

JRPP Number	2011SYW060
Application Number	DA-946/2011
Proposed Development	Construction of a mixed commercial/residential development comprising two residential tower buildings containing 188 residential apartments, seven non-residential tenancies, three levels of basement car parking and associated landscaping and service facilities
Property Description	No. 2 Browne Parade, 1-3 Bigge St and 26-32 Hume Highway, Warwick Farm NSW 2170
Applicant	B.DE C.ENVIRONMENTAL PTY LTD
Land Owner	ESTMANCO PTY LTD
Capital Investment Value	\$39, 700, 000
Recommendation	Approval with Conditions

1. EXECUTIVE SUMMARY

1.1 Reasons for the Report

Pursuant to the requirements of the State Environmental Planning Policy (Major Development) 2005, this application is referred to the Joint Regional Planning Panel for determination as the Capital Investment Value (CIV) of the development exceeds \$10,000,000. The application submitted to Council indicates a CIV of \$39,700,000.

1.2. The proposal

The development application seeks consent for the construction of a residential flat building comprising of two residential towers providing a total of 188 residential units. Seven non-residential tenancies are proposed on the ground floor (with use and fit-out subject to a separate development application). The proposal provides for three levels of basement car parking with associated landscaping and service facilities.

It is noted that the proposal has been amended to address concerns raised by both Council and the Liverpool Design Review Panel in the preliminary assessment of the development application. This has resulted in the overall height and floor space ratio of the development being reduced which consequently has reduced the overall number of residential units.

1.3 The site

The subject site is identified as Lots 18, 19, 20, 21, 22, 23 and 36 in DP 35236 being 1-3 Bigge Street, 2 Browne Parade and 26-32 Hume Highway, Warwick Farm.

1.4 Background

The Development Application was considered by the Joint Regional Planning Panel on 8 March 2012 where it was resolved to defer the determination of the application, and that the application be referred back to Council for further discussion on the issues raised by the panel.

This report provides a response to the issues raised by the Panel.

1.5 The issues

The main issues which were identified in the assessment of the development application included:

- Ensuring the development application still maintains attributes and design qualities which enabled the proposal to be awarded design excellence by the Design Jury;
- Future usage of the seven tenancies on the ground floor;
- Floor space ration controls and how the proposal responds to both the current and future character of the northern portion of the Liverpool City Centre;
- Street setbacks and impacts of road widening; and
- Non-compliance with the car parking controls prescribed by Liverpool Local Environmental Plan 2008 and Liverpool Development Control Plan 2008.

1.6 Exhibition of the proposal

The development application was advertised for twenty one (21) days from 13 April 2011 to 6 May 2011. A total of six objections were received. The issues raised in the submissions include:

- Inadequate provision for visitor car parking;
- Inadequate provision for resident parking;
- Inadequate vehicular access;
- overshadowing;
- Traffic;
- Noise;
- Inadequate Recreational space for occupants;
- Amenity (in general);
- Overdevelopment of the site and the impact of a large development in the Liverpool City Centre; and
- Excessive cars parked in Bigge Street as a result of the development; and
- Potential for increase in crime.

The issues raised in submission are canvassed in more detail further in this report.

1.7 Conclusion

Following detailed assessment of the proposal and consideration of the issues raised in the submissions, it is considered that the proposal is an appropriate development for the subject site which will result in a high quality modern architectural development. The proposal has been designed to maximise future occupant's amenity whilst providing a high density residential development that will assist in activating new development along the periphery of the Liverpool City Centre, particularly within this northern precinct.

While it is noted that the proposal represents a higher density than the existing built form within the immediate locality, it is considered that the development is consistent with the future desired character of this northern precinct.

In this regard, the proposal is considered to be worthy of support. On this basis, it is recommended that the application be approved in accordance with the recommended conditions of consent.

