

COUNCIL AGENDA

ORDINARY COUNCIL MEETING

27 September 2023

BOOK 1

You are hereby notified that an **Ordinary Council Meeting** of Liverpool City Council will be held at the **FRANCIS GREENWAY CENTRE, 170 GEORGE STREET, LIVERPOOL** on **Wednesday, 27 September 2023** commencing at 2.00pm. Doors to the Francis Greenway Centre will open at 1.50pm.

Liverpool City Council Meetings are livestreamed onto Council's website and remain on Council's website for a period of 12 months. If you have any enquiries, please contact Council and Executive Services on 8711 7441.



Hon John Ajaka
CHIEF EXECUTIVE OFFICER

Statement of Ethical Obligations

Oath or Affirmation of Office

In taking the Oath or Affirmation of Office, each Councillor has made a commitment to undertake the duties of the office of councillor in the best interests of the people of Liverpool and Liverpool City Council and that they will faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act 1993 or any other Act to the best of their ability and judgment.

Conflicts of Interest

A councillor who has a conflict of interest in any matter with which the council is concerned, and who is present at a meeting of the council when the matter is being considered, must disclose the interest and the nature of the interest to the meeting as soon as practicable. Both the disclosure and the nature of the interest must be recorded in the minutes of the Council meeting where the conflict of interest arises. Councillors should ensure that they are familiar with Parts 4 and 5 of the Code of Conduct in relation to their obligations to declare and manage conflicts of interests.

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Council in Closed Session

The following items are listed for consideration by Council in Closed Session with the public excluded, in accordance with the provisions of the Local Government Act 1993 as listed below:

CONF 01 Liverpool Local Planning Panel (LLPP) - Replacement Community Representative
Reason: Item CONF 01 is confidential pursuant to the provisions of s10(A)(2)(a) of the Local Government Act because it contains personal matters concerning particular individuals (other than councillors).

CONF 02 Order of Liverpool Awards 2023
Reason: Item CONF 02 is confidential pursuant to the provisions of s10(A)(2)(a) of the Local Government Act because it contains personal matters concerning particular individuals (other than councillors).

ORDER OF BUSINESS

CONF 03 Report on Surge Pricing

Reason: Item CONF 03 is confidential pursuant to the provisions of s10(A)(2)(d i) of the Local Government Act because it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

CONF 04 Fire and Rescue Referrals

Reason: Item CONF 04 is confidential pursuant to the provisions of s10(A)(2)(g) of the Local Government Act because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

CONF 05 Purchase of Lot 25 DP 1249950, Winterhead Street, Austral for local drainage

Reason: Item CONF 05 is confidential pursuant to the provisions of s10(A)(2)(c) of the Local Government Act because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

CONF 06 Proposed Waste Precinct

Reason: Item CONF 06 is confidential pursuant to the provisions of s10(A)(2)(d i) (d ii) (d iii) of the Local Government Act because it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it; AND commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the Council; AND commercial information of a confidential nature that would, if disclosed reveal a trade secret.

CONF 07 Circular Economy Project (CEP) 1

Reason: Item CONF 07 is confidential pursuant to the provisions of s10(A)(2)(d i) (d ii) (d iii) of the Local Government Act because it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it; AND commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the Council; AND commercial information of a confidential nature that would, if disclosed reveal a trade secret.

CONF 08 WT3265 - Hammondville Park - Synthetic Turf Soccer Oval Tender

Reason: Item CONF 08 is confidential pursuant to the provisions of s10(A)(2)(d ii) of the Local Government Act because it contains commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the Council.

