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31 August 2022

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PLAN 02	Planning proposal request to amend development standards in the Liverpool Local Environmental Plan 2008 at 61-71 Goulburn Street, Liverpool
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Strategic Objective	Liveable, Sustainable, Resilient Deliver effective and efficient planning and high-quality design to provide best outcomes for a growing city
File Ref	238668.2022
Report By	Cameron Jewell - Senior Strategic Planner
Approved By	David Smith - Director Planning & Compliance

Property	Lot 9 Sec 41 DP 758620, Lot 1 DP 25642, Lot 20 DP 1113807, Lot 8 Sec 41 DP 758620, Lot 2 DP 610334 and Lot 1 DP 610334
Owner	J & D Sacco Pty Ltd
Applicant	Dino Sacco

EXECUTIVE SUMMARY

Council is in receipt of a planning proposal request for land at 61-71 Goulburn Street, Liverpool (Lot 9 Sec 41 DP 758620, Lot 1 DP 25642, Lot 20 DP 1113807, Lot 8 Sec 41 DP 758620, Lot 2 DP 610334 and Lot 1 DP 610334) (**Attachment 1**).

The planning proposal request seeks to amend floor space ratio (FSR) and height of building (HOB) development standards in the Liverpool Local Environmental Plan 2008 (LEP) to facilitate the development of a private hospital (health services facility), consulting and education suite space, and ancillary retail. The proposed change to the HOB development standard is from 35m to 79m and the proposed change to the FSR development standard is from a base of 2.5:1 (increasing to 3.5:1 under Clause 4.4(2)(c)) to 6.9:1. The proposed amendments to the LEP intend to facilitate the development of approximately:

- 155 private hospital beds;
- 12,540m² GFA of consulting and education suite space; and
- 353m² GFA of retail.

The site is zoned B4 Mixed Use under the LEP and health services facilities are not a permissible use in the B4 zone, but are permitted with consent under State Environmental Planning Policy (Transport and Infrastructure) 2021 (Infrastructure SEPP), therefore no change to the land use table in the B4 zone under the LEP is proposed.

Council planning officers have assessed the planning proposal request as having strategic and site-specific merit (**Attachment 2**). This support is contingent on Council further consulting with the Department of Planning and Environment and the NSW Parliamentary Counsel's Office (PCO) to develop controls that would tie the increase in height and FSR to the development of health services facilities and associated ancillary uses and protect against unintended uses being pursued on the site.

The planning proposal request was considered by the Liverpool Local Planning Panel (LLPP). The majority of the Panel (3 to 1) agreed with Council's planning assessment that the proposal demonstrates strategic and site-specific merit (**Attachment 3**). The dissenting member of the Panel indicated that the proposal did not have site-specific merit due to the scale of the development in relation to the surrounding environment. The Panel advised that the proposal as lodged should proceed to a Gateway determination, with an urban design study and further market needs analysis recommended to be conducted prior to exhibition of the planning proposal.

It is recommended that Council endorse in principle the planning proposal request and forward the proposal to the Department of Planning and Environment (DPE) seeking a Gateway determination.

RECOMMENDATION

That Council:

1. Notes the advice of the Liverpool Local Planning Panel.
2. Endorses in principle the planning proposal request to amend the floor space ratio and height of buildings development standards in the Liverpool Local Environmental Plan 2008.
3. Delegates to the Acting CEO (or delegate) to prepare the formal planning proposal including any typographical or editing amendments if required.
4. Forwards the planning proposal to the Department of Planning and Environment pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979*, seeking a Gateway determination.
5. Recommends to the Department of Planning and Environment that a detailed economic demand analysis be conditioned as part of any Gateway determination.
6. Subject to Gateway determination, undertake public exhibition and community consultation in accordance with the conditions of the Gateway determination and the Liverpool Community Participation Plan.
7. Receives a further report on the outcomes of public exhibition and community consultation; and
8. Advises the proponent of Council's decision.

REPORT

Background

In February 2020, Council was invited to comment on the Planning Secretary's Environmental Assessment Requirements (SEARs) for a State Significant Development Application (SSDA) pertaining to a private hospital at 61-71 Goulburn Street, Liverpool (Lot 9 Sec 41 DP 758620, Lot 1 DP 25642, Lot 20 DP 1113807, Lot 8 Sec 41 DP 758620, Lot 2 DP 610334 and Lot 1 DP 610334).

