



City Plan Strategy & Development P/L  
ABN 58 133 501 774

5 June 2019

**Our Ref:** 19-109

**David Smith**

Manager Planning and Transport Strategy  
Liverpool City Council  
33 Moore Street  
LIVERPOOL NSW 2170

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Dear David,

**RE: PEER REVIEW OF PLANNING ASSESSMENT REPORT - RZ-6/2018 - 84 MEMORIAL AVENUE, LIVERPOOL**

As requested by Liverpool City Council (Council), City Plan Strategy & Development (City Plan) has undertaken an independent peer review of the Local Planning Panel Report prepared by the assessing Council officer on the abovementioned planning proposal.

**1. SCOPE OF ASSESSMENT**

The planning proposal seeks to amend Schedule 1 of the Liverpool Local Environmental Plan 2008 (LLEP 2008) to include residential flat buildings, serviced apartments and commercial premises as additional permitted land uses at 84 Memorial Avenue, Liverpool (Lot 100 DP1014714). The planning proposal also seeks to amend the height of buildings and floor space ratio development standards.

Council staff have prepared a planning proposal assessment report which is to be referred to the Liverpool Local Planning Panel for advice in accordance with Section 2.19 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

City Plan has been engaged by Council to undertake an independent peer review of the assessment report (dated 29 April 2019). To inform our independent peer review, we have reviewed the following documentation:

- The applicant's planning proposal and supporting documentation including Urban Design Report, Landscape and Open Space Concept Plans, Liverpool Demographic and Housing Characteristics Report, Traffic Report, Social Impact Assessment, Indicative Flood Plans and Site Calculations, Review of Economic Issues, Perspective Views and Survey Plan;
- Council's internal referrals from City Design and Public Domain, City Economy, Community Planning and Policy, Traffic and Transport, Recreation and Open Space and Environmental Health; and

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- The Western City District Plan and local strategic plans and strategies including: Our Home, Liverpool 2027 Community Strategic Plan; Liverpool Residential Development Strategy (2008); and Liverpool Recreation Open Space and Sports Strategy (2017).

Our peer review does not involve a comprehensive *de novo* assessment of the planning proposal, rather, we have reviewed the relevant material and relevant legislation and considered whether the assessment undertaken by Council officers is comprehensive, sound and reasonable.

In this peer review report we have provided our professional opinion on whether:

- The report adequately addresses Section 3.33 EP&A Act and *A guide to preparing planning proposals* (2018);
- The conclusion/s made are sound; and
- The proposed recommendation is reasonable and appropriate;

We address each of these points in turn.

## 2. DOES THE REPORT ADEQUATELY ADDRESS RELEVANT CONSIDERATIONS UNDER THE ACT?

Section 3.8 of the EP&A Act requires planning proposals to give effect to any district plan applying to the local government area. In addition, a planning proposal must be prepared in accordance with Section 3.33 of the EP&A Act and the relevant Department of Planning & Environment guidelines including *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*.

Section 3.33(2)(c) of the EP&A Act outlines that a planning proposal must explain the intended effect of the proposed LEP and include the justification for making it. Section 2.3 of *A guide to preparing planning proposals* provides guidance and information on the process for preparing planning proposals and includes a series of eleven questions which are to be considered when demonstrating whether a planning proposal is justified.

The Council officers' assessment report is structured in response to Section 3.33 of the EP&A Act, and specifically addresses each of the eleven questions identified in *A guide to preparing planning proposals* in determining whether the planning proposal is justified. As part of our peer review, we have undertaken an assessment of Council officers' assessment report in response to these questions.

### Section A – Need for the planning proposal

Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

**Council:** Council officers have confirmed the planning proposal is not a result of an endorsed local strategic planning statement, strategic study or report.

**City Plan Opinion:** We concur, the planning proposal is not a result of an endorsed local strategic planning statement, strategic study or report.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

**Council:** Council officers have reasoned that a planning proposal is the best means of achieving the objective or intended outcome. However, Council officers consider that the most appropriate approach to



meet the objectives is to seek to rezone the site to B4 Mixed Use, rather than retaining the site's RE2 Private Recreation zoning and amending Schedule 1.