2. SITE DESCRIPTION AND LOCALITY

2.1 The Site

The subject site is identified as Lots 18, 19, 20, 21, 22, 23 and 36 in DP 35236 being 1-3 Bigge Street, 2 Browne Parade and 26-32 Hume Highway, Warwick Farm.

The subject site is illustrated in Figure 1 below.

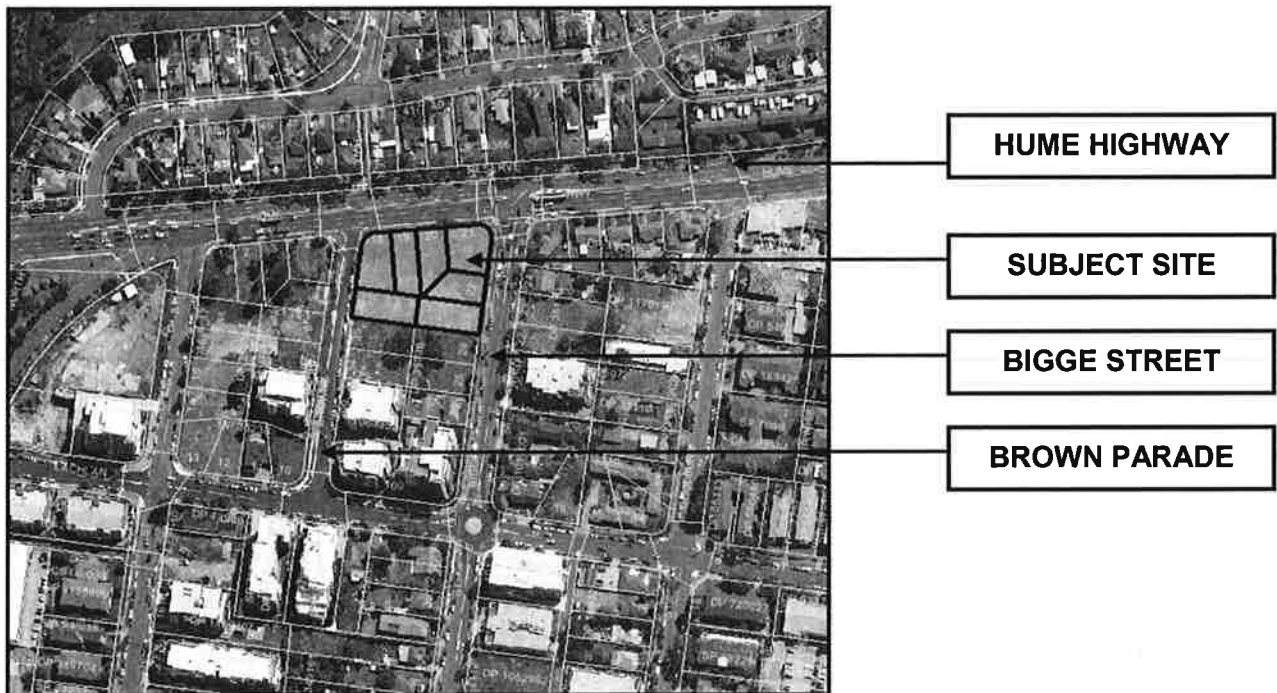


Figure 1: Aerial photograph of Site

The site is bounded by the Hume Highway to the north, Bigge Street to the east and Browne Parade to the west and has a combined site area of 4179.6m². The site is currently vacant and has a grass surface. The site does not contain any physical constraints which would impede development.



Figure 2: View of subject site from Browne Parade



Figure 3: View of subject site from Bigge Street

The immediate context comprises a mix of development types ranging from existing older single dwellings to residential flat buildings. This northern precinct of the Liverpool City Centre is currently under going transition, hence the variations in built form and development types. It is also noted that there are a number of vacant sites within proximity to the subject site which will be subject to future development applications.