CONF 09 Purchase of Lot 1 DP 1257931, 62 Kelly Street, Austral for RE1 Public Recreation

Reason: Item CONF 09 is confidential pursuant to the provisions of s10(A)(2)(c) of the Local Government Act because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

CONF 10 Exemption from Tender - Australian Election Company

Reason: Item CONF 10 is confidential pursuant to the provisions of s10(A)(2)(c) of the Local Government Act because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

Close

PLAN 02	Amendments to Liverpool Development Control Plan - Family Friendly Apartments and Apartment Design Guide Update
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Strategic Objective	Evolving, Prosperous, Innovative Implement planning controls and best practice urban design to create high-quality, inclusive urban environments
File Ref	247515.2023
Report By	Stephen Peterson - Senior Strategic Planner
Approved By	Lina Kakish - Director Planning & Compliance

EXECUTIVE SUMMARY

At its Ordinary Meeting of Council on 31 May 2023, Council resolved to:

1. Investigate amendments to the Liverpool Development Control Plan 2008 for the Liverpool CBD to better encourage the development of larger, family friendly apartments.
2. Investigate improved quality and design requirements that matches the specific needs of families living in apartments in the Liverpool CBD.
3. Write to Federal and State Planning Ministers calling for incentives to encourage family friendly apartments.
4. That the report be brought to the Governance Committee which further investigates the needs of families with children.

In relation to the Liverpool Development Control Plan (LDCP 2008), the following sections apply to Residential Flat Buildings:

- Part 3.7 Residential Flat Buildings (applies outside of the City Centre).
- Part 4 Development in the City Centre.

In response to this resolution, a review of the objectives and controls in the Liverpool Development Control Plan 2008 (LDCP 2008) occurred to facilitate the delivery of family-friendly apartments in Liverpool CBD and a report (**Attachment 5**) was referred to the August 2023 Governance Committee Meeting. At the Governance Committee, it was resolved to present the proposed amendments to a Council meeting.

This Council report addresses the following:

1. Amendments to the Liverpool DCP (Part 3.7 and Part 4) to encourage Family Friendly Apartments; and
2. Amendments to Part 3.7 of the DCP to update this section with the NSW Apartment Design Guide.

Action 11 of the Liverpool Local Housing Strategy, states '*Review apartment mix controls for RFB development in the City Centre, R1 and R4 zones*'.

Part 3.7 and Part 4 of the DCP has been updated in response to the 31 May 2023 Council Meeting resolution and action 11 of the Liverpool Local Housing Strategy. The new proposed Apartment Diversity Section also addresses the resolution and recommendations of the 22 August 2023 Governance Committee Meeting. This includes changes to dwelling mix, objectives and controls encouraging family friendly apartments.

The draft amended LDCP 2008 Part 3.7 also includes amendments to align the DCP Part with *State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (SEPP 65)*, and the Apartment Design Guide (ADG).

The ADG applies to apartment development applications lodged from 19 June 2015 and determined after 17 July 2015. Section 6A of SEPP 65 states that a Development Control Plan cannot be inconsistent with certain aspects of the ADG including:

- visual privacy;
- solar and daylight access;
- common circulation and spaces;
- apartment size and layout;
- ceiling heights;
- private open space and balconies;
- natural ventilation; and
- storage.

As the current part 3.7 of LDCP 2008 was last updated on 19 February 2014, it is proposed to be amended to reduce conflict with the ADG and to provide clarity regarding design and assessment.

It is recommended that Council endorses the Draft DCP Amendments and proceeds to publicly exhibit the Draft DCP's in accordance with Council's Community Participation Plan 2022. The Draft DCP amendments are to be presented to the Liverpool Design Excellence Panel, in accordance with clause 15 of the *Environmental Planning and Assessment Regulation 2021*.

Upon completion of exhibition, it is recommended that Council receives a further report detailing the outcomes of the Design Excellence Panel and of the public exhibition period including any submissions received.

RECOMMENDATION

That Council:

1. Receive and note this report;
2. Supports in principle the proposed amendment to Part 3.7 Residential Flat Buildings (Outside Liverpool City Centre) and Part 4 (Development in Liverpool City Centre) of the Liverpool Development Control Plan 2008;
3. Delegates authority to the CEO (or delegate) to make minor or topographical changes to the DCP prior to public exhibition;
4. Undertake Public Exhibition of the draft DCP Amendment, for 28 days in accordance with the Liverpool Community Participation Plan;
5. As part of the community consultation period, present the draft Liverpool Part 3.7 amended Development Control Plan to the Design Excellence Panel (DEP), in accordance with clause 15 of *Environmental Planning and Assessment Regulations 2021*.
6. Receives a further report detailing the outcomes of the Design Excellence Panel and outcome of the public exhibition period including any submissions received. Alternatively, if no objections are received, delegate to the CEO for the Draft Development Control Plans to be finalised.

