on the first floor with residential above to ADG separation • Option 3 – Fully Commercial Development <p>These options are unlikely to redevelop to 28 metres in height, given the FSR constraints of the site and the design controls ultimately regulate the form of development at the site.</p> <p>Even if the site was to achieve a height of 28m, there are design measures that can be adopted in any design to reduce impacts between development due to a reduced separation distance.</p>
<p>The Panel recommends that the applicant provides appropriate design changes to the Concept Design DA to ensure that there are no habitable spaces on the subject site which face the southern boundary for the first three stories above the podium (L4, L5 and L6).</p>	<p>This is a concept development application for building envelopes. Accordingly, this matter can be dealt with in any subsequent application to Council via a well-conceived serviced apartment layout.</p>
<p>Sustainability</p>	
<p>The Panel notes that the site isolation studies, and concept design shadow studies highlight significant limitations on solar access for the adjacent site (i.e 179 Northumberland Street).</p>	<p>The significant limitations on solar access is likely to prejudice the site from achieving residential accommodation. The site will be able to accommodate commercial uses at the site, given the zoning allows for these types of uses. The failure of any option to be</p>

	viable other than a fully commercial development is a consequence of the failure to amalgamate.
Outcome	
The project is supported. Respond to recommendations made by the Panel, then the plans are to be reviewed/approved by Council.	The applicant has provided a response to the Panel's comments. The response provided by the applicant has been reviewed by Council and is acceptable.

3.4 Planning Panel Briefing

A SWCPP briefing meeting was held on 14 April 2020. At the meeting of 14 April 2020 the panel discussed key issues and matters to be addressed in the Council assessment report; as follows:

- *The Application relies upon clause 7.5A of Liverpool LEP. The Panel notes Council's past acceptance that (by operation of s.4.23(2) of the EP&A Act) the obligation under clause 7.5A may be satisfied by the making and approval of a concept development application in respect of that land. The panel presumes that the concept plan will be required to satisfactorily address each of the matters set out in s.7.5A(4) with respect to the development proposed under the concept plan.*

Comment: The concept plan is considered to satisfactorily address each of the matters set out in Section 7.5A(4) of LLEP 2008. This is discussed in further detail in this report.

- *The panel noted site isolation as an important potential issue because a property at the south end of the application site with a frontage to Northumberland Street and surrounded on two sides by Laurentus Lane could not amalgamate with any other property if the concept proposal is adopted. While there would be possible forms of development that could be constructed on the adjacent site (and the existing two storey development with large shop at ground level could continue) its future development options would be more limited. The Council's briefing report notes: "... although the property benefits from 2 frontages, the lot size is not sufficient for the property to capitalise on the FSR provision of 10:1 available under Clause 7.5A of LLEP 2008. Accordingly, without being amalgamated into the development site, development at 179 Northumberland Street is limited to a maximum FSR of 3:1."*

The panel also took note of this comparison table which the Council report provided with its assessment of the comparative development results for the two properties assessed together or separately:

Site Address	Site Area	FSR/GFA	FSR/GFA pursuant to Clause 7.5A
167 Northumberland Street (subject site)	1,565m ²	3:1 = 4,704m ²	10:1 = 15,650m ²
179 Northumberland Street (neighbouring property)	486m ²	3:1 = 1,458m ²	Does not apply
167 Northumberland and 179 Northumberland (amalgamated site)	2,051sqm	3:1 = 6,153m ²	10:1 = 20,510m ²

The panel will likely consider the site isolation planning principle identified in Karavellas v Sutherland Shire Council [2004] NSWLEC 251 at 17-19 in its assessment of the issue of site isolation when determining the concept plan application. It may assist in the panel being confident the owner of the adjacent property is on notice of relevant matters if the Council writes separately to that owner to alert it to the operation of s.7.5A concerning the development potential of that property.

Comment: The proposed development is considered to result in the isolation of the neighbouring property (179 Northumberland Street). 179 Northumberland Street is shown in the figure below as outlined in blue. This property is located to the south of the subject site and is currently occupied by a two-storey commercial development.



Figure 4: Aerial Photograph distinguishing isolated site

The FSR map under LLEP 2008 indicates that 179 Northumberland Street is located on “Area 8” on the FSR map and although the property benefits from 2 frontages, the lot size is not sufficient for the property to capitalise on the FSR provision of 10:1 available under Clause 7.5A of LLEP 2008. Accordingly, without being amalgamated into the development site, development at 179 Northumberland Street is limited to a maximum FSR of 3:1.

Having regard to the above, a failure to amalgamate with the adjoining site may not result in the orderly development of the site nor the locality and is deemed to be inconsistent with the objects of the EP&A Act 1979. In this case, it was requested that the applicant address planning principles established by the NSW Land and Environment Court in the proceedings of *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251; as follows:

“Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.

Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.

Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.”

Firstly, the applicant submitted a letter from a commercial real estate firm detailing their attempt to amalgamate with 179 Northumberland Street: A valuation report for 179 Northumberland has also been submitted with this application. As such, the applicant addresses the first test for site isolation in *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251.

In addition to this, Council sent the owner of 179 Northumberland Street, Liverpool a letter explaining the implications of not amalgamating with the development site. This letter was followed by multiple telephone conversations. Council discussed this matter at length with the adjoining landowner who confirmed receiving an offer from the applicant that was rejected. No response was received to Council's letter.

As attempts to amalgamate with the adjoining property have proved unsuccessful, the applicant is required to show how 179 Northumberland Street can be satisfactorily redeveloped. In this regard, the applicant has submitted site isolation and response study with the Concept DA to indicate how the proposed development to the south may be developed in the future.

The study explores three options for redevelopment potential of the adjoining site:

- **Option 1** – Mixed Use – Retail on the ground floor with residential above
- **Option 2** – Mixed Use – Retail on the ground floor, commercial on the first floor with residential above to ADG separation
- **Option 3** – Fully Commercial Development

Option 3 is the most appropriate option as any residential apartments provided at the site would result in substandard amenity for any prospective residents. The failure of any option to be viable other than a fully commercial development is a consequence of the failure to amalgamate.

Notwithstanding this, even the fully commercial development option results in a substandard design. It should be noted that the scheme presented suffers from a parking shortfall and

vehicular access to the site is achieved via a combined car lift/loading facility with access to and from the service way.

Having regard to the shortfall of parking, this is not to do with the inability of the site to accommodate multiple basement levels, rather ability of these levels to render any fully commercial development unfeasible. This is also the case for Option 1 and 2. Ultimately, the feasibility is a matter for the future landowner.

However, as it relates to site access, the proposed vehicle lift is an unacceptable arrangement. This arrangement, which allows one car at a time to access the basement from the road reserve and vice versa, is likely to create traffic conflicts within the road reserve, especially considering the planned densities within the CBD.

For instance, the below figure shows that all sites that have a frontage to the serviceway have maximum FSR of 3:1 but are also located in “Area 8” of the FSR Map. In this regard, all these sites have the potential to amalgamate and redevelop to a maximum FSR of 10:1. The significant increase in FSR may alter volumes and type of traffic using this serviceway.

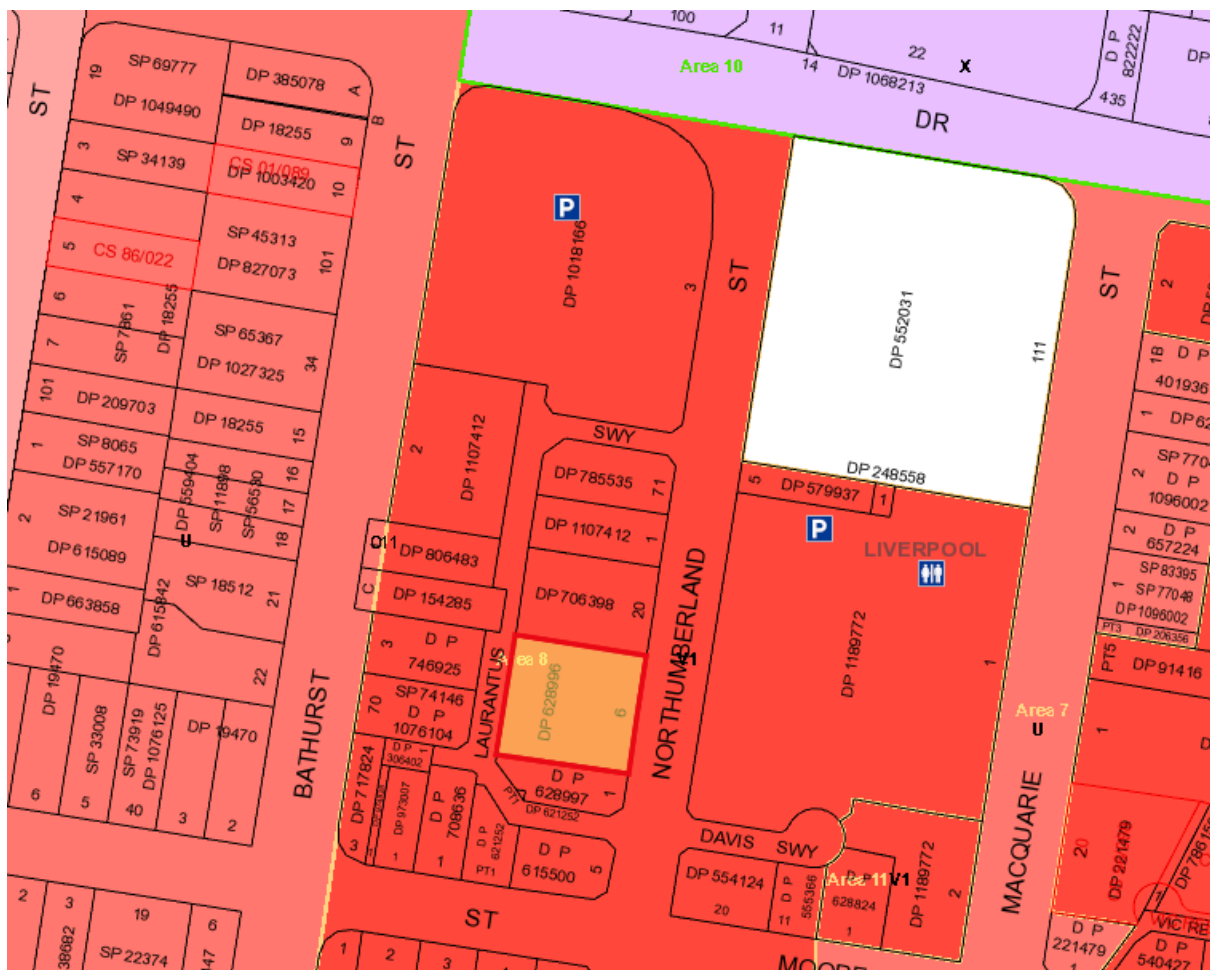


Figure 5: FSR of the site

In this case, it is considered appropriate to impose a positive covenant with wording to create an easement for vehicular and pedestrian access from the Laurantus Service way, through the basement of the proposal to benefit any (future) basement levels of the neighbouring site to the south. This increases the options available to this site in the event this site develops in the future.

Furthermore, any subsequent application will need to be designed to ensure that a future connection can be made through to the adjoining site via the basement levels, particularly

basement level 1. This shall be indicated on any plans to Council for assessment of the subsequent application for the building.

- *The extent to which SEPP 65 and the Apartment Design Guide will apply, or might be otherwise relevant to the assessment of the application was raised as an issue for consideration. In that regard, clause 4(4) of SEPP 65 provides “Unless a local environmental plan states otherwise, this Policy does not apply to a boarding house or a serviced apartment to which that plan applies.”*

The only relevant provision of Liverpool LEP raised for the panel’s attention is clause 7.19, however that clause applies only to prevent strata subdivision of the serviced apartments that do not comply with SEPP 65. However, rather than implying that serviced apartments must comply with SEPP 65, it appears to anticipate that some serviced apartments will not comply which is why they cannot be strata subdivided so as to achieve the stated objectives of the clause of “preventing substandard residential building design occurring by way of converted serviced apartment development”.

However, if SEPP 65 and the ADG do not apply, advice will be required as to the relevant matters to be taken into account to ensure that design quality as appropriate to the proposed form of development will be achieved. Issues of solar access, adequate efficiency of lifts, appropriate room size, and building separation will still apply, as will the impacts of the proposal on adjacent development including the apparently residential building on the opposite side of Laurentus Lane. Notably, there are controls and standards contained in Part 7 of the LEP ‘Division 1 Liverpool city centre provisions’ which would seem to apply.