The site is bounded to north by the Hume Highway which is a major arterial road servicing the Liverpool City Centre and providing a valuable connection to other suburbs within the LGA and other major travel routes. Existing development along the southern portion of the Hume Highway is characterised by older single storey dwellings and vacant properties. The northern portion of Hume Highway contains an existing acoustic wall providing acoustic attenuation for existing residential flat buildings and single dwellings. This is illustrated in Figure 4 below.



Figure 4: View of Hume Highway

The site is bounded to the east by Bigge Street. Bigge Street is a local road servicing the Liverpool City Centre. This portion of Bigge Street in proximity to the subject site contains a mix of vacant properties as well as recent residential flat buildings which is illustrated in Figure 5 below. To the south of Bigge Street contains Bigge Street Park (Heritage Item) as well as start of medical precinct which contains Liverpool Hospital, South West Private Hospital as well as a number of professional medical suites.



Figure 5: View to the south of Bigge Street

The site is bounded by Browne Parade to the west of the site. The portion of Bigge Street within proximity of the site contains a mix of single dwellings as well as residential flat buildings. It is noted that there are a number of vacant site in proximity to the subject site.



Figure 6: Southern view of Browne Parade

Within 800m walking distance of the site is the commercial core of the Liverpool City Centre as well as educational facilities including Liverpool TAFE. Public transport facilities are also within walking distance of the site.

Issue 1

“There has been a significant departure from the development standard as prescribed in clause 7.4 of LEP 2008 requiring 9m separation between adjacent buildings that have a height of 12 to 25 metres above natural ground level when applied on the basis of distributing the required setback distances equally between two adjoining properties.”

The objective of clause 7.4 *Building Separation in Liverpool City Centre* of Liverpool LEP is to ensure minimum sufficient separation of buildings for reasons of visual appearance, privacy and solar access.

This clause prescribes that development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least:

- a) 9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished) on land in Zone R4 High Density Residential, and*
- (b) 12 metres for parts of buildings between 25 metres and 35 metres above ground level (finished) on land in Zone R4 High Density Residential, and*
- (c) 18 metres for parts of buildings above 35 metres on land in Zone R4 High Density Residential and*

This Development Standard implies that the prescribed separation distances are required to be maintained when the distance is taken from a neighbouring building and between separating towers, or other separate raised parts, of the same building.

Whilst the adjoining site to the south is currently vacant, a 4.5 metre setback would be required for the proposed development based on the concept of distributing the 9 metre building separation distances equally between adjoining properties (between 12m and 25m above ground level). In this instance, a numerical variation is presented from the southern (side) boundary of the proposed development as a 1.2 metre setback is provided for up to 20.5 metres above the finished ground level (between ground level and level 7). In this regard, a variation of 3.3 metres is presented.

Despite the numerical variation presented, it is considered that the proposed development satisfies the objectives of this clause, which are to ensure minimum sufficient separation of buildings for the reasons of visual appearance, privacy and solar access. A thorough assessment of the proposed development against each of these objectives is provided below:

Visual Appearance

The proposed development will contribute positively to the immediate and wider locality with respect to visual appearance. It is considered that the southern elevation of the development has been designed to increase the visual amenity of the development whilst reducing any potentially significant adverse impacts to neighbouring properties. Particular enhancements to the design of the southern boundary have been made in response to initial concerns raised by both the Design Jury and the Design Review Panel. The enhancements to the southern boundary include the tapering and narrowing at the ends of the two towers to reduce the visual impact of the development when viewed from the north and the south.

As detailed in the expert advice received by Council (see attachment no. 3), it is considered that the overall design of the external architectural elements of the proposal are well articulated, provide good street presentation and contribute positively to the desired future character of the area.

The high quality design and articulation of the development provides for a building design that is

visually desirable from all external elevations as well as ensuring adequate mitigation of any potential adverse impacts to the southern neighbouring property that may have been exacerbated as a result of the 3.3 metre variation proposed.