**City Plan Opinion:** We agree with Council officers' approach and consider a planning proposal seeking a rezoning to a B4 Mixed Use zone would be more appropriate to achieve the objectives and intended outcomes. The objectives of the RE2 Private Recreation zone focus on retaining, protecting and enhancing land for private open space and recreational purposes. The objectives seek to enable land uses that are "compatible with, and complimentary to, recreational uses".

The planning proposal seeks to amend Schedule 1 to allow for the permissibility of residential flat buildings, serviced apartments and commercial premises on the site, along with significant amendments to the building height and floor space ratio controls. It is considered that the resultant built form and proposed mix of land uses will not be complimentary with or compatible to the RE2 Private Recreation zone. Given the range of intensive land uses proposed and the desired built form outcome for the site, it is agreed that a rezoning to B4 Mixed Use would be the best means of achieving the objectives.

#### Section B – Relationship to strategic planning framework

Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

a) Does the proposal have strategic merit? Will it:

- give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or
- give effect to a relevant local strategic planning statement or strategy that has been endorsed by the Department or required as part of a regional or district plan or local strategic planning statement; or
- responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing strategic plans

**Council:** In determining whether the proposal has strategic merit, Council officers have considered A Plan for Growing Sydney, A Metropolis of Three Cities (Greater Sydney Region Plan 2018) and the Western City District Plan.

**City Plan Opinion:** As noted earlier, Section 3.8 of the EP&A Act requires that in preparing a planning proposal, the planning authority gives effect to the district strategic plan applying to the local government area to which the planning proposal relates. In this case, the relevant district Plan is the Western City District Plan. An assessment against the relevant planning priorities of the Western City District Plan and the conclusions reached in Council officers' assessment report is undertaken below.

Table 1: Consideration of the Western City District Plan

Planning Priority	Response
W1. Planning for a city supported by infrastructure	We concur with the Council officers' consideration and consider that the planning proposal does not align with existing infrastructure. The planning proposal will increase pressure on the limited existing social infrastructure within the LGA, including open space.



City Plan Strategy & Development P/L  
ABN 58 133 501 774

<p>W3. Providing services and social infrastructure to meet people's changing needs</p>	<p>We concur with the Council officers' consideration of this planning priority. As noted in the District Plan, residents need the right local mix of services, programs and infrastructure to meet their needs. The planning proposal will result in additional demand on existing services and infrastructure, including sport and recreation facilities. In relation to existing social infrastructure, Liverpool city centre has a shortfall of 20.47 hectares of local open space. The planning proposal will result in the loss of an existing area of open space and will place increased demand on the limited social infrastructure within the vicinity of the site. The planning proposal fails to demonstrate how existing and future social infrastructure will meet the needs of future residents. It is considered that there is insufficient social infrastructure to meet the needs of the future community.</p> <p>We further note, the District Plan emphasises the importance of accessibility, walkable places, inclusion and safety when designing places and homes. The planning proposal seeks to provide a pedestrian footbridge across the Hume Highway to connect the development to Liverpool city centre. Although the intention is that the footbridge will enhance pedestrian connectivity and accessibility to the city centre, enhancing walkability and safety on streets through a functional streetscape and effective public domain strategy, rather than through a fragmented footbridge, would be appropriate.</p>
<p>W4. Fostering healthy, creative, culturally rich and socially connected communities</p>	<p>We agree with the Council officers' consideration of this planning priority. We further note that the site is located outside of the established Liverpool city centre and pedestrian access to the range of local services and facilities is compromised by its location adjacent to the Hume Highway. The planning proposal seeks to provide fragmented access across the Highway via a footbridge. However, it undermines the action of the planning priority which stresses the importance of <i>"providing walkable places at a human scale with active street life"</i>.</p>
<p>W5. Providing housing supply, choice and affordability, with access to jobs, services and public transport</p>	<p>We acknowledge the Council officers' response that Council is on track to meet and exceed its five-year housing target, as established in the District Plan. However, we note that these targets are not ceiling figures and further, they reflect only the existing zoned capacity. We agree with the applicant that the planning proposal would assist in contributing an additional 1,150 residential apartments to the locality and towards these targets. The applicant has acknowledged that the planning proposal will result in additional affordable housing, although this is not supported by a VPA offer. Additional affordable</p>