Comment: The applicant has indicated to Council that the concept development application is for serviced apartments. There is no intention to strata subdivide these apartments as part of any future development application. Therefore, the provisions of SEPP 65 and ADG do not apply to the proposed development. A condition will be imposed on any consent granted that restricts development accordingly.

In this regard, the proposed building envelopes has been designed in accordance with the provisions of Liverpool Local Environmental Plan (LLEP) 2008 as well as Part 1 and Part 4 of Liverpool Development Control Plan (LDCP) 2008. The proposed building envelopes are considered to be adequate with regard to desired future character of development within the locality.

- *Issues of managing traffic impacts associated with the development and the appropriate design for the basement carpark where waste collections are proposed to occur were raised, and will require careful examination. The Land & Environment Court’s decision in Courallie Avenue Pty Ltd v Strathfield [2015] NSWLEC 1128 may be relevant on the subject of private waste collection, but the interests of designing the basement to cater for different sizes of collection vehicle reasonably anticipated to need to access the new building across its expected life ought to be considered, as are the other reasonably anticipated vehicular access needs to the development.*

Comment: The Court’s decision in *Courallie Avenue Pty Ltd v Strathfield* considered waste management for a residential flat building. The applicant proposed that garbage is collected by a private contractor. Strathfield Council was opposed to this arrangement. However, the commissioner did not accept that the engagement of a private contractor for waste collection will set an undesirable precedent.

In this case, the applicant proposed serviced apartments which are a type of ‘tourist and visitor accommodation’ not ‘residential accommodation’. The applicant has indicated that they will not pursue any residential accommodation at the site. As such, a private contractor will collect waste from this site.

- *The Council briefing note contains observations concerning the assessment of the 20% of the gross floor area of the proposed building which must be used for the nominated uses to qualify for the height and FSR bonuses under clause 7.5A, and presumably resolved advice on that subject will be included in the determination assessment report.*

Comment: This matter has been adequately resolved. A discussion on subclause 7.5A(2) of LLEP 2008 is provided further in this Report.

- *The panel finally noted that an appropriate form of redevelopment of this site would be desirable noting the presently aged and dated built form of this part of Northumberland Street.*

Comment: Noted. Council considers that the proposed development represents an appropriate form of redevelopment of this site, subject to a subsequent application for the building.

Overall, it is considered that the comments raised by the Panel have been addressed by the applicant.

4. DETAILS OF THE PROPOSAL

Development consent is sought for a concept proposal to cater for:

- A new 32 storey mixed development (28 storey tower on 4 storey podium) up to a maximum RL of 130.00
- Total gross floor area (GFA) of 15,650m² made up of:
 - A minimum 3,130m² of commercial floor area providing opportunities for the following land uses:
 - Retail use
 - Commercial and
 - Childcare
- Approximately 12,520m² of serviced apartment floor area, capable of supporting an indicative 163 serviced apartments.
- Three basement levels of parking and two at-grade loading areas for service and waste vehicles with rear access from the rear laneway to cater for a maximum 94 car spaces.
- Landscaping is to be provided on podium for the outdoor areas of the childcare centre proposed on the fourth storey. Also, urban design improvements are proposed on Northumberland Street such as replacing pavers and planting new street trees.
- The site will continue to have pedestrian access from Northumberland Street.

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The following Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy No.55 – Remediation of Land.
- State Environmental Planning Policy No. 64 – Advertising and Signage.
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.
- State Environmental Planning Policy (Infrastructure) 2007;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;
- Liverpool Local Environmental Plan 2008.

Other Plans and Policies

- No other plans or policies

Development Control Plans

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

Contributions Plans

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

5.2 Zoning

The site is zoned B4 Mixed Use pursuant to LLEP 2008 as depicted in the figure below.

An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided. but does not include—

(c) a building or place used for home-based child care or school-based child care, or (d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or

(e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or

(f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or

(g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or

(h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.”

“tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—

(a) backpackers' accommodation,

(b) bed and breakfast accommodation,

(c) farm stay accommodation,

(d) hotel or motel accommodation,

(e) serviced apartments, but does not include—

(f) camping grounds, or

(g) caravan parks, or

(h) eco-tourist facilities.”

“serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.”

All these land uses are permissible within the B4 Mixed Use zone.

6. ASSESSMENT

Clause 4.22 of the EP & A Act 1979 states;

4.22 Concept development applications

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

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

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

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

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

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

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

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

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

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

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

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

The development application has been assessed in line with the relevant matters of consideration prescribed by Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000* as follows:

6.1 Section 4.15(1)(a)(1) – Any Environmental Planning Instrument

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The objectives of SEPP 55 are:

- to provide for a state wide planning approach to the remediation of contaminated land.
- to promote the remediation of contaminated land to reduce the risk of harm to human health or any other aspect of the environment.

Under the above SEPP, Council must consider:

- whether the land is contaminated.
- if the land is contaminated, whether it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the proposed use.

Comment: DA-82/2020 was supported by a report on Preliminary (Contamination) Site Investigation with Limited Sampling Proposed Meriton Suites and Commercial Building 167

Northumberland Street, Liverpool (Project 99527.01, Document No. R.001.Rev1, File name 99527.01.R.001.Rev1) prepared by Douglas Partners Pty Ltd dated 20th October 2020. Douglas Partners Pty Ltd confirmed that additional intrusive investigations are required at the site following demolition of the buildings to determine the suitability of the land for the proposed development and to classify soils requiring off-site disposal.

Based upon these findings, the Applicant is required to engage the services of a suitably qualified environmental consultant to prepare or review and certify a Stage 2- Detailed Site Investigation of the land. If the Stage 2-Detailed Site Investigation indicates that the site poses unacceptable risks to human health or the environment, a Remedial Action Plan (RAP) needs prepared or reviewed and certified by a suitably qualified environmental consultant. This documentation is usually assessed prior to development consent being granted.

However, in the circumstances, this documentation is not required to be considered with the concept DA. Council notes that the following applications were lodged with and approved by Council:

1. DA-96/2020 was approved on 20 February 2020 for the demolition of existing structures onsite. A subsequent 4.55 modification was also approved on 20 October 2020.
2. DA-222/2020 was lodged on 11 March 2020 for excavation to create basement levels associated with the proposed mixed-use development. This DA was approved on 11 February 2021.

DA-222/2020 was supported by the following additional technical reports:

- Contamination Investigation Proposed Meriton Suites & Commercial Building 167 Northumberland Street, Liverpool (Project 99527.01, Ref: 99527.01.R.002.Rev1) prepared by Douglas Partners Pty Ltd dated 24th November 2020; and
- Report on Detailed Site Investigation (Contamination) Meriton Suites and Commercial 167 Northumberland Street, Liverpool (Project 99908.00, Document No. R.001.Rev0) prepared by Douglas Partners Pty Ltd dated 21st January 2021.

When reviewing these reports, Council's Environmental Health Section considered whether the land is contaminated. Based upon the consultants' findings, Council's Environmental Health Section understands that the land is suitable in its current condition for the proposed use without the need for remediation.

Based on the above assessment of the consultants' findings, the proposal is considered to satisfy the relevant objectives and provisions of SEPP 55 Clauses 7(1), 7(2), 7(3) and 7(4), therefore, it is considered that the subject site is suitable for the proposed development.

Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP).

The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.

When a consent authority determines a development application planning principles are to be applied (Clause 7(2)). Below is a summary of the matters for consideration in determining development application (Clause 8 and Clause 9).

Clause 8 General Principles	Comment
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When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application
(a) the aims, objectives and planning principles of this plan	Considered more appropriate at a future DA stage.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas	Considered more appropriate at a future DA stage.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries	Considered more appropriate at a future DA stage.
d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments)	Considered more appropriate at a future DA stage.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning)	Considered more appropriate at a future DA stage.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice	All relevant State Government Agencies were notified of the proposal and all relevant State Government Policies, manuals and guidelines were considered as part of the proposal.
(g) whether there are any feasible alternatives to the development or other proposal concerned	The site is located in an area nominated for mixed use development and provides for a development that is consistent with the objectives of the applicable zoning and is consistent with the desired future character of the surrounding locality.
Clause 9 Specific Principles	Comment
(1) Acid sulphate soils	The site is not affected by acid sulphate soils.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The site is not affected by flooding.
(4) Industrial discharges	Not applicable. The site has been used for commercial purposes previously.
(5) Land degradation	Considered more appropriate at a future DA stage.
(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	Considered more appropriate at a future DA stage.
(10) Urban development areas	The site is not identified as being located within the South West Growth Centre within the Metropolitan Strategy.

	The site is not identified as being an Urban Release Area under LLEP 2008.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	Considered more appropriate at a future DA stage.
(13) Wetlands	Not applicable

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

Liverpool Local Environmental Plan 2008

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

Zone Objectives

The objectives of the B4 zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To allow for residential and other accommodation in the Liverpool city centre, while maintaining active retail, business or other non-residential uses at street level.*
- *To facilitate a high standard of urban design, convenient urban living and exceptional public amenity.*

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

Principal Development Standards

The following principal development standards are applicable to the proposal:

CLAUSE	REQUIRED	PROPOSED
Clause 2.7 Demolition Requires Development Consent	The demolition of a building or work may be carried out only with development consent.	N/A
Clause 4.3 Height of Buildings	Maximum height of 28m	N/A The application is being proposed pursuant to Clause 7.5A, which enables the removal of a maximum height limit on a site subject to the satisfaction of clause 7.5A.

		Clause 7.5A assessment is provided further in this report.
Clause 4.4 Floor Space Ratio	Maximum FSR of 3:1	N/A The application is being proposed pursuant to Clause 7.5A, which enables the removal of a maximum height limit on a site subject to the satisfaction of clause 7.5A. Clause 7.5A assessment is provided further in this report.
Clause 5.10 Heritage Conservation	Development proposed within the vicinity of a heritage item must be accompanied by a heritage management document to assess the impact of the heritage significance of the heritage item.	Complies No concerns raised by Council's Heritage Advisor.
7.1 Objectives for Development in Liverpool City Centre	Proposed developments must be consistent with the objectives	Complies Refer to discussion below.
7.2 Sun access in Liverpool City Centre	Development on land to which this clause applies is prohibited if the development results in any part of a building on land specified in Column 1 of the Table to this clause projecting above the height specified opposite that land in Column 2 of the Table	N/A This clause does not encompass the subject site.
7.3 Car Parking in the Liverpool City Centre	<ul style="list-style-type: none"> At least one car parking space is provided for every 200m² of new ground floor GFA; At least one car parking space is provided for every 100m² of new retail premises GFA; and At least one car parking space is provided for every 150m² of new GFA to be used for any other purpose. 	Does not comply – Refer to Clause 4.6 variation below

Clause 7.4 Building Separation in Liverpool City Centre	<p>Development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least:</p> <ul style="list-style-type: none"> • 12 metres for parts of buildings between 25 and 45 metres above ground level (finished) on land in Zone B3 Commercial Core or B4 Mixed Use, and • 28 metres for parts of buildings 45 metres or more above ground level (finished) on land in Zone B3 Commercial Core or B4 Mixed Use 	Complies
Clause 7.5 Design Excellence in Liverpool City Centre	Must Comply with Clause 7.5(3) with regards to exhibiting design excellence	<p>Complies</p> <p>The application has been reviewed by Council's Design excellence panel on 2 occasions and the application has been supported.</p>
Clause 7.14 Minimum Building Street Frontage	A minimum building street frontage of 24m is applicable.	<p>Complies</p> <p>The site has a frontage that exceeds 24m</p>
7.5A Additional provisions relating to certain land at Liverpool city centre		Complies – Refer to discussion below
7.16 Ground floor development in Zones B1, B2 and B4	Development Consent is not to be granted unless it is demonstrated that the ground floor will not be used for residential accommodation	<p>Complies</p> <p>Proposed concept does not provide any residential accommodation on ground floor.</p>
Clause 7.17 Airspace Operations	Provisions to protect airspace around airports	<p>Complies</p> <p>The application was referred to Sydney Metro Airports who raised no objections to the</p>

		concept DA.
Clause 7.19 Serviced Apartments	<p>Development consent must not be granted for the subdivision under a strata scheme of a building or part of a building that is being, or has been, used for serviced apartments unless the consent authority is satisfied that the following are achieved for the development as if it were development to which clause 4 of <i>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</i> applies—</p> <p>(a) the design quality principles set out in Schedule 1 to that Policy,</p> <p>(b) the design principles of the Apartment Design Guide (within the meaning of that Policy).</p>	<p>N/A</p> <p>The applicant has confirmed that the serviced apartments will not be subdivided under a strata scheme.</p>

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

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

For consent to be granted for new GFA on B4 Mixed Use zoned land in the Liverpool City Centre, Subclause 7.3(2) provides that the consent authority must be satisfied that:

- At least one car parking space is provided for every 200m² of new ground floor GFA;
- At least one car parking space is provided for every 100m² of new retail premises GFA; and
- At least one car parking space is provided for every 150m² of new GFA to be used for any other purpose.