The figures (figure 8 and 9) provided below offer a visual concept of the outcome of a development that is numerically compliant and non-compliant with the setback requirements of the LEP for both the subject site and adjoining property to the south. An apparent distinction between a compliant development and non-compliance development can be made from these plans, which suggests that a numerically compliant development would have a detrimental impact on the visual amenity of the area including, the isolation of small unusable parcels of land between buildings and a non continuous street wall which will present poorly to the street.

Given that the southern facade of the 7 storey street wall element will be exposed to view until the redevelopment of the adjoining property, Council's appointed design expert has suggested that the detailed design of this street wall is important to ensure a high quality appearance. In response to this recommendation, further architectural differentiation between the towers will be required to be undertaken. This could be achieved by detailing and variation of external materials. A revised schedule of finishes has been incorporated into the draft deferred commencement conditions.

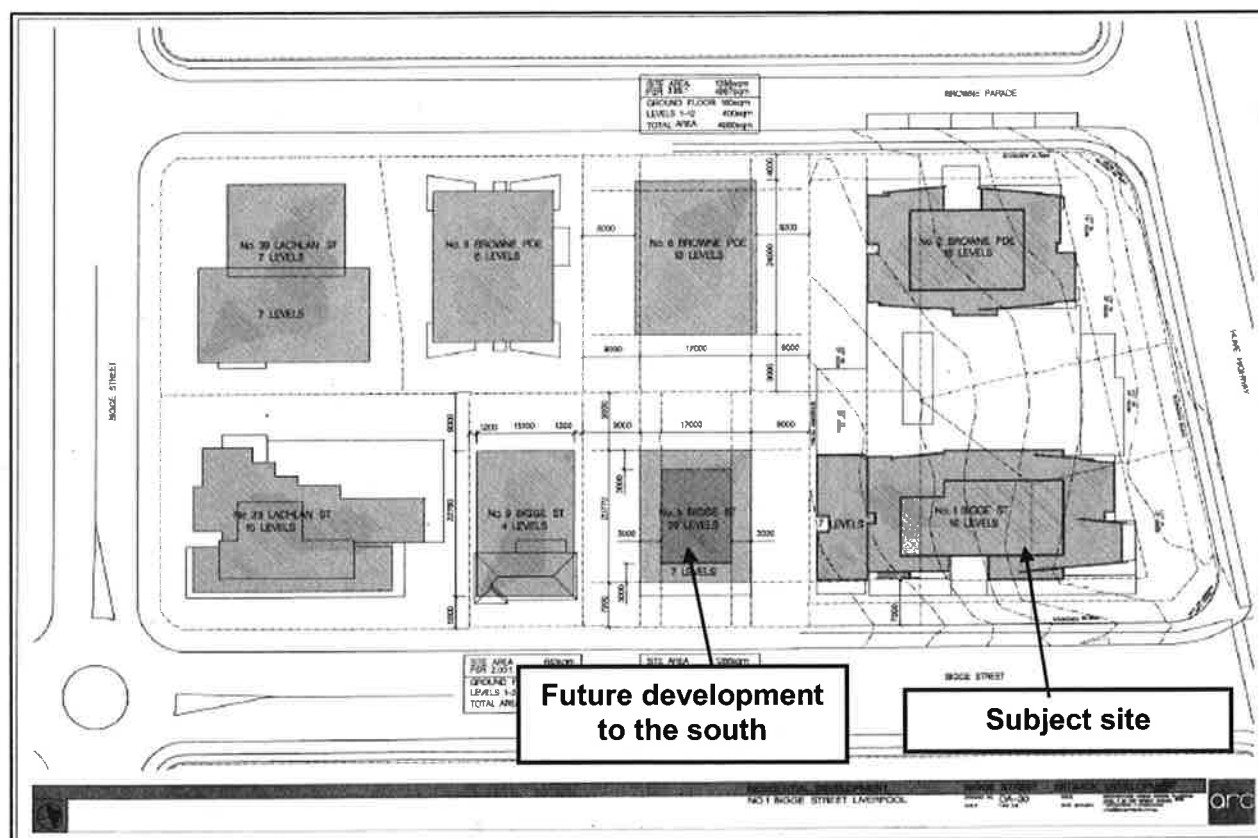


Figure 8: Numerically compliant side setback

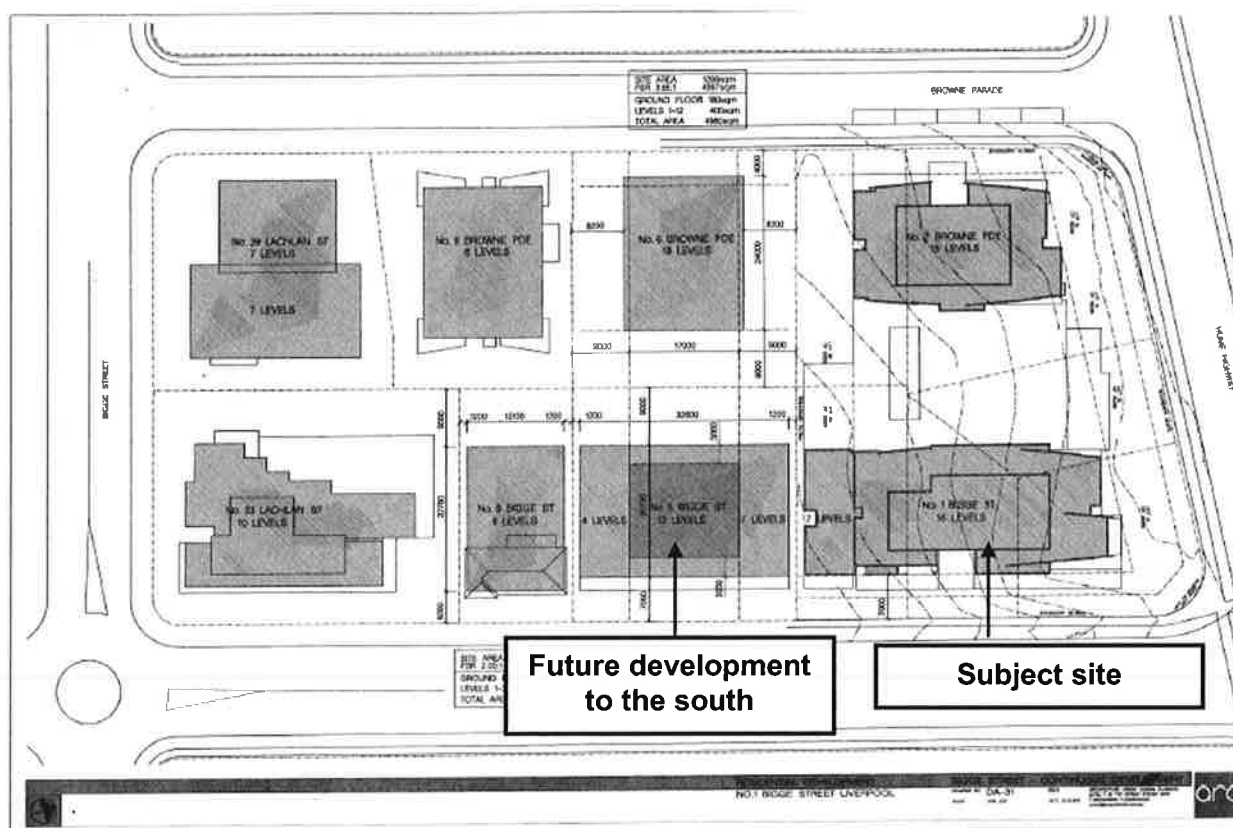


Figure 9: Numerically non-compliant side setback

Privacy

It is noted that all balconies and high trafficable habitable areas are east-west orientated to reduce the potential for overlooking. To further ensure minimal impact of overlooking onto adjoining properties and compliance with the requirements of the Residential Flat Design Code, the southern facades of the two towers will require privacy screening to the ends of balconies and window openings to comply with the RFDC for 18m building separation (habitable / balcony to non-habitable) and to allow unscreened balconies and window openings to the northern facade of the future redevelopment of the adjoining property. This will be implemented via a draft condition of consent.