REPORT

Background

The Liverpool Development Control Plan 2008 (LDCP 2008) provides detailed planning and design guidelines to support the planning controls in areas subject to the *Liverpool Local Environmental Plan 2008* (LLEP 2008).

In relation to the LDCP 2008, the following sections apply to Residential Flat Buildings:

- Part 3.7 Residential Flat Buildings (applies outside of the City Centre).
- Part 4 Development in the City Centre.

A report was referred to the 22 August 2023. At the Committee meeting, it was resolved:
That the Committee recommends that Council:

1. *Note proposed draft amendments to the Liverpool Development Control Plan 2008, Part 4 Development in Liverpool City Centre and Part 3.7 Residential Flat Buildings in the R4 Zone, to encourage family friendly apartments.*
2. *Note further draft amendments will occur to align Part 3.7 Residential Flat Buildings in the R4 Zone with the Apartment Design Guide.*
3. *Present draft amendments to the Liverpool Design Excellence Panel, as required by Clause 15 of the Environmental Planning and Assessment Regulation 2021.*
4. *Receive a Council report detailing the proposed draft LDCP 2008 amendments, detailing the outcomes of the Design Excellence Panel.*

The Committee further resolved the following:

5. *Objectives to allow developer to justify providing alternate dwelling mixes for unique and innovative developments;*
6. *Investigate the existing dual-key apartment provisions to see if amendments to the 'maximum 10% dual key units' can be increased;*
7. *Incentives or bonuses to further encourage family friendly apartment development; and*
8. *Exceptions to state government policies. For example, communal open space.*

This report addresses the following aspects:

- Update Part 3.7 and Part 4 of LDCP 2008 to encourage Family Friendly Apartments.
- Update Part 3.7 to align the part with the Apartment Design Guide.
- Address within Part 3.7 and Part 4 of LDCP 2008 the further recommendations from the 22 August 2023 committee meeting minutes.

Family Friendly Apartments

The Apartment Design Guide (ADG) includes section 4K relating to Apartment Mix with design criteria stating:

"A variety of apartment types is provided. The apartment mix is appropriate, taking into consideration, the distance to public transport, employment and education centres, the current market demands and projected future demographic trends, the demand for social and affordable housing and different cultural and socioeconomic groups." Further the ADG design criteria states *"flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households."*

Currently Part 4 of the LDCP 2008 includes section 4.2.10 (Housing Choice and Mix) whilst Part 3.7 of LDCP 2008 does not include any apartment mix controls.

Action 11 of the Liverpool Local Housing Strategy states to ‘Review apartment mix controls for RFB development in City Centre, R1 and R4 zones’. Housing Priority 1 of the Strategy aims to provide ‘a diverse range of housing options and flexibility of use is provided to ensure the housing needs of the Liverpool community are met’.

In order to address section 4K of the ADG, Housing Priority 1 and Action 11 of the Liverpool Local Housing Strategy, and the recommendations of the 22 August 2023 Governance meeting, the following changes are proposed to section 4.2.10 (Housing Choice and Mix) of Part 4 (City Centre) of the LDCP 2008, and these controls are to also be included within Part 3.7 (RFB’s outside of City Centre) of the LDCP 2008:

Table One: Section 4.2.10 (Housing Choice and Mix) of Part 4 of the LDCP 2008

	Current	Proposed
Studio/One Bedroom apartments	Minimum 10%	Minimum 10%
Three or more bedroom apartments	Minimum 10%	Minimum 25%
Dual Key apartments	Maximum 10%	No minimum or maximum*
Adaptable apartments	Minimum 10%	Minimum 10%

* Subject to both dual key apartments meeting the ADG requirements, e.g. solar access requirements.

Additional controls proposed include:

- Clarification that the apartment diversity section applies to development for the purpose of residential flat buildings only and does not apply for Boarding House, Senior’s Housing, Group Homes, Co-Living or Build to Rent developments or for residential flat buildings provided by social housing providers, public authorities and joint venture under SEPP (Housing) 2021;
- Controls stating that apartments with various number of bedrooms are to be located on different levels and with different orientations (i.e., facing north, east etc) and for adaptable apartments to be located on the ground floor for accessibility.