The proposal sought a Clause 4.6 variation to depart from the FSR development standard in the LEP from a maximum of 3.5:1 to 5.1:1. This represented an approximately 46% variation. Council indicated that given the magnitude of non-compliance with the development standard, it would be more appropriate for the changes sought to be progressed through a planning proposal rather than through a Clause 4.6 variation as part of the SSDA application. The Department agreed and in April 2020 advised the proponent to submit a planning proposal to Council to amend development standards before pursuing the SSDA.

In December 2021, Council received a planning proposal request in relation to the subject land, seeking the following amendments to Liverpool Local Environmental Plan 2008 (LEP):

- Amend the maximum height of buildings development standard from 35m to 91m; and
- Amend the floor space ratio development standard from 2.5:1 (increasing to 3.5:1 under Clause 4.4(2)(c)) to 7.9:1.

Following internal consultation, Council staff recommended that the proposal be amended to address concerns relating to bulk and scale, overshadowing of neighbouring residential apartments and Bigge Park, and the amount of speculative floor space provided for consulting and education suite space.

The proponent provided a revised planning proposal request (**Attachment 1**) and supporting documentation to Council in May 2022, which reduced the increase in FSR and HOB development standard previously sought as follows:

- Amend the maximum height of buildings development standard from 35m to 79m; and
- Amend the floor space ratio development standard from 2.5:1 (increasing to 3.5:1 under Clause 4.4(2)(c)) to 6.9:1.

The Site

The planning proposal request relates to six lots along 61-71 Goulburn Street, Liverpool (see **Figure 1**). The site area is approximately 4,674m².



Figure 1: Subject site. Source: Nearmap

The site presently comprises three four-storey residential apartment buildings, a single-storey dwelling house and a double-storey detached garage.

The site is zoned B4 Mixed Use (**Figure 2**) and has additional permitted uses under Schedule 1 of the LEP, whereby:

- Development for the purposes of light industry is permitted with consent but only if the industry is medical research and development; and
- Development for the purposes of office premises is permitted with consent but only with respect to the medical or health industries.