City Plan Strategy & Development P/L  
ABN 58 133 501 774

	housing would be beneficial given the socio-economic context of the locality.
W6. Creating and renewing great places and local centres, and respecting the District's heritage	<p>We agree with Council officers' consideration of this planning priority. Particularly, we agree that the scale and intensity of uses on the site will impact the communal open space and adjacent Hillier Oval. This includes adverse overshadowing on the communal open space and streetscape between 9am and 3pm on June 21.</p> <p>We further note that while the planning proposal proposes a mix of land uses to support the high-density proposal, the location of the site outside of the Liverpool city centre adjacent to the Hume Highway, is unlikely to provide the distinctive mix of land uses, high levels of amenity and social infrastructure to support a high-density built form and its community in this location.</p>
W9. Growing and strengthening the metropolitan cluster	We agree with Council officers' consideration of this planning priority. The subject site is located outside of the Liverpool city centre and is not included within the Liverpool Collaboration Area. We concur with Council that it is not possible to leverage support for the proposal with reference to this planning priority.
W11. Growing investment, business opportunities and jobs in strategic centres	We agree with Council officers' consideration of this planning priority. The site is outside of the defined Liverpool metropolitan cluster and additional commercial floorspace on the site would constitute "out of centre" development, which would compete and detract from the Liverpool city centre.
W15. Increasing urban tree canopy cover and delivering Green Grid connections	We agree with Council officers' consideration of this planning priority. The planning proposal seeks to retain existing mature trees on the site and increase plantings. This will assist in expanding the urban tree canopy in the public realm.
W16. Protecting and enhancing scenic and cultural landscapes	We agree with Council officers' consideration of this planning priority. No scenic or cultural landscapes are impacted by the proposal.
W18. Delivering high quality open space	We agree with Council officers' consideration of this planning priority. The repurposing of the existing open space for a high density development will trigger further demand for open space. The proposal does not provide sufficient open space for its community and will increase the unmet demand for quality open space within Liverpool.

b) Does the proposal have site-specific merit, having regard to the following?



City Plan Strategy & Development P/L  
ABN 58 133 501 774

- the natural environment (including known significant environmental values, resources or hazards) and
- the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and
- the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

**Council:** In response, Council officers consider:

- There to be no impacts on the natural environment as a result of the planning proposal.
- That the planning proposal does not adequately provide for a transition from the Liverpool city centre to the site from a built form perspective and competes with the centre. Council officers consider the proposed height and density to be out of character with the adjoining locality.
- Council officers have concluded that additional traffic and parking information that needs to be provided by the Applicant.

**City Plan Opinion:** In response:

- We concur with Council officers that there are no impacts on the natural environment as a result of the planning proposal.
- We agree with Council officers that due to the location of the site outside of the Liverpool city centre, the planning proposal has the potential to compete with the centre and undermine its viability and vitality. We further note that the adjoining residential land to the north of the site is zoned high density with a maximum building height of 21 metres and FSR of 1.5:1. The planning proposal seeks to significantly increase the maximum building height and FSR on the subject site and would result in an inappropriate scale of development.
- We agree with Council officers that additional traffic and parking information that needs to be provided by the Applicant.

Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

**Council:** Council officers consider three local strategies/ strategic plans; the Liverpool Residential Development Strategy (2008), Liverpool Recreation, Open Space and Sports Strategy (2017) and Our Home, Liverpool 2027.

**City Plan Opinion:** There is not an endorsed local strategic planning statement for the LGA. As such, consideration of the local strategies/ strategic plans are appropriate. An assessment against the relevant strategies and the conclusions reached in Council officers' assessment report is undertaken below.