In relation to the additional Committee resolutions:

5. Objectives to allow developer to justify providing alternate dwelling mixes for unique and innovative developments;

- A Development Control Plan is not a statutory document and can be amended where required and justified. The objectives of each section contain emphasis to provide for a variety of housing choice, and the nature of the DCP already allows for amendments such as these to occur, when justified. The proposed controls state that the part applies to development for the purpose of residential flat buildings only, and does not apply for boarding house, senior's housing, group homes, co-living or build to rent, or developments by social housing providers, public authorities and joint ventures.
6. *Investigate the existing dual-key apartment provisions to see if amendments to the 'maximum 10% dual key units' can be increased;*
- Part 4 of the DCP allows for maximum of 10% dual key units. In response, no minimum or maximum for dual key apartments are proposed, subject to both dual key apartments meeting the ADG requirements, e.g. solar access requirements.
7. *Incentives or bonuses to further encourage family friendly apartment development; and*
- Incentives or bonuses would need to be enabled under the LLEP 2008. The LLEP 2008 already contains significant bonuses and development standards for development to occur. It is recommended to proceed with increased requirements under the Development Control Plan.
8. *Exceptions to state government policies. For example, communal open space.*
- State Environmental Planning Policy 65 (SEPP 65) applies to development residential flat building developments, and overrides the non-statutory weight of a DCP. Clause 6A of SEPP 65 also specially overrides certain matters, such as storage and solar access. Part 3.7 of the DCP has been updated (as discussed below) to ensure it only contains provisions which are able to exceed the requirements of SEPP 65.

The draft amendments outlined above to Part 3.7 and Part 4 of LDCP 2008 emphasise a focus on housing affordability, increased housing rental opportunities, greater apartment diversity and larger family friendly 3 bedroom and greater apartments.

Update Part 3.7 of the DCP to align with SEPP 65 and Apartment Design Guide (ADG)

The current version of LDCP 2008 Part 3.7 Residential Flat Buildings in the R4 Zone (Outside the City Centre) is dated 19 February 2014. Since this time:

- Environmental Planning Instrument (EPI) *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* (SEPP 65) has been amended.

- The Apartment Design Guide (ADG) applies for apartment development applications lodged from 19 June 2015 and determined after 17 July 2015. The ADG replaced the previous Residential Flat Design Code.

SEPP 65 applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component. SEPP 65 includes 9 design quality principles.

The SEPP states that, *‘Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to—*

- (a) the design quality principles, and*
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.*

Further, clause 6A of SEPP 65 states that DCP’s cannot be inconsistent with controls regarding:

- Visual privacy
- Solar and daylight access
- Common circulation and spaces
- Apartment size and layout
- Ceiling heights
- Private open space and balconies
- Natural ventilation
- Storage

Clause 6A of SEPP 65 also states that if a DCP contains provisions that specify requirements, standards or controls in relation to a matter to which clause 6A of SEPP 65 applies, those provisions are of no effect regardless of when the DCP was made.

Part 3.7 has therefore been updated as follows:

- Deletion of sections and controls which are contained within clause 6A of SEPP 65 (matters listed above, where a DCP cannot be inconsistent with the ADG requirements).
- Deletion of sections and controls which are duplicated with the same intent within parts 3 and 4 of the ADG.
- New section regarding Apartment Diversity with emphasis on larger family friendly apartments (as noted within this report).
- New section regarding amalgamation for developments which do not meet the minimum lot size or lot width, or that would result in an isolated site or adjoining site not meeting the minimum lot size or lot width.
- Inclusion of percentage of apartments capable of being adapted for habitation by seniors and/or persons with disabilities.

- Encouragement of larger amenity for apartments including emphasis on larger balconies and storage (Note. This can only be encouraged as per clause 6A of SEPP 65).

This part was updated in consultation with Council's Development Assessment section. Further it is noted currently that all development applications for residential flat buildings are required to be referred to the Design Excellence Panel. This will occur as part of the community exhibition period.