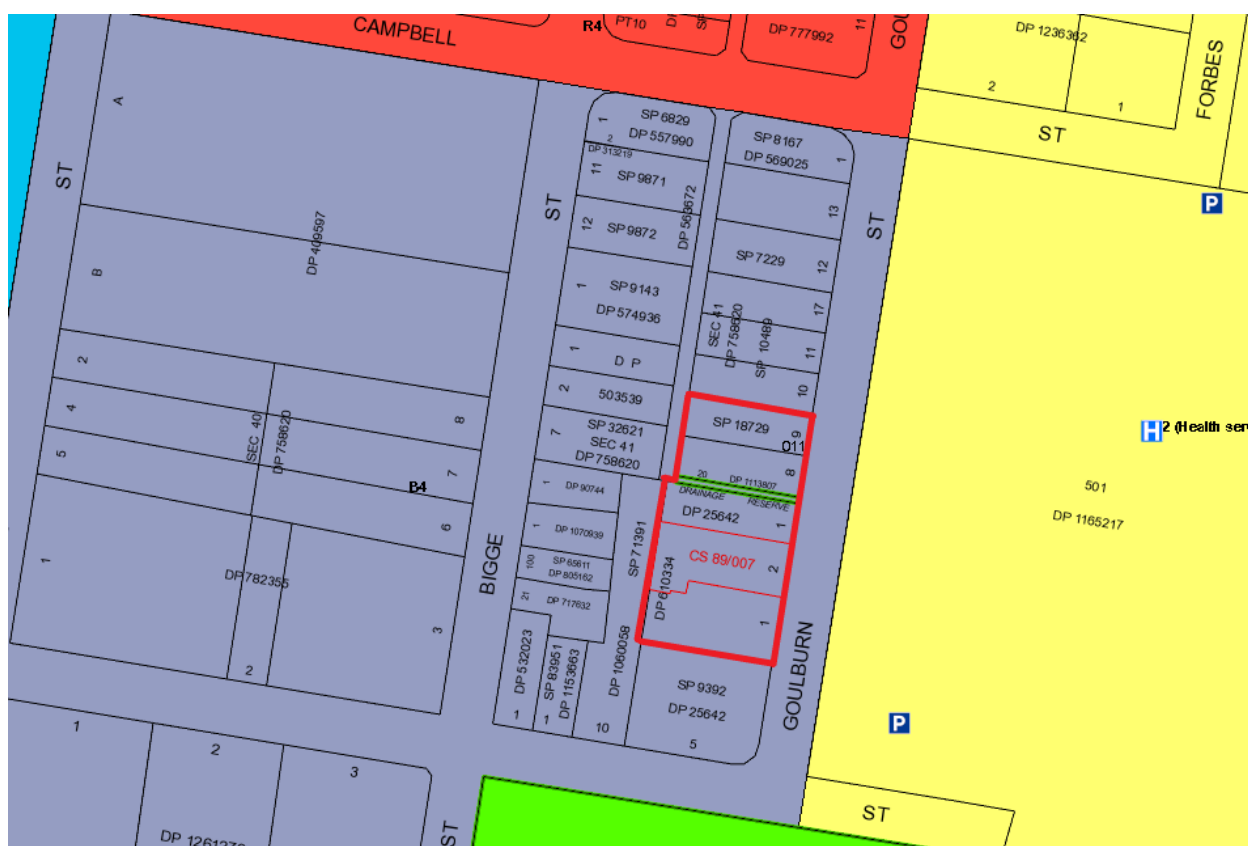


Figure 2: LLEP 2008 Zoning

The site also contains an easement for the drainage of water, which is proposed to be relocated.

Under the LEP, the site currently has an FSR development standard of 2.5:1 (and up to 3.5:1 pursuant to Clause 4.4(2)(c) of the LLEP2008 and a HOB development standard of 35m.

The northern part of the site is impacted by the helicopter flight path for Liverpool Hospital, which is illustrated on the Key Sites Map (**Figure 3**). LLEP 2008 *Section 7.17A Hospital helicopter airspace* states:

- (1) *The objective of this clause is to protect hospital helicopter airspace.*
- (2) *Development consent must not be granted to development under, or that intrudes into, hospital helicopter airspace unless the consent authority—*
 - (a) refers the application for development consent to the chief executive of the relevant local health district, and*
 - (b) considers any submission to the consent authority by the chief executive made within 21 days of the referral, and*
 - (c) is satisfied the development does not present a hazard to helicopters using hospital helicopter airspace.*



Figure 3: Key Sites Map

While this is not a prohibition on development, the Local Health District comments are required to be taken into consideration when assessing a development application. If the proposal receives a Gateway determination, it is expected that consultation occurs with the Local Health District at the exhibition stage.

The site is also part of the Bigge Park Heritage Conservation Area (**Figure 4**). Prior to any development within the Conservation Area or alteration to any building, structure or landscape feature, a Statement of Heritage Impact is to be prepared to assess the impact of the proposal on the significance of the Conservation Area. This has been provided (**Attachment 4**).



Figure 4: Heritage Map (NSW Legislation 2021).

The Locality

The site is in the Liverpool City Centre to the north of Bigge Park and directly adjacent to Liverpool Hospital (**Figure 5**). The block is bounded by Campbell Street to the north, Elizabeth Street to the south and Bigge St to the west. It is approximately 500m from Liverpool Train Station.

The site is zoned B4 Mixed Use under the Liverpool LEP, with the adjacent hospital zoned SP2 (Health Services Facility and Educational Establishment) and Bigge Park to the south which is zoned RE1 Public Recreation. There is land zoned R4 High Density Residential immediately to the north. It is surrounded by residential apartment buildings to the north, south and west, and Liverpool Hospital to the east.