Based on a GFA of 15,650m², the site would be required to provide 104 car parking spaces in order to be compliant with Subclause 7.3(2). However, it is proposed to provide 94 car parking spaces at the site. This equates to a non-compliance with the car parking requirements of Clause 7.3 by 10 spaces or 9.6%.

Consequently, the applicant provided a clause 4.6 variation to justify the non-compliance, prepared by Urbis.

The submitted written request to vary Clause 7.3 (Car Parking in the Liverpool City Centre) has been assessed against the provisions of Clause 4.6; the objectives of the Clause being varied; and the objectives of the B4 zone, are discussed below:

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

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

1) Circumstances of the development

Development consent is sought for a concept proposal to cater for:

- A new 32 storey mixed development (28 storey tower on 4 storey podium) up to a maximum RL of 130.00
- Total gross floor area (GFA) of 15,650m² made up of:
 - A minimum 3,130m² of commercial floor area providing opportunities for the following land uses:
 - Retail use
 - Commercial and
 - Childcare
- Approximately 12,520m² of serviced apartment floor area, capable of supporting an indicative 163 serviced apartments.
- Three basement levels of parking and two at-grade loading areas for service and waste vehicles with rear access from the rear laneway to cater for a maximum 94 car spaces.
- Landscaping is to be provided on podium for the outdoor areas of the childcare centre proposed on the fourth storey. Also, urban design improvements are proposed on Northumberland Street such as replacing pavers and planting new street trees.
- The site will continue to have pedestrian access from Northumberland Street.

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

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

- *The parking is commensurate with the traffic likely to be generated by the development and appropriate for the road network capacity – The Traffic Impact Assessment prepared by Arup notes that the proposed development will generate less than one vehicle trip every two minutes on average during peak periods, resulting in minor traffic generation impacts to the road network. Strict application of clause 7.3 will result in greater traffic impacts.*
- *The parking is commensurate with the proposed mix of transport modes for the City Centre – The proposed number of car parking spaces is considered proportionate to the mix of transport modes available in the City Centre. As Liverpool grows in its role as a Strategic Centre and CBD, an objective for the site should be to minimise car parking to promote the use of public and sustainable forms of transport. Liverpool Station is located 650 metres from the site, servicing the Inner West, Leppington, Bankstown and Cumberland lines. Liverpool bus interchange is also located immediately adjacent to the station. It serves as a terminus for all bus routes serving the CBD and Liverpool to Parramatta, all within walking distance from the site and servicing the immediate locality (Figure 5). The proposed mixed-use development also provides 40 bicycle spaces to encourage active modes of transport. It is anticipated that guests, visitors and employees will utilise the existing bus, rail and active transport options available. In addition, visitors staying in the serviced apartments will also access the site by taxi or other ride share methods.*
- *An underlying objective of the standard is to promote the use of public and active transport. The mix of transport modes in the CBD has been a key determinant informing the proposed number of car parking spaces provided on site. As discussed, the site is well serviced by trains and buses. If additional car parking is provided, it will further encourage the use of motor vehicles and discourage patrons from utilising the existing public transport available, defeating the underlying objective of the standard.*
- *A secondary objective of this clause is to ensure car parking provision is commensurate with the traffic likely to be generated by the development. As discussed in the Traffic Report, the increase in traffic is considered to be ‘minor in nature and will have negligible impacts’ and that the proposed ‘reduced car parking spaces generate less trips in comparison to the trips generated based on the number of the proposed units’.*

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

- With the subjects site’s close proximity to the Liverpool Train Station and the Liverpool-Parramatta Transitway the proposed developments reduced parking rate promotes and encourages the establishment of a Transit Orientated Development (TOD) and the positive attributes associated with such a development through the following.
 - The development provides for a large-scale commercial development within close proximity to a significant transport hub of Western Sydney. With the

reduced parking rate and the close proximity to the significant transport hub the development will promote the use of the well serviced and accessible public transport options in lieu of the use of motor vehicles.

- By encouraging the use of public transport and the reduced dependency on motor vehicles the development promotes sustainable urban development and the reduction in a carbon footprint.
 - The development in this form and location will promote walkability and create an improved and engaging public domain and promote social interaction as it will reduce car dependency and vehicle congestion within the CBD.
- As indicated in the justification provided above the proposals reduced parking rate aligns with the desired and envisaged direction of the Greater Sydney Commissions “Western Sydney District Plan” for key strategic centres including Liverpool, by promoting the use of public transport, creation of a 30-minute city and promoting walkability.
 - Low car parking provisions is considered important in this instance as it will also act to limit potential traffic generation by the sites activity to a level which will not unduly compromise the operation of the Liverpool CBDs existing road network.
 - Given the location of the proposal within close proximity to Liverpool Station and Transit way the provision of a reduced amount of parking spaces for future users of the service apartments or employees that will be employed in the building is considered a viable option in this instance.
 - The proposed development is considered to have due consideration to the encouragement of the use of reduced car dependency and vehicular movement to and from the site through the introduction of and encouragement of bicycle parking.

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

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

The objectives of Clause 7.3 and assessment are as follows:

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

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

4) Consistency with objectives of the zone – B4 – Mixed use

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

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To allow for residential and other accommodation in the Liverpool city centre, while maintaining active retail, business or other non-residential uses at street level.*
- *To facilitate a high standard of urban design, convenient urban living and exceptional public amenity.*

The proposal satisfies the objectives of the B4 zone in that it proposes a concept proposal that will provide a mixture of compatible land uses that will serve the need of the local and wider community. It provides for a commercial development that encourages employment opportunities within walking distance of Liverpool Train Station and the Transit way.

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

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

5) Consistency with Clause 4.6 objectives

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

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

6) Recommendation

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

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

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

- (a) *is identified as “Area 8”, “Area 9” or “Area 10” on the Floor Space Ratio Map, and*
- (b) *has a lot size exceeding 1500m², and*

(c) has 2 or more street frontages.

Comment: The subject site is located in “Area 8” on the FSR map as indicated in figure 10 below. The development site is greater than 1500sqm and has 2 or more street frontages. On this basis Clause 7.5A would apply to this site.

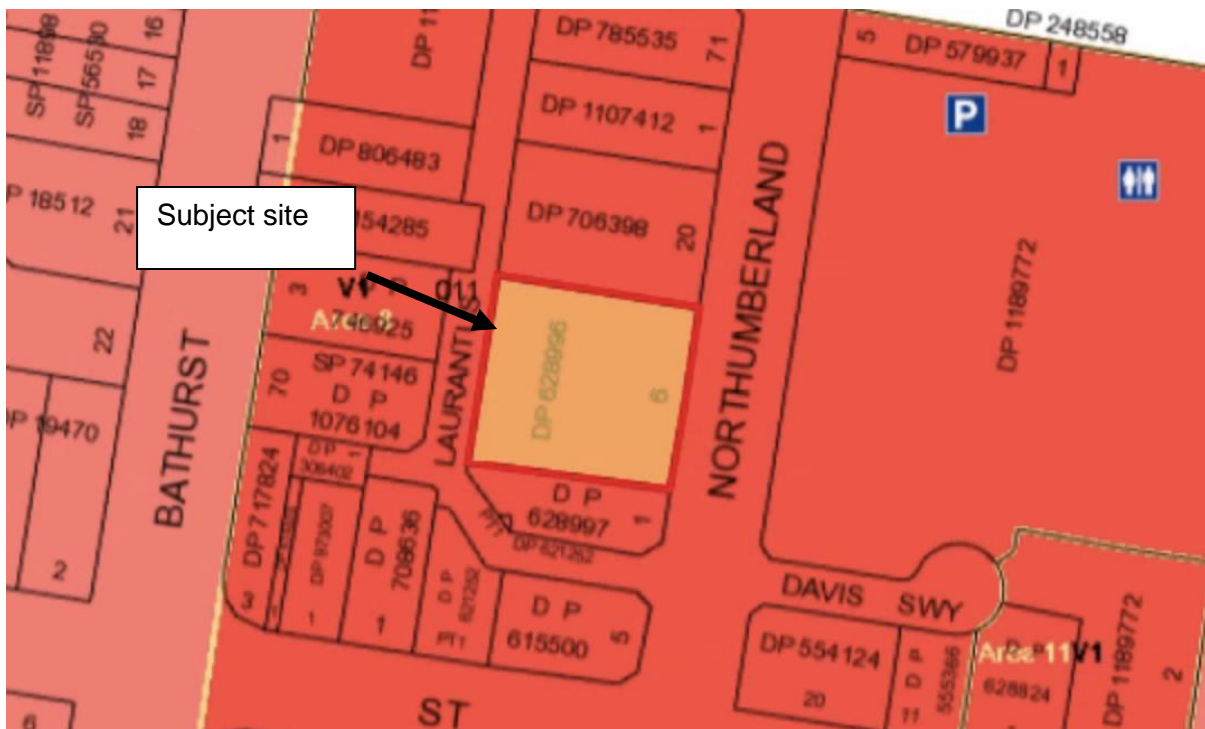


Figure 6: FSR Map indicating site is in Area 8

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

- (a) the height of the building may exceed the maximum height shown for the land on the [Height of Buildings Map](#), and
- (b) the maximum floor space ratio of the building may exceed the maximum floor space ratio shown for the land on the [Floor Space Ratio Map](#) but must not exceed—

- (i) in relation to a building on land identified as “Area 8” or “Area 10” on the map—10:1, or
- (ii) in relation to a building on land identified as “Area 9” on the map—7:1.

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

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

The concept proposal has demonstrated that a future development is able to accommodate a minimum 20% of the GFA for numerous uses detailed in the Clause above. A condition of consent will be imposed requiring that any future application provide a minimum 20% of the GFA for the uses listed above.

Development consent is sought for a concept proposal to cater for:

- A new 32 storey mixed development (28 storey tower on 4 storey podium) up to a maximum RL of 130.00
- Total gross floor area (GFA) of 15,650m² made up of:
 - A minimum 3,130m² of commercial floor area providing opportunities for the following land uses:
 - Retail use
 - Commercial and
 - Childcare
- Approximately 12,520m² of serviced apartment floor area, capable of supporting an indicative 163 serviced apartments.
- Three basement levels of parking and two at-grade loading areas for service and waste vehicles with rear access from the rear laneway to cater for a maximum 94 car spaces.
- Landscaping is to be provided on podium for the outdoor areas of the childcare centre proposed on the fourth storey. Also, urban design improvements are proposed on Northumberland Street such as replacing pavers and planting new street trees.
- The site will continue to have pedestrian access from Northumberland Street.

Therefore, having regard to the above it is considered reasonable in this instance that the concept proposal provides an FSR of 10:1 as it has demonstrated that it is consistent with the requirements of this Clause.

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

- (a) a development control plan that provides for the matters specified in subclause (4) has been prepared for the land, and*
- (b) the site on which the building is located also includes recreation areas, recreation facilities (indoor), community facilities, information and education facilities, through site links or public car parks.*

Comment: In the first instance it is important to note that the concept plans includes provision for a pool on level 2 which satisfies Clause 3(b) as a pool is defined as a *recreation facility (indoor)*.

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

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

- (1) An environmental planning instrument cannot require the making of a concept development application before development is carried out.*
- (2) However, if an environmental planning instrument requires the preparation of a development control plan before any particular or kind of development is carried out on any*

land, that obligation may be satisfied by the making and approval of a concept development application in respect of that land.