The amendment to Part 3.7 Residential Flat Buildings (Outside Liverpool City Centre) of LDCP 2008 is anticipated to help streamline the development application process associated with residential flat building development. This has occurred by removing duplication with SEPP 65 and the ADG, whilst still ensuring the matters of clause 4.15 of the *Environmental Planning and Assessment Act 1979*, (including the impact of a developments environmental, social and economic impacts in the locality) are adequately considered during the assessment process.

Minor Housekeeping

It is noted that a minor housekeeping change is proposed in Part 4 Development in the City Centre, Chapter 4.4.2 Onsite Car Parking. The proposed change is to enable above ground car parking to be an available option for all Development Applications (DA's), rather than solely available to Concept DA's. Control is also strengthened to ensure visual impacts are addressed.

Conclusion & Next Steps

As per the *Environment Planning and Assessment Regs 2021*, and Council's Community Participation Plan, the amendments, if supported, will be placed on public exhibition, for a minimum of 28 days.

In addition, the amendments will be referred to the Liverpool Design Excellence Panel in accordance with clause 15 of *Environmental Planning and Assessment Regulations 2021*. Upon completion of exhibition, it is recommended that Council receives a further report detailing the outcomes of the Design Excellence Panel and of the public exhibition period including any submissions received. Alternatively, if no objections are received, that Council delegate to the CEO for the Draft Development Control Plans to be finalised.

ATTACHMENTS

1. DCP amendment - Part 3.7 Residential Flat Buildings (Under separate cover)
2. DCP amendment - Part 4 Development in the City Centre (Under separate cover)
3. Governance Committee Meeting Report - 22 August 2023 - Amendments to Liverpool Development Control Plan - Family Friendly Apartments and Apartment Design Guide Update (Under separate cover)
4. Governance Committee Meeting Minutes - 22 August 2023 - Amendments to Liverpool Development Control Plan - Family Friendly Apartments (Under separate cover)



MINUTES OF THE ORDINARY MEETING HELD ON 27 SEPTEMBER 2023

PRESENT:

Mayor Ned Mannoun

Councillor Ammoun

Councillor Goodman

Councillor Green

Councillor Hadid

Councillor Hagarty (Online)

Councillor Harle

Councillor Kaliyanda

Councillor Karnib (Online)

Councillor Macnaught

Councillor Rhodes

Hon John Ajaka, Chief Executive Officer

Mr Farooq Portelli, Director Corporate Support

Ms Tina Bono, Director Community & Lifestyle

Ms Lina Kakish, Director Planning & Compliance

Ms Julie Scott, Acting Director City Futures

Mr Jason Breton, Director Operations

Mr David Galpin, General Counsel, Manager Governance, Legal and Procurement

Mr Vishwa Nadan, Chief Financial Officer

Mr John Lac, Manager Project Delivery

Ms Jessica Saliba, Acting Manager Council and Executive Services

Ms Susan Ranieri, Council and Executive Services Coordinator

Ms Melissa Wray, Council and Executive Services Officer (minutes)

The meeting commenced at 2.01pm.

DECLARATIONS OF INTEREST

Councillor Kaliyanda declared a non-pecuniary interest, but less than significant in the following item:

Item: COM 02 – Grants Donations and Community Sponsorship Report
Reason: Councillor Kaliyanda has an association with one of the organisations,

Councillor Kaliyanda remained in the chamber.

Councillor Macnaught declared a non-pecuniary interest, but less than significant in the following item:

Item: CONF 02 – Order of Liverpool Awards 2023
Reason: Councillor Macnaught has an association with members listed in the report.

Councillor Macnaught remained in the chamber.

Councillor Hagarty declared a non-pecuniary interest, but less than significant in the following items:

Item: COM 02 – Grants Donations and Community Sponsorship Report
Reason: Councillor Hagarty has an association with one of the organisations.
Item: CONF 02 – Order of Liverpool Awards 2023
Reason: Councillor Hagarty has an association with members listed in the report.

Councillor Hagarty remained online.

Councillor Rhodes declared a non-pecuniary interest, but less than significant in the following item:

Item: MOU 01 – Logistical support for the ‘Battle of Beersheba Memorial Service’

Councillor Rhodes left the chamber during this item.