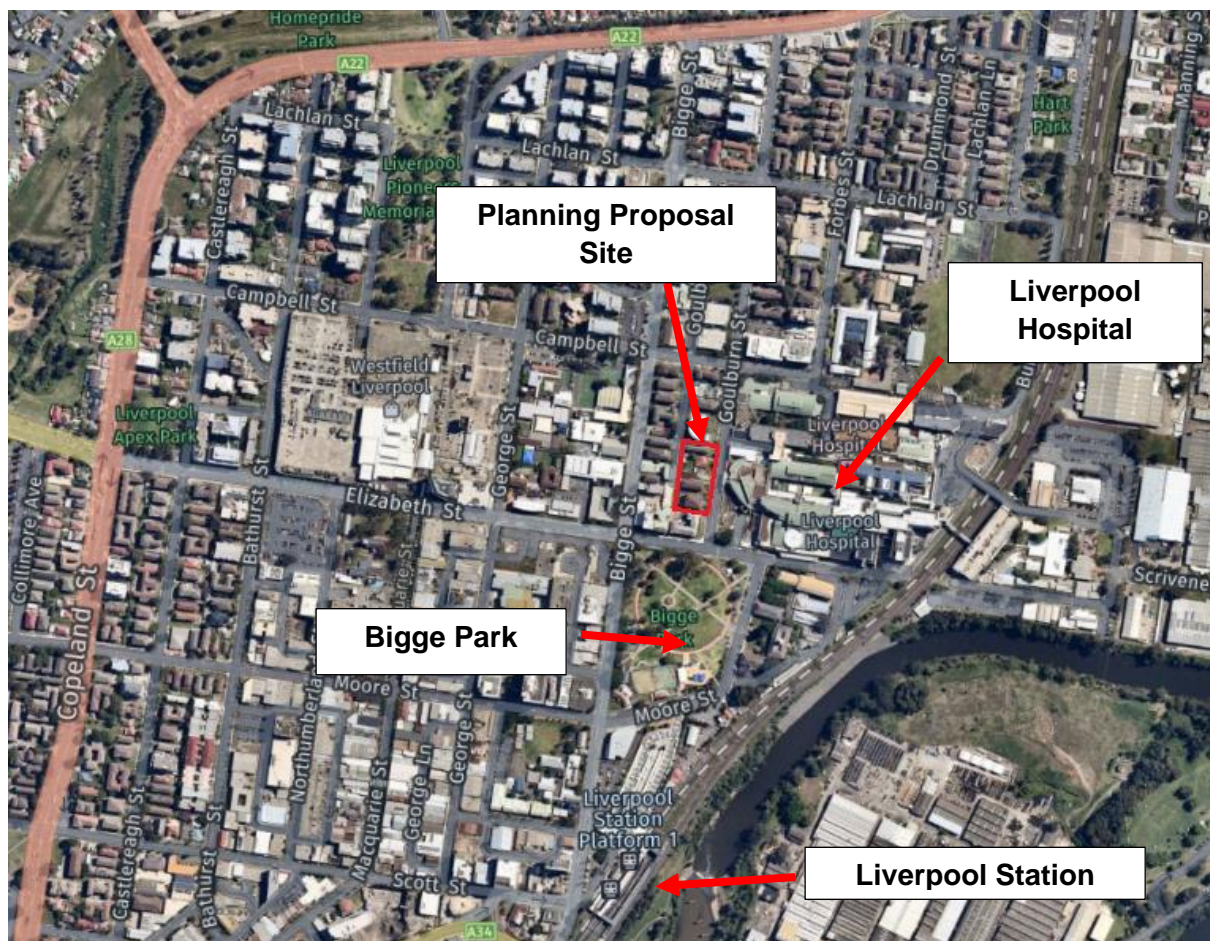


Figure 5: Locality

The proposal falls within an area known as the Liverpool Innovation Precinct (**Figure 6**). The Land Use Analysis and Precinct Strategy for the Liverpool Innovation Precinct indicates there is desire for a new private hospital with close connectivity to key clinical functions of Liverpool Hospital.



Figure 6: Liverpool Innovation Precinct boundary

Planning Proposal Summary

The planning proposal request seeks to amend the HOB and FSR development standards applying to the site to facilitate a building comprising a private hospital (155 beds), health consulting rooms (~12,540m² GFA) and retail (~353m² GFA). Total GFA sought is 32,280m².



Figure 7: Proposed built form concept (source: Hatch Roberts Day)

A summary of the proposed amendments and the existing planning controls are defined below:

	Existing	Proposed
Floor Space Ratio	2.5:1 (with a max of 3.5:1 pursuant to Clause 4.4(2)(c) of the LLEP2008)	6.9:1
Height (max)	35m	79m

The planning proposal request does not seek to amend the zoning of the site. The proposal is consistent with the B4 zone objectives, which are:

- 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.

Commercial premises (i.e., supporting retail) are permitted with consent in the B4 zone and while 'health services facilities' are prohibited in the B4 zone, Clause 57(1) of the Infrastructure SEPP indicates the B4 zone as a prescribed zone where 'health services facilities' are permissible.

Council has indicated that the planning proposal should contain provisions so that additional HOB and FSR are only able to be accessed if used for purposes related to health services facilities.

The proponent has suggested the following additional local provision:

7.4x Development at 61-71 Goulburn Street, Liverpool

(1) This clause applies to 61-71 Goulburn Street, being SP 18729, Lot 8 Section 41 DP 758620, Lot 20 DP 1113807, Lot 1 DP 25642, Lot 2 DP 610334 and Lot 1 DP 610334.