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

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

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

(4) The development control plan must include provision for how proposed development is to address the following matters:

- (a) the suitability of the land for development,*
- (b) the existing and proposed uses and use mix,*
- (c) any heritage issues and streetscape constraints,*
- (d) the impact on any conservation area,*
- (e) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
- (f) the bulk, massing and modulation of buildings,*
- (g) street frontage heights,*
- (h) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,*
- (i) the achievement of the principles of ecologically sustainable development,*
- (j) encouraging sustainable transport, including increased use of public transport, walking and cycling, road access and the circulation network and car parking provision, including integrated options to reduce car use,*
- (k) the impact on, and any proposed improvements to, the public domain,*
- (l) achieving appropriate interface at ground level between buildings and the public domain,*
- (m) the excellence and integration of landscape design*

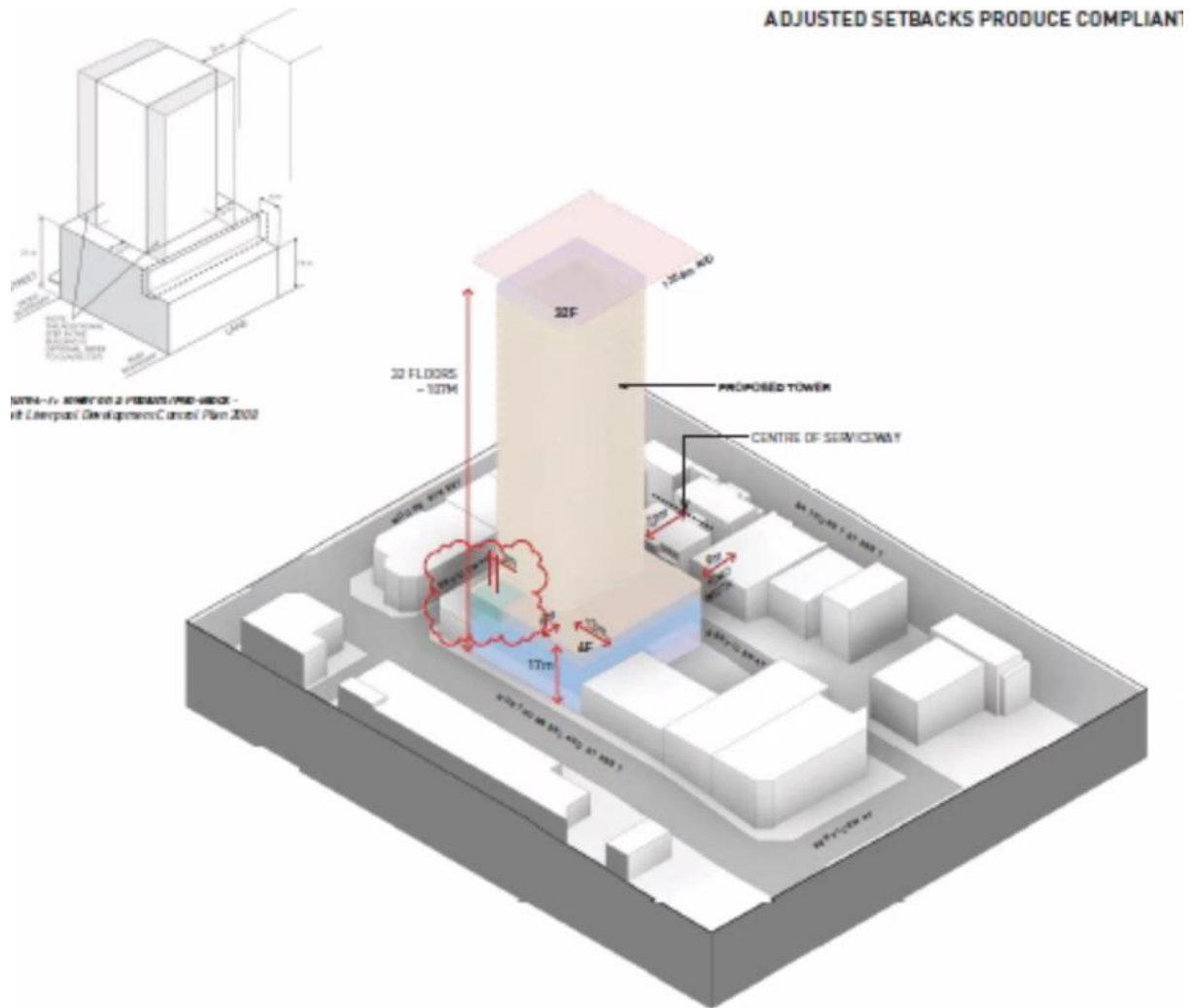
Comment: While it is acknowledged that a site specific DCP was not prepared for the site as required by Clause (3), it is evident that the concept proposal has given due consideration for all the matters listed in subclause (4). This is evidenced by the Master Plan Report, submitted with the application prepared by PTW Architects.

It is also important to note that the submitted concept plan has been presented numerous times to Councils Design Excellence Panel, which have deemed the documentation satisfactory and have endorsed the concept proposed.

A brief discussion on how each of the listed criteria has been considered as part of the concept DA and is to be carried through to any subsequent application is provided below:

- a) The suitability of the land for development,

An analysis of the characteristics and the local context has been included in the Design Report (please refer to pages 6 to 16). From this, the applicant has explored possible options for redevelopment that respond appropriately to the characteristics and the local context (see pages 18-25) before arriving at the chosen concept. See Figures below.



b) *the existing and proposed uses and use mix,*

The Design Report describes the existing uses of any building currently occupying the site, and the proposed use mix to be developed on the site (please refer to pages 28 to 35). The submitted concept plans that will form part of any conditions of consent for this DA also indicate the location and general layout of proposed uses that will occupy any future building at the site.

c) *any heritage issues and streetscape constraints,*

The subject site is located within the immediate vicinity of the following local heritage items in Schedule 5 of the Liverpool LEP 2008:

- Plan of Town of Liverpool (early town centre street layout – Hoddle 1827)

Council's Heritage Advisor has reviewed the concept development application and raised no objections to the proposed concept.

d) *the impact on any conservation area,*

This criterion is not a relevant consideration as the site is not located within or located in the proximity of a conservation area.

The applicant has explored possible options for redevelopment that respond appropriately to the characteristics and the local context (see pages 18-25) including future building separation to potential envelopes on adjoining sites. See figures below.



f) *the bulk, massing and modulation of buildings,*

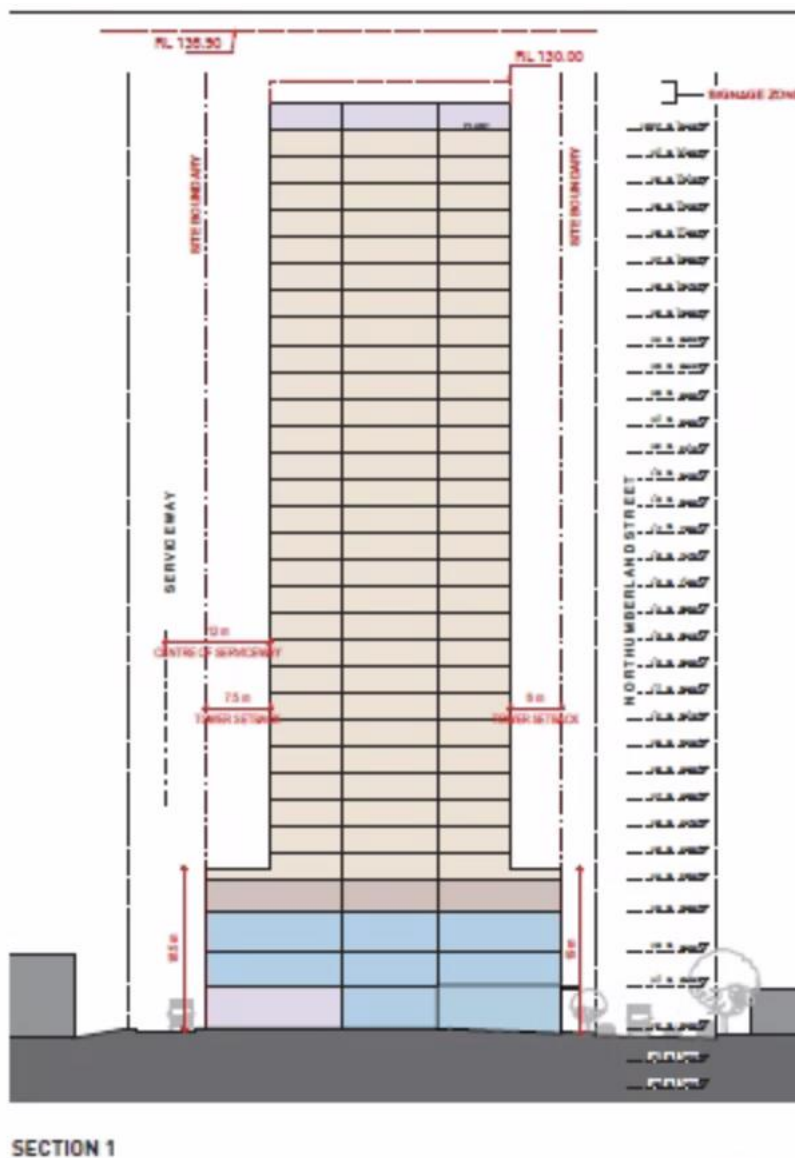
Massing of the chosen scheme as well as alternatives possible options has been explored in the design report (see pages 18-25).

g) *street frontage heights,*

Part 4 of LDCP 2008 requires a tower on podium building is to be designed so that the podium is:

- a. four to six storeys in height at the primary street frontage;
- b. four storeys in height to the lanes and/or serviceways; and
- c. 6 metres from a side/rear boundary if the site is adjoining a property that is not zoned B4 – Mixed Use or contains a stand-alone building. The setback should be in accordance with the ADG,

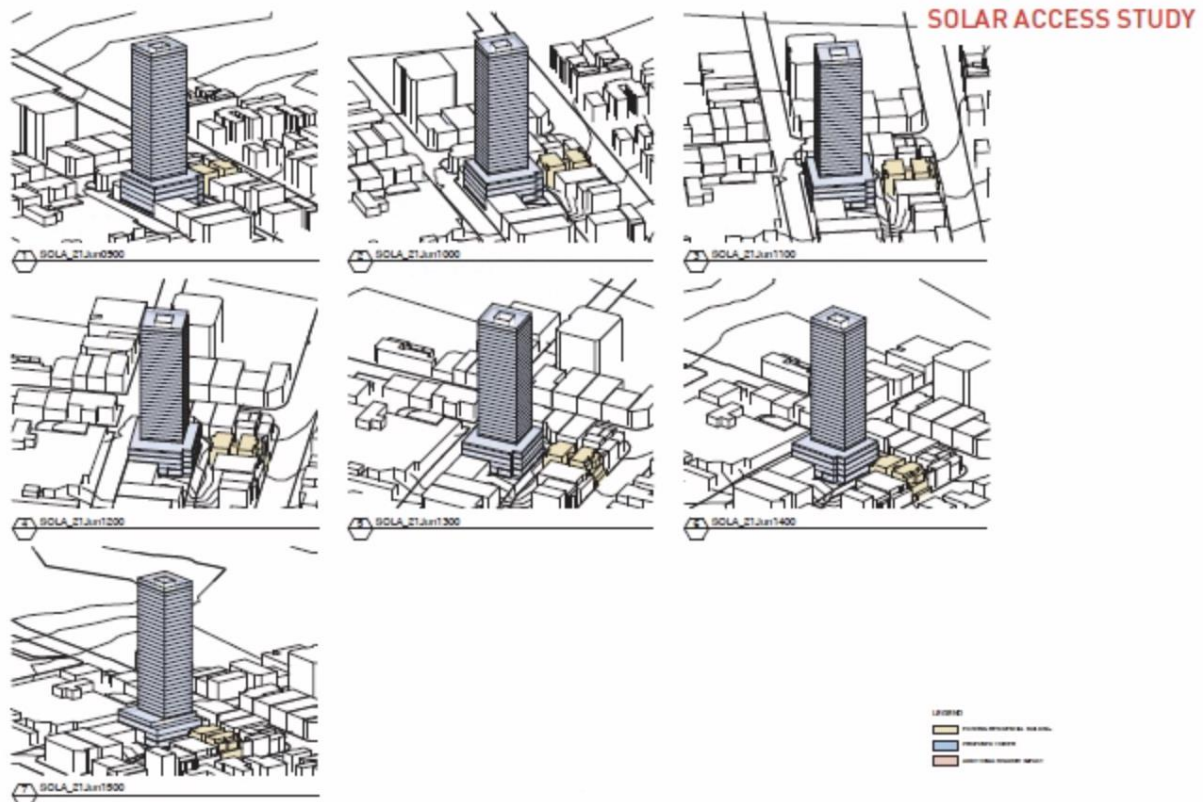
The applicant proposes building envelopes for a tower on podium building. The podium is four storeys in height to the primary street frontage as well as the rear serviceway. See figure below.