Table 2: Consideration of relevant local strategies or strategic plans

Relevant Local Strategy or Strategic Plan	Response
Our Home, Liverpool 2027	We concur with Council officers. The planning proposal is considered to be generally consistent with the aims of the Community Strategic Plan.
The Liverpool Residential Development Strategy (2008)	We concur with Council officers. The main strategies identified in this Strategy seek to consolidate high density residential zones adjacent to main town centres and major transport



City Plan Strategy & Development P/L  
ABN 58 133 501 774

	nodes. Strategies also include down-zoning fringe areas. The site is located more than 1km from Liverpool Station and is not adjacent to the main city centre (separated by the Hume Highway). The proposal is not consistent with the aims of this Strategy.
Liverpool Recreation, Open Space and Sports Strategy 2017	We concur with Council officers. The Strategy emphasises the importance for Council's assessment of planning proposals to better align with the provision of recreation infrastructure. To ensure adequate facilities can be provided in the LGA, the Strategy supports the use of 2.83 hectares per 1,000 persons, but recognises a more contextual and nuanced approach for existing urban areas. The planning proposal offers a VPA which provides an upgrade to Woodward Park and the Whitlam Centre, but provides insufficient open space for its community. It is considered the planning proposal is inconsistent with the Strategy.

**Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

**Council:** Council officers include consideration of SEPP 55 Remediation of Land, SEPP 64 - Advertising & Signage, SEPP 65 - Design Quality of Residential Apartment Development and SEPP (Infrastructure) 2007.

**City Plan Opinion:** We concur with Council officers' consideration and agree these SEPPs are of relevance to the planning proposal. An assessment against the relevant SEPPs and the conclusions reached in Council officers' assessment report is undertaken below.

Table 3: Consideration of applicable SEPPs

Applicable SEPP	Response
SEPP 55 - Remediation of Land	<p>Clause 6(1) of the SEPP requires that in preparing an environmental planning instrument, a planning authority is not to include in a particular zone any land specified in subclause (4) (which includes development for residential purposes on land to which there is no knowledge or incomplete knowledge of whether the land is contaminated) if the inclusion of the land in that zone would permit a change of use of the land, unless:</p> <p>(a) the planning authority has considered whether the land is contaminated, and</p> <p>(b) if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</p> <p>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.</p>



City Plan Strategy & Development P/L  
ABN 58 133 501 774

	We concur with Council officers. The planning proposal is not accompanied by a preliminary investigation of the land and therefore Clause 6(1) of the SEPP has not been satisfied.
SEPP 64 - Advertising & Signage	We concur with Council officers. The planning proposal will not affect the application of the SEPP.
SEPP 65 - Design Quality of Residential Apartment Development	We concur with Council officers. The planning proposal will not affect the application of the SEPP.
SEPP (Infrastructure) 2007	We concur with Council officers. RMS referral would be initiated once a Gateway determination has been issued. Were the proposal to receive a Gateway Determination, the proponent would need to provide additional information explaining how the proposal would address the considerations of 'Development Near Rail Corridors and Busy Roads- Interim Guideline' published by the Department of Planning (2008).

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

**Council:** Council officers include consideration of various Ministerial Directions.

**City Plan Opinion:** We concur with Council officers' consideration of the Ministerial Directions and agree these directions are of relevance to the planning proposal. An assessment against the relevant Ministerial Directions and the conclusions reached in Council officers' assessment report is undertaken below

Direction	Objectives	Response
<b>1.1 Business and Industrial Zones</b>	1(a) To encourage employment growth in suitable locations.	We agree with Council officers that the planning proposal is inconsistent with this Ministerial Direction. The planning proposal will encourage employment growth outside of the Liverpool city centre. The planning proposal is likely to undermine the viability of the centre.
	1(c) To support the viability of identified strategic centres.	
<b>3.1 Residential zones</b>	1(a) To encourage a variety and choice of housing types to provide for existing and future housing needs	We agree with Council officers that the planning proposal is inconsistent with this Ministerial Direction. The rezoning will facilitate the redevelopment of the site for a mixed-use development containing up to 1,150 new dwellings. However, the site is not considered to have sufficient existing infrastructure or services to support this new housing. The site's location outside of the city centre is contrary to 4(c) which requires that housing will "reduce the consumption of land for housing and associated urban development on the urban fringe".
	1(b) To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services	