(2) Development consent must not be granted to the erection of a building on land described in subclause (1) with building height shown on the Height of Buildings Map [as amended] and floor space ratio shown on the Floor Space Ratio Map [as amended], unless the consent authority is satisfied that the building is used for the purposes of health services facility and its associated ancillary uses only.

It would be preferable for the site to be included as a 'key site' on the Key Sites Map, tied to an additional local provision that allows an increase in HOB and FSR to be accessed for the purposes of development of health services facilities. Health services facilities may also need to be added as an additional permitted use.

Council will further consult with DPE and the NSW Parliamentary Counsel's Office (PCO) to develop controls that would tie the increase in height and FSR to the development of health services facilities and associated ancillary uses and protect against unintended uses being pursued on the site.

The planning proposal request is accompanied by supporting consultant reports, including:

- Heritage impact statement (**Attachment 4**);
- Urban design report (**Attachment 5**);
- Transport assessment (**Attachment 6**);
- Water sensitive urban design (WSUD) and stormwater report (**Attachment 7**);
- Visual impact assessment (**Attachment 8**);

- Preliminary Aboriginal cultural heritage and historical archaeological advice (**Attachment 9**)
- Preliminary geotechnical assessment (**Attachment 10**);
- Preliminary site investigation (**Attachment 11**);
- Noise and vibration impact assessment (**Attachment 12**);
- Socio-economic impact assessment (**Attachment 13**);
- Market needs analysis (**Attachment 14**);
- Landscape strategy report (**Attachment 15**);
- Civil engineering plans (**Attachment 16**);
- Survey plan (**Attachment 17**); and
- Architectural plans (**Attachment 18**).

The concept design indicates the potential for a 20-storey building (with four basement levels) that includes nine storeys of hospital use, and 11 storeys of medical and education suites (see **Figure 8**).

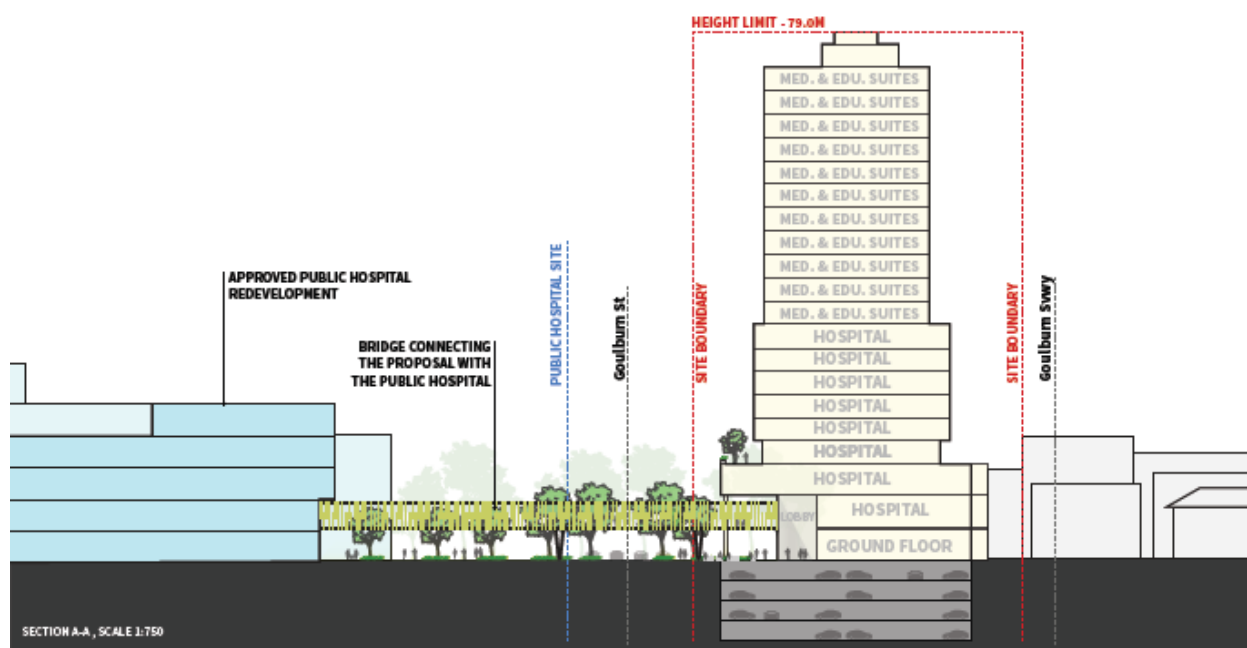


Figure 8: Proposed section (source: Hatch Roberts Day)