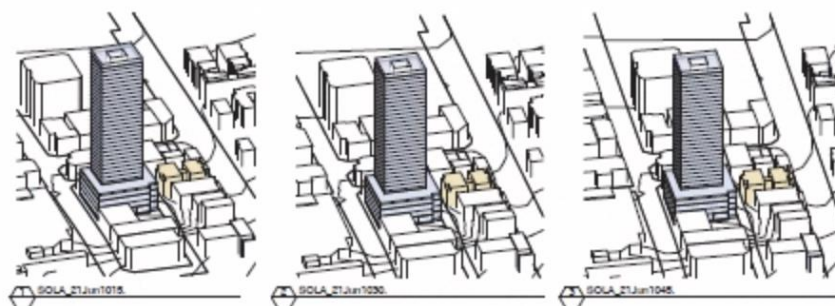
The proposed development is consistent with the street frontage heights anticipated in the B4 zone.

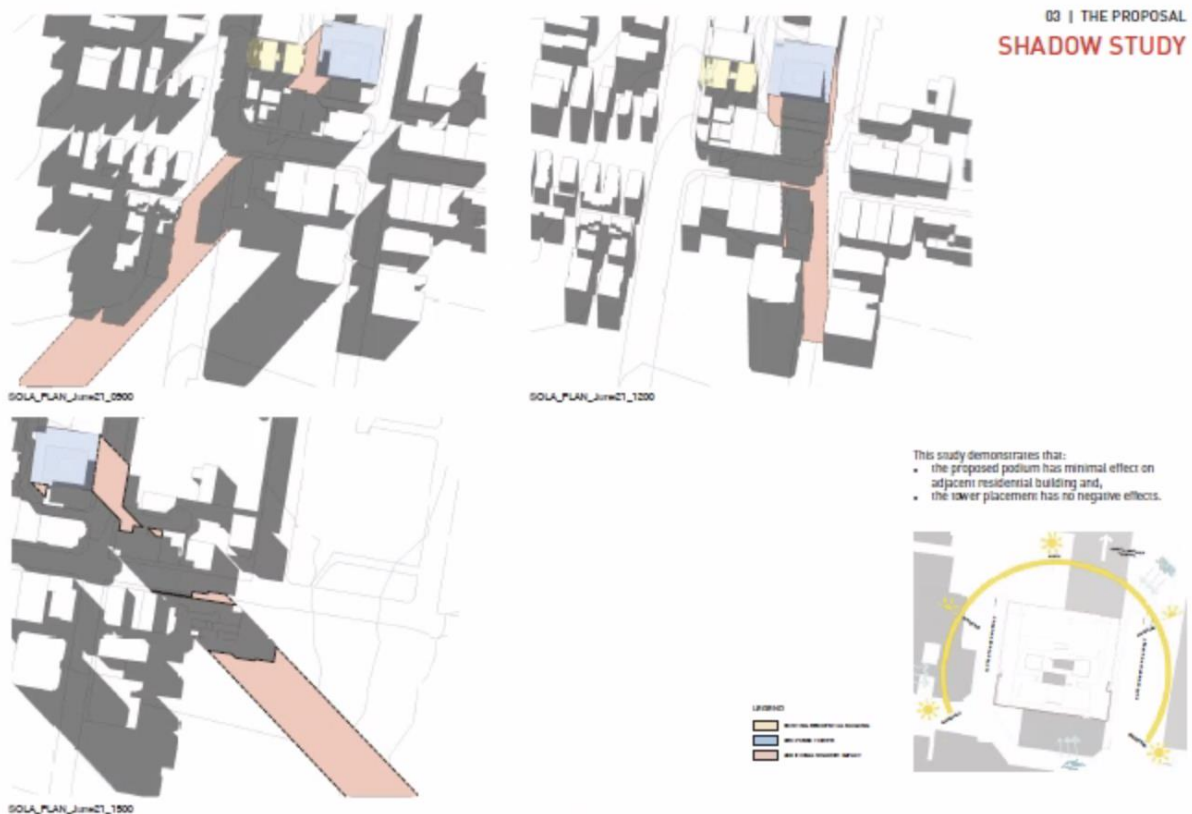
h) *environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,*

The submitted design report includes shadow diagrams and solar access study. See figures below.



SOLAR ACCESS STUDY





In relation to visual privacy, the building envelopes proposed have been setback from the property boundary so as to enable the redevelopment of adjoining sites whilst achieving the minimum building separation distances in the Apartment Design Guide. Therefore, any building within the envelopes is unlikely to result in visual privacy issues to surrounds.

Having regard to acoustic privacy, noise, wind and reflectivity, these matters can be addressed in any subsequent application to Council, as impacts are related to the building itself rather than envelopes. Conditions will be imposed on any consent that requires these matters be addressed in a subsequent application.

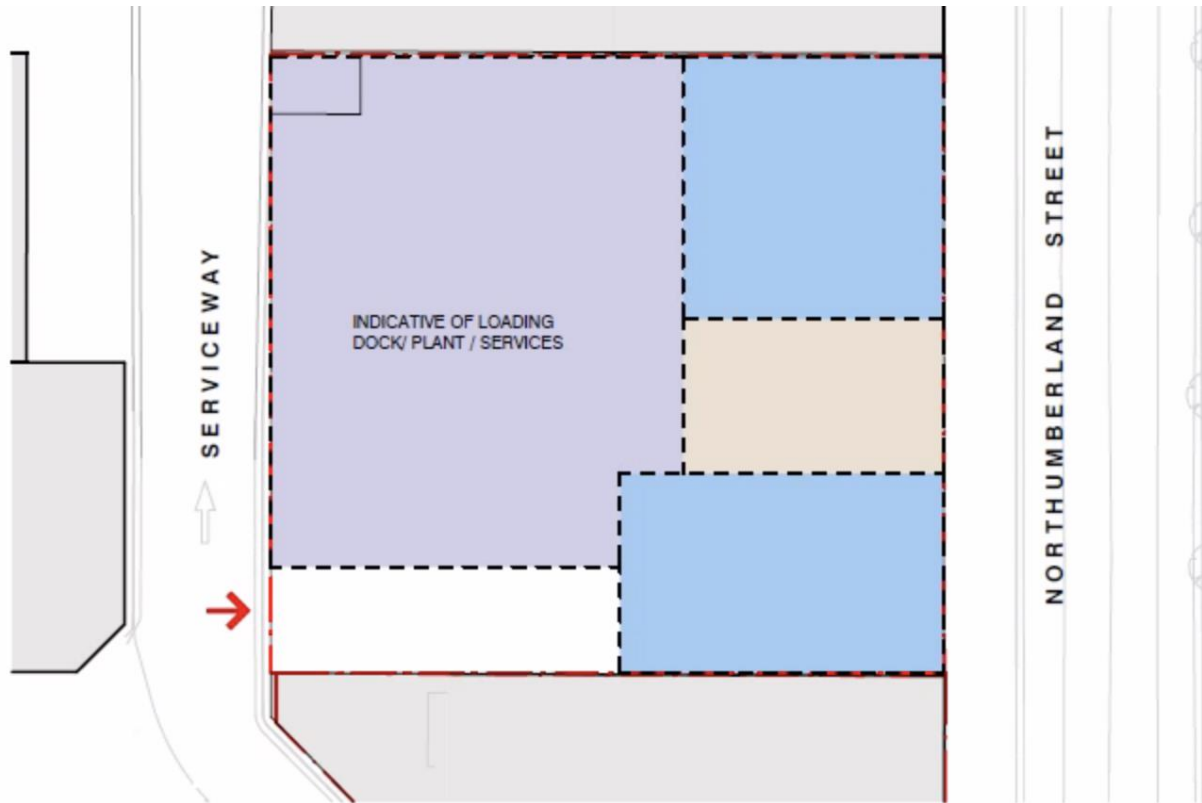
i) *the achievement of the principles of ecologically sustainable development,*

The applicant has acknowledged the importance of ESD and proposes to incorporate these provisions in any subsequent application to Council for the building. These matters can be addressed in any subsequent application to Council. Conditions will be imposed on any consent that requires these matters be addressed in a subsequent application.

j) *encouraging sustainable transport, including increased use of public transport, walking and cycling, road access and the circulation network and car parking provision, including integrated options to reduce car use,*

The concept application has been accompanied by a traffic report which indicates that vehicular access to the site will occur within the serviceway while pedestrian access will be retaining via the primary street frontage.

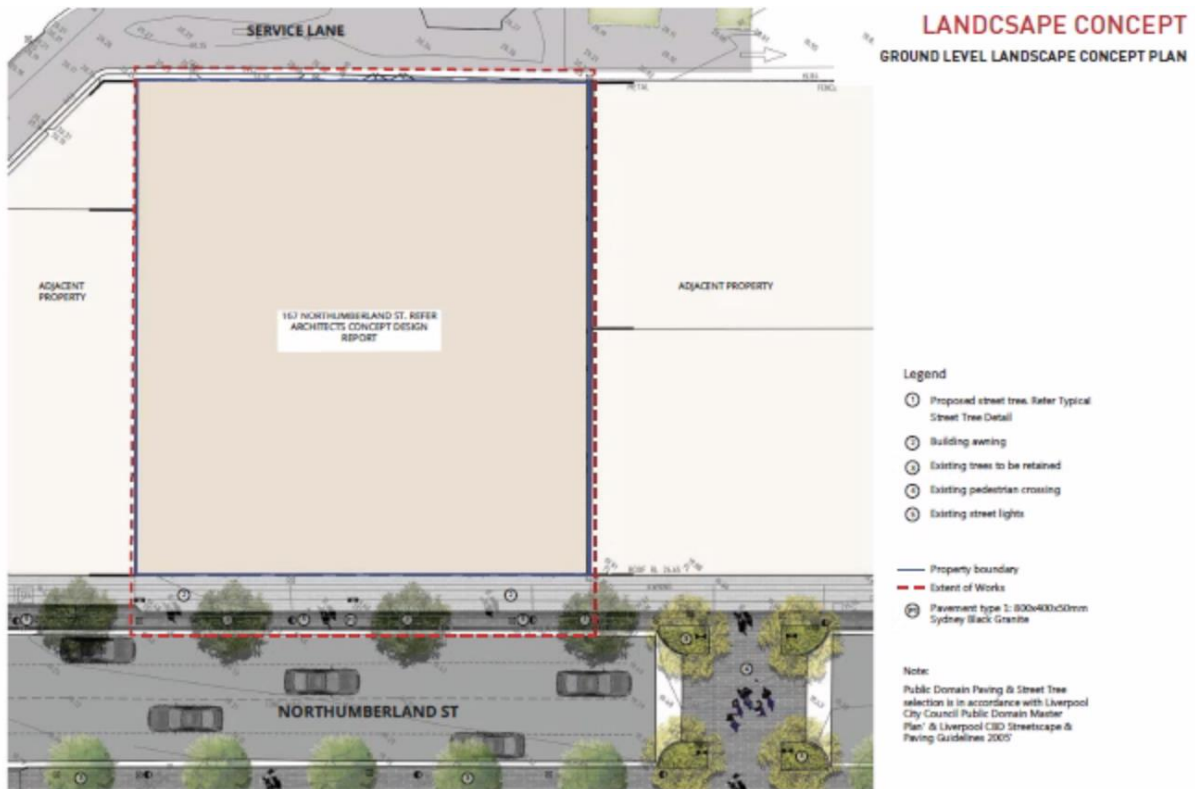
Separate access to and from the site is provided for servicing and car parking. Service vehicles will have access to back of house facility on the ground floor whereas vehicles parking at the site will access the basement levels via a driveway ramp.



The applicant has indicated that parking will be provided at the site for cars, motorbikes and bicycles. There will also be end of trip facilities provided within any building.