<b>3.4 Integrating Land Use and Transport</b>	1(a) Improving access to housing, jobs and services by walking, cycling and public transport	We agree with Council officers that this Ministerial Direction is applicable. The proposal is inconsistent with Direction 3.4 and <i>The Right Place for Business and Services - Planning Policy</i> .
	1(b) increasing the choice of available transport and reducing dependence on cars	
	1(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car	
	1(d) supporting the efficient and viable operation of public transport services	
	1(e) providing for the efficient movement of freight	
<b>3.5 Development near Licensed Aerodromes</b>	1(a) to ensure the effective and safe operation of regulated airports and defence airfields	We agree with Council officers that this Ministerial Direction is applicable.
<b>4.3 Flood Prone Land</b>	To ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.	We agree with Council officers that this Ministerial Direction is not applicable. The site is not flood prone.
<b>6.3 Site Specific Provisions</b>	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	We agree with Council officers. The proposal does not encourage unnecessarily restrictive site specific planning controls.

**Section C – Environmental, social and economic impact**

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

**Council:** Council officers consider there to be no critical habitat or threatened species, populations or ecological communities, or their habitats, that will be adversely affected as a result of the proposal.



City Plan Strategy & Development P/L  
ABN 58 133 501 774

**City Plan Opinion:** We concur with Council officers that there are no critical habitat or threatened species, populations or ecological communities, or their habitats, that will be adversely affected as a result of the proposal.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

**Council:** Council officers consider there to be no specific environmental impacts related to the proposal.

**City Plan Opinion:** We concur with Council officers that there are to be no specific environmental impacts related to the proposal.

Q9. Has the planning proposal adequately addressed any social and economic effects?

**Council:** Council officers consider the planning proposal has not adequately addressed social and economic effects. Specifically, the planning proposal has not addressed the cumulative shortage of social infrastructure and is likely to undermine the vitality and vibrancy of the nearby Liverpool city centre.

**City Plan Opinion:** We agree with Council officers opinion. The planning proposal is deficient in providing local open space for the future community and the proposed upgrade facilities to Whitlam Leisure Centre and Hillier Oval are considered insufficient. We further note that the site is located outside of the Liverpool city centre and the city centre land zoned for B4 Mixed Use in the LLEP 2008. The planning proposal will result in an out of centre development which would undermine the viability and vitality of the Liverpool city centre.

#### **Section D – State and Commonwealth interests**

Q10. Is there adequate public infrastructure for the planning proposal?

**Council:** Council officers consider the planning proposal will increase demand for public open space by an additional nine hectares and would place additional pressure on existing open space in the vicinity of the site as well as community facilities.

**City Plan Opinion:** We agree with Council officers' opinion.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

**Council:** Council officers note that any public authorities would be contacted for their consideration of the proposal, should the proposal be granted in a Gateway determination.

**City Plan Opinion:** We similarly note that any public authorities would be contacted for their consideration of the proposal, should the proposal be granted in a Gateway determination.

### **3. REASONABLENESS OF CONCLUSIONS AND RECOMMENDATIONS**

In this section, we note that we are not undertaking an independent assessment of the merits of the planning proposal, rather, we are considering whether the recommendation reached by Councils' officers are reasonable based on the assessment contained in the report.

As indicated above, the planning proposal is inconsistent with State and local strategies. There is no strategic merit to support the proposal and the proposal does not demonstrate site specific merit. The assessment report gives detailed consideration to these and we consider that the conclusions in the assessment report are reasonable and justified.



City Plan Strategy & Development P/L  
ABN 58 133 501 774

#### 4. SUMMARY

Overall, we believe that the conclusions and recommendations reached by Council officers are justified based on the assessment contained in the report. A proposal of this nature has significant strategic implications for the Liverpool local government area and the city centre in particular.

We trust this advice satisfies your requirements however please do not hesitate to contact the undersigned should you require any further information or clarification.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Kerr", with a long horizontal flourish extending to the right.

**Stephen Kerr**  
Executive Director