Solar access

The proposed residential units have an east-west orientation which enables adequate solar access and ventilation to habitable rooms and private open space areas to these units.

It is considered that the variation to the southern side setback will not result in an unreasonable amount of overshadowing to the adjoining property given that any future development on this site will most likely duplicate the design of the proposed development with respect to the east-west orientation of residential units as the site is able to facilitate this due to the provision of dual street frontages along Bigge Street and Browne Parade. In this regard, assessment of the below shadow diagrams (see figure 8) are based on the likely east-west orientation of any future development on this site. The shadow diagrams illustrate that the south-eastern aspect of adjoining site is overshadowed between 9am and 12pm with sunlight provided to this portion of the site in the afternoon hours on the winter solstice; whilst the south-westerly aspect of the adjoining site is overshadowed between 12pm and 3pm with sunlight provided to this portion of the site in the morning hours on the winter solstice.

It is noted that the development has been subjected to a vigorous design process of which one of the critical amendments that were made to the original development include deleting one storey from the Bigge Street tower to reduce the overall building height of the development to

ensure full compliance with Council's maximum height requirements.

The proposal will not result in unreasonable solar impacts to any future adjoining development

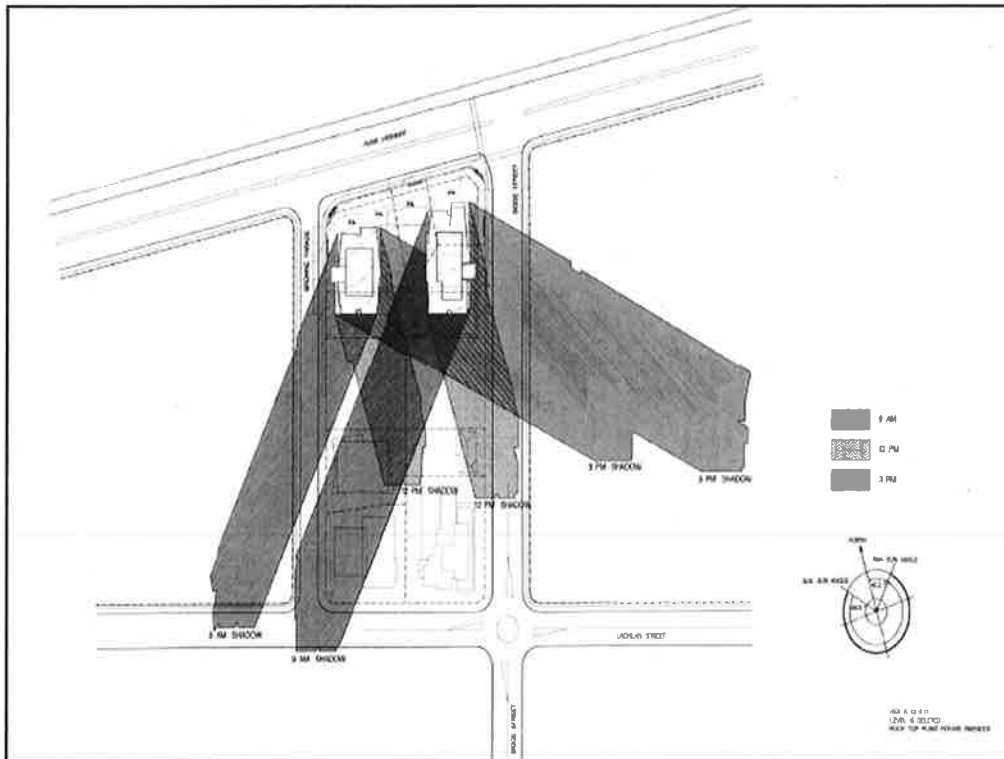


Figure 10: Shadow diagram

Issue 2

Given the apparent non compliance identified in paragraph 1, it appears to the Panel that a SEPP 1 application is necessary before the application can be determined;