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

The concept application is considered to have little impact on the public domain. However, it is anticipated that any redevelopment of the site will be required to improve the public domain within the vicinity of the site. The applicant has considered this matter on page 36 of the submitted design report. See below figure.

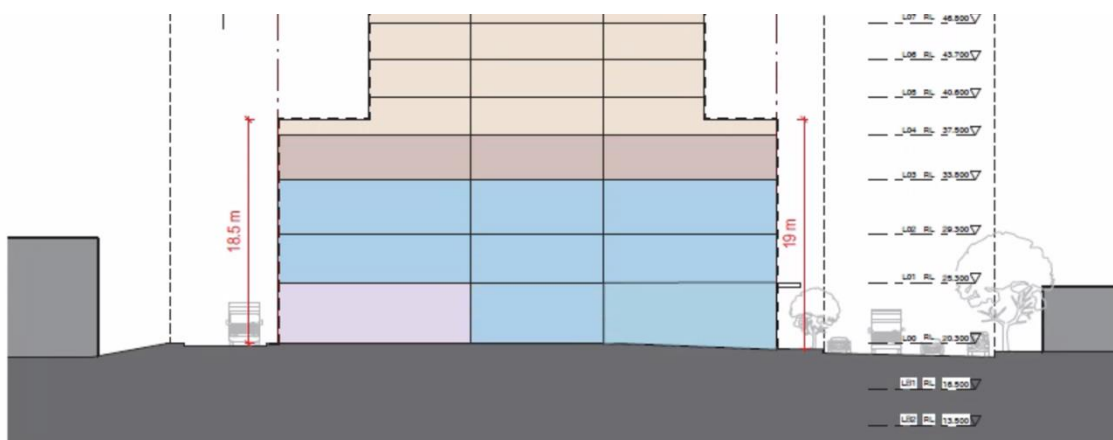


Council's public domain and city design team has reviewed the concept development application and requires that, as part of any subsequent development application, public improvements include the entire width of Laurantus Serviceway, along the property boundary, and the length of Northumberland Street up till the southern intersection of Laurantus Serviceway.

This will be imposed as a condition of development consent for subsequent development application.

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

A design report provides elevations and section drawings that show the interface at ground level between buildings and the public domain. See figure below.



The figure indicates that the proposed ground floor will be relatively level with the public domain so as to ensure limited disparity in floor levels between buildings and the public domain.

m) *the excellence and integration of landscape design*

A condition will be imposed on any consent granted that requires a landscape plan to be submitted with a subsequent application to Council for the building.

The Master Plan Report has been reviewed by Councils DEP and it was considered an appropriate response as to how the final concept put forth was determined. Conditions will be imposed on any consent granted that requires any subsequent DA to be carried out in accordance with the final concept put forth as well as conditions of consent. This would ensure that the final design outcome is carried out in a manner that addresses the matters in Clause 7.5A (4).

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

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

The following draft Environmental Planning Instruments applies to the site.

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

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

The following compliance table outlines compliance with these controls.

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
CONTROLS	PROVIDED	COMPLIES
2. TREE PRESERVATION	The site does not contain any vegetation requiring removal.	N/A
3. LANDSCAPING	Considered more appropriate at a future DA stage.	Yes
4. BUSHLAND AND FAUNA HABITAT PRESERVATION	The development site is not identified as containing any native flora and fauna.	N/A
5. BUSHFIRE RISK	The development site is not identified as being bushfire prone land.	N/A
6. WATER CYCLE MANAGEMENT	Considered more appropriate at a future DA stage.	N/A
7. DEVELOPMENT NEAR CREEKS AND RIVERS	The development site is not within close proximity to a water course.	Yes
8. EROSION AND SEDIMENT CONTROL	Considered more appropriate at a future DA stage	N/A
9. FLOODING RISK	The development site is not identified as flood affected.	N/A
10. CONTAMINATION LAND RISK	See discussion under SEPP 55	Yes
11. SALINITY RISK	Considered more appropriate at a future DA stage	N/A
12. ACID SULFATE SOILS RISK	The site is not identified as containing the potential for acid sulphate soils.	N/A
13. WEEDS	The site is not identified as containing	N/A

	noxious weeds.	
14. DEMOLITION OF EXISTING DEVELOPMENT	Consent has already been issued for demolition of the existing development.	N/A
15. ON-SITE SEWERAGE DISPOSAL	The site has access to sewage services and will not rely on OSMS.	N/A
16. ABORIGINAL ARCHAEOLOGY	The site is unlikely to have remnants of aboriginal archaeology.	Yes
17. HERITAGE AND ARCHAEOLOGICAL SITES	The site is unlikely to have impact on any existing heritage items or conservation areas.	Yes
18. NOTIFICATION OF APPLICATIONS	The application was notified in accordance with the DCP. Three submissions were received which are considered further in this report.	Yes
20. CAR PARKING & ACCESS	See discussion under Clause 7.3 of LLEP 2008	No
21. WATER CONSERVATION	Considered more appropriate at a future DA stage.	N/A
22. ENERGY CONSERVATION	Considered more appropriate at a future DA stage.	N/A
23. REFLECTIVITY	A condition will be imposed on any consent granted that requires these controls to be addressed as part of any subsequent application for the site.	N/A
25. WASTE DISPOSAL AND RE-USE FACILITIES	Considered more appropriate at a future DA stage.	N/A
26. OUTDOOR ADVERTISING AND SIGNAGE	Considered more appropriate at a future DA stage.	N/A
27. SOCIAL IMPACT ASSESSMENT	Considered more appropriate at a future DA stage.	N/A

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

CONTROLS	PROVIDED	COMPLIES
4.2.5 Controls for sites that require the submission of a site specific DCP or concept DA		
1. Sites that require the submission of a DCP are to be developed pursuant to the adopted site specific DCP or a concept development application consistent with Division 4.4 of the EP&A Act 1979 and clause 7.5A of LLEP 2008.	Concept DA submitted	Yes
2. Clause 7.5A(3)(b) of LLEP 2008 specifies that any proposed development which seeks to utilise the additional provisions relating to certain land in Liverpool city centre	Applicant proposes a recreation facility (indoor) of approximately 400sqm on Level 02.	Yes

<p>must yield a public benefit, in that the site on which the building is to be located must also include one or more of the following uses (NB: in order to provide the required public benefit, these uses must be publicly accessible):</p> <ul style="list-style-type: none"> • recreation areas; • recreation facilities (indoor); • community facilities; • information and education facilities; • through site links; or • public car parks. <p>Each land use that is required to yield public benefit (with the exception of “through site links” and “public car parks”, defined below), is defined in the Dictionary of LLEP 2008. The size, scale, location and detailed use of any such proposed development, must be included in the required site specific DCP or concept development application, and be to the satisfaction of Council.</p> <p>Through site links are only to be developed on those sites indicated in Figure 4.12 and must be developed in accordance with the requirements of section 4.3 Pedestrian Amenity.</p> <p>Public car parks are only to be developed with the written permission of Council and must be vested in or under the control of Council. Provision of public car parking must be consistent with Council’s Parking Strategy and locational requirements. Any such public car park must be of sufficient scale and located so as to be of a public benefit acceptable to Council.</p>		
<p>3. The concept development</p>	<p>This is discussed in detail under Clause 7.5A.</p>	<p>Yes</p>

application lodged pursuant to clause 7.5A of LLEP 2008, must demonstrate how the proposal addresses all matters described in 7.5A(4)(a-m)		
4. Locate non-residential uses at ground level that address all street frontages (and laneway/service way frontages, where possible).	Non-residential uses proposed at ground level	Yes
5. Develop a maximum of two levels of above-ground car parking, provided it is sleeved by other uses on street frontages and appropriately screened or sleeved by other uses on lane/serviceway frontages. Aboveground parking must achieve minimum floor to ceiling heights that would permit adaption for another use (e.g. commercial/retail or residential).	No above-ground parking proposed	Yes
6. Construct buildings according to the requirements illustrated in Figure 4.7 , Figure 4.8 or Figure 4.9 , depending on the location of the site.	The proposed development is not inconsistent with Figure 4-7 tower on a podium/mid-block except for the southern property boundary. This is considered to be acceptable in the circumstances, as it is anticipated that the adjoining property directly to the south will not be able to develop in excess of the podium height of the concept DA (i.e. four storeys).	Considered acceptable.
4.2.9 Minimum Floor to Ceiling Heights		
<p>The minimum floor to ceiling heights are:</p> <ol style="list-style-type: none"> 1. Ground floor: 3.6m. 2. Above ground level: <ol style="list-style-type: none"> a) Commercial office 3.3m. b) Capable of adaptation to commercial uses 3.3m. c) Residential 2.7m. d) Active public uses, such as retail and restaurants 3.6m. 3. Car Parks: Sufficient to cater to the needs of all vehicles that will access the car park and, if aboveground, adaptable to another use, as above. 	<p>The concept indicates the following floor to floor heights:</p> <ul style="list-style-type: none"> • The floor to floor height of the ground floor is 5m • Floor to floor above ground level is 4.5m except for level 04 which will have floor to floor of 3.7m and levels with serviced apartments which will have floor to floor heights of 3.1m. <p>Vertical clearances will need to be met for at grade servicing area and basement car parking as part of any subsequent development application.</p>	Yes
4.2.13 Landscape Design		

1. Submit a landscape plan prepared by a registered landscape architect that demonstrates consistency with the above objectives and section 4V, water management and conservation, of the ADG.	To be conditioned	Yes
4.2.14 Planting on Structures		
1. Comply with the Section 4P, planting on structures in the ADG in all developments with a residential component and/or communal open space.	These details will be assessed with any landscape plan to be submitted with any subsequent application.	Yes
4.3.1 Pedestrian Permeability		
1. Design through-site links to have direct sight lines.	No through site link proposed	N/A
2. Locate through-site links as shown in Figure 4-12 .	Through site link is not required through this site	N/A
3. Locate through-site links within "through site link encouragement areas" (as identified in Figure 4-12) opposite other through site links.	The applicant does not intend to provide any link or arcade through the site	N/A
4. Extend existing dead end lanes (as identified in in Figure 4-12) through to the next street as redevelopment occurs.	No through site link required	N/A
5. Connect new through site links with existing and proposed through site links, serviceways, shared zones, arcades and pedestrian ways.	No through site link required	N/A
6. The siting of new through site links may be varied where new links cannot be directly aligned with existing links.	No through site link required	N/A
7. Retain existing, publicly and privately owned, through-site links.	No through site link required	N/A
8. Locate active uses on through site links where possible.	No through site link required	N/A
9. Nominate sites for through-site links, shared zones etc. that may be acquired by Council or may be dedicated to Council at no cost as part of a concept development application.	No through site link required	N/A
10. Vehicular access shall be	No through site link required	N/A

provided from secondary streets or laneways only. Vehicular access will not be allowed from the primary street.		
4.3.2 Pedestrian Overpasses and Underpasses		
1. Design underpasses or overpasses in accordance with <i>Crime Prevention Through Environmental Design</i> principles and compliant with the applicable Australian Standard for Disabled Access.	No underpasses or overpasses proposed	N/A
2. Design overpasses to be fully glazed or open, and not greater than 3m wide or more than one level high.	No underpasses or overpasses proposed	N/A
3. Consider underpasses for direct connection under adjacent streets to the railway station where they: a) would substantially improve pedestrian safety and accessibility; b) incorporate active uses, particularly at entry and exit points; and c) have a minimum width of 4.5m clear of all fixed obstructions and a minimum ceiling height of 6m.	No underpasses or overpasses proposed	N/A
4.3.3 Active Street Frontages		
1. Locate active street frontages on the ground level of all commercial or mixed use buildings, including adjacent through-site links.	Ground floor retail uses are proposed along the primary street frontage	Yes
2. Locate active street frontages in the Mixed Use, Commercial Core, Enterprise Corridor and Neighbourhood zones (as identified in Figure 4-2), on ground level. This does not preclude servicing activities particularly in the serviceways.	The envelopes provide for ground floor retail uses that is likely to activate the primary street frontage	Yes
3. Locate active street frontages at first floor level in	The applicant indicates floor area on the first floor level for the purpose of business premises.	Yes

addition to ground for sites addressing major roads as depicted in Figure 4-16 .		
4. Locate street fronts at the same level as the footpath and with direct access from the street.	A section of the building envelopes indicates that any ground floor level will be relatively level with the primary street frontage.	Yes
5. Use only open grill or transparent security (at least 50% visually transparent) shutters to retail frontages.	Noted. This is to be considered further with subsequent application	N/A
4.3.4 Street Address		
1. Provide a clear street address and direct pedestrian access off the primary street frontage in mixed use and residential developments.	Considered more appropriate at a future DA stage.	N/A
2. Provide multiple entrances to large developments on all street frontages.	Considered more appropriate at a future DA stage.	N/A
3. Provide direct 'front door' and/or garden access to the street in ground floor residential units.	No ground floor residential units proposed.	N/A
4.3.5 Street and Building Interface		
1. Design the area between the building and the public footpath so that it: a) provides visibility to and from the street (if non-residential use); b) provides privacy if residential uses are on the ground floor; c) introduces paving and/or landscaping between the street and the building; and/or d) screens any above ground car parking.	Considered more appropriate at a future DA stage.	N/A
2. Use front fences that: a) do not present a solid edge to the public domain greater than 1.2 m above the footpath / public domain level; and b) are not constructed of sheet metal or opaque glass.	Considered more appropriate at a future DA stage.	N/A