Planning Assessment

The planning assessment report considered by the Liverpool Local Planning Panel (LPP) is provided at **Attachment 2**. It includes an assessment of the merits of the proposal against the District and Region Plan, the Liverpool Local Strategic Planning Statement (LSPS) and the

Department of Planning's 'Local Environmental Plan Making Guideline'. The report concluded that the planning proposal request has both site-specific and strategic merit.

Local Planning Panel advice

The planning proposal request was referred to the Liverpool Local Planning Panel for advice as required by the Local Planning Panels Direction – Planning Proposals. The advice of the LPP is included as **Attachment 3**.

The Panel agreed (3-1) with Council's assessment that the proposal had strategic and site-specific merit and should proceed to a Gateway determination. However, the Panel indicated there was an absence of contextual and economic justification for the proposed extent of the uplift in height and FSR development standards. It recommended that further urban design testing and economic justification be provided prior to exhibition (post-Gateway) to confirm an appropriate scale. An urban design study was recommended for the block that the proposal is on, bounded by Bigge, Campbell, Goulburn, and Elizabeth Streets, to better understand the future desired character of the area. A more considered analysis of economic demand for the floor space proposed was recommended to confirm that the height proposed – some of which is for speculative development – is necessary.

The dissenting member of the Panel indicated that based on the information provided, the proposal did not demonstrate site-specific merit due to the scale of the development (height and FSR) in relation to the surrounding environment, indicating the proposal was an excessive increase that would result in a building incongruous with the surrounding built form and character.

The Panel advised that the proposal as lodged should proceed to Gateway, with the abovementioned urban design study recommended to be conducted prior to exhibition.

Next Steps

If Council adopts the recommendation, the planning proposal will be reformatted into Council's template and forwarded to DPE seeking a Gateway determination.

CONSULTATION

The proposal was placed on preliminary exhibition for 28 days between 2 February 2022 and 1 March 2022, as per the requirements of Council's Community Participation Plan. No submissions were received.

Council also engaged with the Southwest Sydney Local Health District (SWSLHD) during this period, and was advised that substantive issues relating to the proposal could be addressed during the formal exhibition phase post-Gateway.

CONCLUSION

Council has assessed the planning proposal request as having sufficient strategic and site-specific merit, and it is recommended that the proposal proceed to DPE for a Gateway determination.

FINANCIAL IMPLICATIONS

A \$75,000 lodgement fee has been paid by the proponent for the assessment and processing of this planning proposal request.

CONSIDERATIONS

Economic	Further develop a commercial centre that accommodates a variety of employment opportunities. Encourage and promote businesses to develop in the hospital health and medical precinct (of the City Centre). Facilitate economic development.
Environment	There are no environmental and sustainability considerations.
Social	There are no social and cultural considerations.
Civic Leadership	There are no civic leadership and governance considerations.
Legislative	<i>Environmental Planning and Assessment Act 1979</i>
Risk	The risk is deemed to be Low. The risk is considered within Council's risk appetite.

ATTACHMENTS

1. Planning Proposal (Under separate cover)
2. Local Planning Panel Report (Under separate cover)
3. Local Planning Panel Advisory Minutes (Under separate cover)
4. Historical Impact Statement (Under separate cover)
5. Urban Design Report (Under separate cover)
6. Transport Assessment (Under separate cover)
7. WSUD and Stormwater Report (Under separate cover)
8. Visual Impact Assessment Report (Under separate cover)

9. Preliminary Aboriginal Cultural Heritage and Historical Archaeological Advice
(Under separate cover)
10. Preliminary Geotechnical Assessment (Under separate cover)
11. Preliminary Site Investigation (Under separate cover)
12. Noise and Vibration Impact Assessment (Under separate cover)
13. Socio-economic Impact Assessment (Under separate cover)
14. Market Needs Analysis (Under separate cover)
15. Landscape Strategy Report (Under separate cover)
16. Civil Engineering Plans (Under separate cover)
17. Survey Plan (Under separate cover)
18. Architectural Plans (Under separate cover)
19. ASIC Extract (Under separate cover) - **Confidential**