4.3.6 Lane/Service ways and Building Interface		
1. Set back all levels above ground of buildings 6m from the centre line of the lane/serviceway so that residential uses can be accommodated on opposite sides of the serviceway, as described in Figure 4-11 .	No residential uses proposed.	N/A
2. Provide active uses and/or entries at ground level where possible.	The building envelopes indicate future retail uses on the ground level.	N/A
3. Screen or sleeve above ground car parking with green walls or other screening devices.	No above ground parking proposed	N/A
4. Electricity substations (where required) shall be situated within the building or its basement.	Substation to be located at the rear of the site off the serviceway	Yes
5. Vehicular entry points must be of high quality design. The impact of vehicular entry points on pedestrians must be minimised.	Considered more appropriate at a future DA stage.	N/A
6. Garbage collection points, fire services and other service requirements are to be integrated into the design of the building.	Considered more appropriate at a future DA stage.	N/A
4.3.7 Awnings		
1. Provide street frontage awnings for all new developments on streets identified in Figure 4-13 .	Considered more appropriate at a future DA stage.	N/A
2. Awnings must be: a) horizontal in form; b) minimum 2.4m deep (dependent on footpath width); c) minimum soffit height of 3.2m and maximum of 4m; d) stepped to accommodate sloping streets; e) integral with the building design; f) slim vertical faciae or eaves (generally not to exceed 300mm height); and g) setback 1.2m from kerb to allow for clearance of street furniture, trees, and other public amenity elements.	Considered more appropriate at a future DA stage.	N/A
3. Match awning design to building facades, so that they maintain continuity and are	Considered more appropriate at a future DA stage.	N/A

complementary to those of adjoining buildings.		
4. Include appropriate sun shading device for the outer edge of awnings along east-west streets if required. These blinds must not carry advertising or signage.	Considered more appropriate at a future DA stage.	N/A
5. Provide lighting recessed into the soffit of the awning to facilitate night use and to improve public safety.	Considered more appropriate at a future DA stage.	N/A
6. Maintain a minimum clearance of 2.8m from the level of the pavement to the underside of awning signage.	Considered more appropriate at a future DA stage.	N/A
7. Provide all residential buildings in areas not identified for continuous awnings in Figure 4-13 with awnings or other weather protection at their main entrance area.	Considered more appropriate at a future DA stage.	N/A
4.3.8 Building Design and Public Domain Interface		
1. Design new buildings that adjoin existing buildings, particularly heritage buildings and those of architectural merit so that they consider: a) the street 'wall' alignment and building envelope; b) the 'depth' within the façade; c) facade proportions; and d) the response to the corners at street intersections.	Considered more appropriate at a future DA stage.	N/A
2. Provide balconies and terraces appropriately orientated where buildings face public spaces.	Considered more appropriate at a future DA stage.	N/A
3. Articulate façades to address the street, proportion the building, provide 'depth' in the street wall when viewed obliquely along the street and add visual interest.	Considered more appropriate at a future DA stage.	N/A
4. Use high quality robust finishes and avoid finishes with high maintenance costs, and those susceptible to degradation due to a corrosive environment.	Considered more appropriate at a future DA stage.	N/A

Large expanses of rented concrete finish are discouraged.		
5. Select lighter-coloured materials for external finishes including roofs and avoid the use of darker-coloured materials (e.g. black, charcoal) to reduce the urban heat island effect	Considered more appropriate at a future DA stage.	N/A
6. Maximise glazing in the facades for retail uses	Considered more appropriate at a future DA stage.	N/A
7. For residential components of buildings, do not use highly reflective finishes and curtain wall glazing above ground floor level.	No residential components proposed.	N/A
8. Construct only minor projections up to 600mm from building walls into the public space. These must not add to the GFA and must provide a benefit, such as: a) expressed cornice lines that assist in enhancing the definition of the street; or b) projections such as entry canopies that add visual interest and amenity.	Considered more appropriate at a future DA stage.	N/A
9. Do not locate communication towers such as mobile phone towers, but excluding satellite dishes, on residential buildings or mixed use buildings with a residential component.	Considered more appropriate at a future DA stage.	N/A
10. Incorporate roof top structures, such as air conditioning and lift motor rooms, into the architectural design of the building.	Considered more appropriate at a future DA stage.	N/A
11. Screen air conditioning units on balconies.	Considered more appropriate at a future DA stage.	N/A
12. No clothes drying facilities to be allowed on balconies.	Considered more appropriate at a future DA stage.	N/A
4.3.9 Street Intersections and corner buildings		
1. Address all street frontages in the design of corner buildings.	Not a corner location	N/A
2. Design the corner		

buildings to respond to the character of the intersection by recognising the different hierarchies of the street typologies.		
4.3.10 Public Artworks		
1. Design public art to respond to the particular site of the development as well as the city as a whole.	Considered more appropriate at a future DA stage.	N/A
2. Provide well designed and visually interesting public art created by artists or organisations that are competent in the selected field and committed to best practice.	Considered more appropriate at a future DA stage.	N/A
3. Construct Public Art of materials that are durable, resistant to vandalism, safe for the public and constructed to ensure minimal maintenance.	Considered more appropriate at a future DA stage.	N/A
4. Develop clear and concise agreements with artists/organisations in relation to expectations and deaccession (the process used to permanently remove an object, artwork or assemblage).	Considered more appropriate at a future DA stage.	N/A
4.4.1 Vehicular Access and Manoeuvring Areas		
1. Vehicular access shall be restricted to the secondary street (other than along a High Pedestrian Priority Area) where possible.	Vehicular access is proposed from the rear laneway	Yes
2. Design of vehicle entry points must be of high quality and relate to the architecture of the building, including being constructed of high quality materials and finishes.	Considered more appropriate at a future DA stage.	N/A
3. All weather access: a) Locate and design porte cochere (for hotels only) to address urban design, streetscape, heritage and pedestrian amenity	Considered more appropriate at a future DA stage.	N/A

<p>considerations.</p> <p>b) Design porte cochere to be internal to the building, where practical, with one combined vehicle entry and exit point, or one entry and one exit point on two different frontages of the development.</p> <p>c) In exceptional circumstances for buildings with one street frontage only, an indented porte cochere with separate entry and exit points across the footpath may be permitted, as long as it is constructed entirely at the footpath level and provides an active frontage at its perimeter.</p>		
4.4.2 On-site Parking		
<p>1. All required car parking is to be provided on site in an underground (basement) carpark except to the extent provided below:</p> <p>a) On Fine Grain and Midrise sites, a maximum of one level of surface (at grade) parking may be provided where it is fully integrated into the building design; and</p> <p>b) On sites requiring the lodgement of a concept DA, a maximum of one level of surface (at grade) and one additional level of above ground parking may be provided where it is fully integrated into the building design.</p>	Car parking is to be provided within a basement.	Yes
<p>2. Provide car parking for buildings developed on land in the R4 - High Density Residential zone as follows:</p> <p>a) 1 space per two studio apartments.</p> <p>b) 1 space per one bedroom or two bedroom apartments.</p> <p>c) 1.5 spaces per three or more bedroom apartments.</p>	The site is not in an R4 zone	N/A
<p>3. Provide car parking for buildings developed on land in</p>	The site is not in a B1 zone or B6 zone.	N/A

other zones (B1 — Neighbourhood Centre and B6 — Enterprise Corridor) as follows: a) 1 space per 100 m ² of floor area		
<p>4. Service and visitor parking is to be provided for all development within the city centre. For sites zoned B3 — Commercial Core or B4 — Mixed Use, service and visitor parking is to be provided as part of the parking required according to clause 7.3 of LLEP 2008, Car parking in Liverpool city centre. For all other sites, service and visitor parking requirements are additional to that specified in controls 2 and 3 above.</p> <p>Service and visitor parking is to be provided In accordance with the following formula:</p> <p>Residential (including residential components of mixed-use or other developments)</p> <ul style="list-style-type: none"> - 1 space per 10 apartments or part thereof, for visitors; and - 1 space per 40 apartments for service vehicles (including removalist vans and car washing bays) up to a maximum of 4 spaces per building <p>All other development</p>	See discussion above in LLEP table	Considered acceptable
<p>5. Sufficient service and delivery vehicle parking adequate to provide for the needs of the development.</p> <p>Provision is to be made for motorcycle parking at the rate of 1 motorcycle space per 20 car spaces.</p>	Considered more appropriate at a future DA stage. However, the submitted Traffic Report indicates that this can be accommodated within the proposed building envelopes.	N/A
<p>6. No less than 2% of the total parking demand generated by development shall be accessible parking spaces, designed and appropriately signposted for use by persons with a disability.</p>	Considered more appropriate at a future DA stage. However, the submitted Traffic Report indicates that this can be accommodated within the proposed building envelopes.	N/A
4.5.1 Wind Mitigation		
1. Design all new	Considered more appropriate at a	N/A

buildings to meet the following maximum wind criteria : a) 10m/second in retail streets; b) 13m/second along major pedestrian streets, parks and public places; and c) 16m/second in all other streets.	future DA stage.	
2. Submit a Wind Effects Report with the DA for all buildings greater than 35m in height.	Considered more appropriate at a future DA stage.	N/A
3. Submit results of a Wind Tunnel Testing report for buildings over 48m in height.	Considered more appropriate at a future DA stage.	N/A
4.6.1 Heritage items and Conservation Areas		
1. Submit a Conservation Management Plan prior to the submission of any development application for the following sites: a) St Luke's Church; b) Liverpool Railway Station; and c) Liverpool College of TAFE (Francis Greenway Building).	The development is not located on any of the identified sites.	N/A
2. Ensure that all development in the Bigge Park Conservation Area addresses any potential impact on the heritage significance of the area as a whole.	The development is not located in the Bigge Park Conservation Area.	N/A
3. Retain and enhance the significance of heritage items and their setting in any new development within Liverpool city centre.	Council's Heritage Advisor has considered the proposed building envelopes in the context of the Hoddle Grid Street Network which is a recognised Heritage item. Council's Heritage Advisor raises no objection to the proposed building envelopes.	Yes
4. Undertake an assessment for sites in the vicinity of heritage items or heritage conservation areas, of the impact of the proposal on the setting of nearby heritage items or heritage conservation areas.	Not required	N/A
5. Establish the relevant criteria for each proposal	Noted	Yes

depending on the nature of development, the proximity of the development to surrounding heritage items and conservation areas in addition to any other factors considered in the design of the subject building.		
6. Infill building must not precisely imitate its neighbour but use recognisable tools such as spatial organisation, massing, scale, alignment, detailing, materials, roof forms and coursing lines to complement adjacent heritage items.	Noted	Yes
7. New buildings must not obstruct important views and vistas of a heritage item.	Noted	Yes

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

No planning agreement relates to the site or proposed development.

6.5 Section 4.15(1)(a)(iv) – The Regulations

The Environmental Planning and Assessment Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. As this is a concept application with no physical built form no conditions requiring compliance with the BCA is deemed necessary at this stage.

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

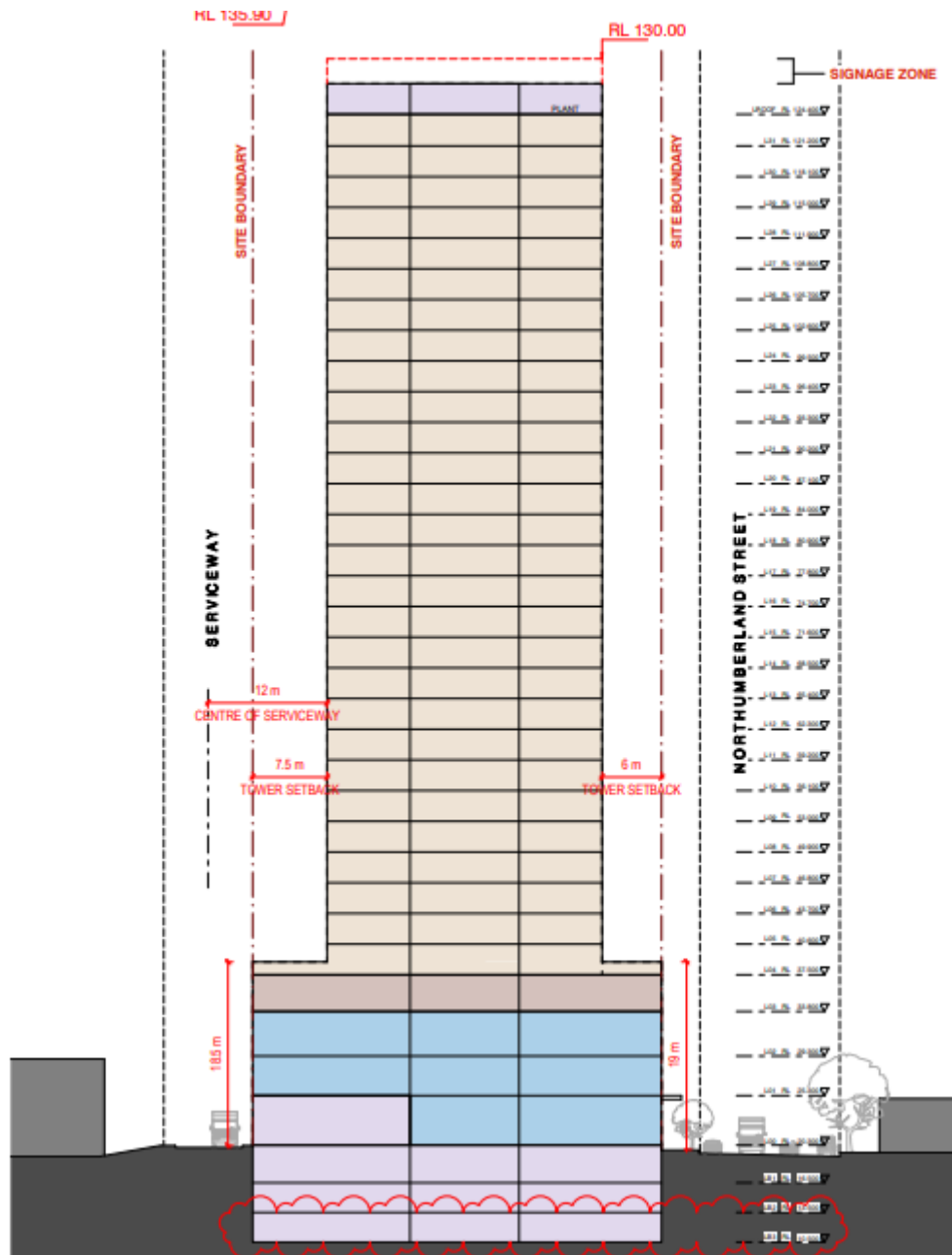
(a) Natural and Built Environment

Built Environment

The proposed concept development is considered to have an overall positive impact on the surrounding built environment. The proposal has been designed to take into account the unique site location and has provided a concept design that is of an appropriate bulk and scale and consistent with the desired future character of the area.

Traffic and Access Arrangements

The applicant proposes building envelopes that indicates the proposed location of any basement driveway as well as indicating three basement levels. See Figures below.



A Traffic Report was submitted by the applicant to consider parking, access arrangements as well as traffic implications of any potential development within the proposed envelopes.

In relation to access arrangements, concerns were raised about the location of the driveway. In their response, the applicant has indicated that the driveway location is suitable subject to an approach speed of 20km/hr within the laneway and the installation of mirrors within the laneway.

Council's Traffic Branch indicates that the approach speed of 20 km/hr is acceptable subject to installation of speed control devices to ensure that speed and the proposed installation of mirrors is also acceptable subject to Council being indemnified from any public liability claim on such installation.

Council is satisfied that the any vehicular access to and from the site is achieved via the laneway thereby maintaining pedestrian priority to Northumberland Street. In this case, it is considered that the concept can be consented to, subject to the indicative position of the driveway along the laneway to be established in any subsequent DA.

Having regards to car parking, the submitted Traffic Report indicates that all car parking will be accommodated within the basement envelopes. However, it is noted that there is a shortfall of parking proposed with this development.

More specifically, the proposed development is required to comply with the car parking rates in Clause 7.3 of LLEP 2008. Clause 7.3 generates a car parking requirement of approximately 104 parking spaces. The applicant proposes 94 spaces. After a review of the proposal, it is considered that the proposal is worthy of support.

Natural Environment

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

(b) Social Impacts and Economic Impacts

The development is considered to result in a positive social impact by facilitating a feasible and well-balanced mixed-use development that will consist of a range of potential commercial uses in close proximity to a major transport hub which will generate and encourage employment generating activities for the Liverpool CBD.

The development will result in a positive economic impact, through the provision of the commercial premises which will provide employment opportunities for the community. Additionally, employment opportunities will also be generated through the construction of the development and the on-going maintenance of the building.

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

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

There are no significant natural or environmental constraints that would hinder the proposed development. The proposal effectively responds to its surroundings. Accordingly, the site is considered suitable for the proposed development.

6.8 Section 4.15(1)(d) – Any submissions made in relation to the Development

(a) Internal Referrals

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

Internal Department	Status and Comments
City Design and Public Domain	No objection, subject to conditions
Land Development Engineering	No objection, subject to conditions
Environmental Health	No objection, subject to conditions
Waste Management	No objection at this stage of the development
Heritage	No objection, subject to conditions on any subsequent application
Land Development Engineering	No objection, subject to conditions

Traffic Engineering	Recommendations made
Economic Development	No objection to the proposed development

(b) **External Referrals**

The following comments have been received from External agencies:

External Department	Status and Comments
Endeavour Energy	No objections, subject to recommendations
Bankstown Airport Limited	No objections to the proposed development

(c) **Community Consultation**

The development application was advertised for a period of 14 days from 4 March 2020 to 17 March 2020. Three objections were received in relation to the proposal that raised the following matters below:

1. The location of the 32-storey building will significantly reduce the light that enters the rear facing apartments that are located opposite the serviceway, as the only light source of light into all those apartments are the windows which face Laurantus Serviceway.

Comment: The applicant has submitted view from the sun diagrams to measure the impact of the proposed envelopes to the existing 6 storey shop top housing development directly opposite the laneway.

Council notes that there the existing shop top housing building has two shop fronts, at grade car parking and residential above. There are approximately 17 residential apartments within this building. Approximately 8 of those apartments have west facing balconies.

Of the eight balconies it is noted that 4 of those balconies have a south-west aspect whereas the other 4 have a north-west aspect. The view from the sun diagrams show that the proposed envelopes would overshadow the south-west facing balconies from 9am to 1030 at which point the balconies would be self-shadowed.

Having regard to the north-west facing balconies, the proposed development will overshadow these balconies from 9am to 10am. These balconies will continue to receive sunlight after 10am to approximately 12pm, which is equivalent to 2 hours, thereby consistent with the ADG requirements.

Overall, the proposed development results in a reduction of solar access to four apartments of the total 17 residential apartments. This amount to a loss of approximately solar access to approximately 23% of apartments. Notwithstanding this, it is considered that the rest of the units will continue to receive approximately 2 hours of sunlight.

Council considers the impact to be negligible in the context of the CBD. More specifically, the CBD is undergoing significant changes because of the LLEP provisions that enable FSR of up to 10:1. The proposed building envelopes represents a density of development that is anticipated in the locality and expected to be replicated on other sites within the CBD.

The existing shop top housing development, although impacted slightly by the proposal, is located within a vicinity that benefits from the provisions of the LLEP 2008 that enable FSR of 10:1. Therefore, in in this context, it is considered that the impact is temporary as this existing development along with adjoining sites are likely to be redeveloped to take advantage of the

significant uplift in density.

The proposed building envelopes are satisfactory from an overshadowing perspective.

2. If the proposed building is to have rear facing windows on the first 3 levels, then that would also cause significant privacy issues for all rear facing apartments opposite the serviceway, given that they are approximately 9 metres away from apartments windows.

Comment: There is approximately 9 metres of building separation distance between the balconies of the shop top housing development to the west and the first four levels of podium for the development. The serviced apartments above have been setback 7.5 metres from the property boundary, which amounts to a building separation distance of 16.5 metres. It is considered that the building separation distance is considered to be appropriate between an existing residential development and future mixed-use development.

3. The proposed building has been designed for site access to the underground garage and loading dock from Laurantus Serviceway, which would mean increased traffic along that serviceway and given that Northumberland Street can be a busy road at certain times of the day, there will be a bottleneck at both the Laurantus serviceway entrance and exit locations on Northumberland Street.

Comment: As discussed above there will be the imposition of mitigation measures imposed on the laneway to avoid any detrimental impact of the serviceway

4. The proposed garage entrance and exit of the apartment building across the serviceway is also using Laurantus Serviceway. This is the same situation for the other Bathurst Street buildings that also connect to Laurantus Serviceway. This extra traffic and the bottleneck that will exist on the connection of Laurantus Serviceway with Northumberland Street is a concern.

Comment: As discussed above there will be the imposition of mitigation measures imposed on the laneway to avoid any detrimental impact of the serviceway

5. Any commercial vehicles that need to access the proposed building loading dock will need to enter Laurantus Serviceway from Northumberland Street, and navigate to the rear of the proposed building site to gain access to it. If this is a regular occurrence, it will cause delays to any residents that require access to the garage entrances to buildings on Bathurst Street that connect to Laurantus Serviceway. There is not enough space in that area for large vehicles to easily maneuver into any of the existing parking areas of business along Laurantus Serviceway, and this situation would not improve in any way with the construction of the 32-storey building.

Comment: As discussed above there will be the imposition of mitigation measures imposed on the laneway to avoid any detrimental impact of the serviceway

6. The proposed 32-storey building in no way makes sense for this specific location, and it seems that the developers have either not factored in the existing apartment building opposite the serviceway, or have simply chosen to ignore the impact the proposed 32-storey building will have on rear facing apartments of this building.

Comment: Liverpool CBD is undergoing significant changes because of the LLEP provisions that enable FSR of up to 10:1. The proposed building envelopes represents a density of development that is anticipated in the locality and expected to be replicated on other sites within the CBD.

The existing shop top housing development, although impacted slightly by the proposal, is located within a vicinity that benefits from the provisions of the LLEP 2008 that enable FSR of 10:1. Therefore, in this context, it is considered that the impact is temporary as this existing development along with adjoining sites are likely to be redeveloped to take advantage of the significant uplift in density.

7. Having regard to the proposed development, there is a concern in relation to the likelihood of damage to properties within the vicinity of the proposed development and it is requested that a dilapidation report of adjoining buildings is undertaken prior to any works commencing on the site.

Comment: There are no works approved as part of this Concept DA. A condition for a dilapidation report and rectification works is to be imposed on any subsequent application for the building works.

6.9 Section 4.15(1)(d) – Section 4.15(1)(e) – The Public Interest

The proposed development is consistent with the zoning of the land and would represent a high-quality development for Liverpool. The development provides additional commercial opportunities within close proximity to public transport.

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

7 CONCLUSION

In conclusion, the following is noted:

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

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

8 ATTACHMENTS

11. Draft Conditions of Consent
12. Concept Plans
13. Design Report
14. Design Excellence Panel meeting minutes from 15 April 2020 and 27 October 2020.
15. Site Isolation Response and Study
16. Valuation Report
17. Council letter to adjoining owner at 179 Northumberland Street, Liverpool
18. Statement of Environmental Effects

19. Clause 4.6 Variation parking
20. Traffic report