Clause 7.4 suggests that the Development Standard is applied when the adjoining property subject to the separation distance is occupied by an existing development. Given that the adjoining property to the south is currently vacant, it is considered that a formal request for a variation to this Development Standard as per Clause 4.6 of Liverpool LEP (which stands in lieu of a SEPP 1 objection under the standard LEP instrument) is not warranted in this instance.

Notwithstanding the above, consideration of the Development Standard against its objectives is crucial in ensuring the amenity of the future occupants of the development as well as the amenity of adjoining future properties and the immediate locality. The objectives have been assessed taking into account that the proposed development will not impede the future development of the adjoining southern property given that the current non-compliance will necessitate a variation in accordance with Clause 4.6 of LLEP to be submitted with any Development Application for the site as the building separation distances will not be distributed equally. In this regard, the above assessment of the objectives of the Clause 7.4 of LLEP suggest that a future variation to this Development Standard from the adjoining property is able to be supported.

Issue 3

There appears to be non compliances with SEPP65 and the associated Residential Flat Design Code in particular:

- ***3.1 the departure from the setback guidelines***

The 7 storey street wall element at the southern end of the Bigge Street building is proposed to be setback 1.2m from the southern boundary. Providing for a numerically compliant setback between ground level and level 7 will weaken the street activation along Bigge Street. It should also be noted that whilst the setback provides does not comply with Liverpool LEP and DCP, SEPP 65 Residential Flat Design Code enables the provision of zero setbacks in urban contexts between street wall buildings. Therefore, a zero setback could be allowed for the 7 storey element (in lieu of the 1.2m proposed) could be supported in this instance.

As the R4 High Density zoning applying to the land is encouraging towards future high density residential living within the northern precinct of Liverpool City Centre, it is considered that non-compliant or zero setbacks (and zero building separation) would be appropriate for the site and to any future adjoining development to the south

- ***3.2 the design principles relating to context;***

Following the concerns raised by the JRPP with respect to the non-compliances of the proposed development with SEPP 65, particularly relating to setback guidelines and context; Council sought the expert advice from Council's representative on the Design Jury who awarded the development with 'Design Excellence', and the chair of the Design Review Panel who provided comment on the development during the assessment stage.

A copy of this advice is contained within attachment no.3 which provides a response to the concerns raised by the panel expands on the impact of the proposed development to the immediate and wider locality.

The proposed development is considered to appropriately satisfy the context principles as it provides both an acceptable urban design response (relationship of built form to surrounding space created by building heights, setbacks and landscape) and an architectural response to the existing redeveloped urban character (buildings of 6 to 10 storeys) and the desired future character of the area as specified within LLEP 208 and the LDCP 2008 Part 4 (Development within Liverpool City Centre).

The street presentation of the proposed development will contribute positively to the desired future character of the area as the reduced setback will create a 7 storey street wall which results in a strong sense street activation at the footpath level.

The design of the development maintains the objectives of SEPP 65 through the modulated and stepped base which both defines the public domain as required, and provides an appropriate scale in the streets for pedestrians.

Issue 4

The current report considered by the Panel does not provide sufficient explanation or justification for departure from those planning requirements to satisfy the panel that there will be no loss of amenity and there will be compatibility with the current and emerging character of the locality; and

It is considered that concerns raised by the panel have been adequately addressed in the responses provided to issues no. 1-3 above. The variation provided to the building separation distance requirements as stipulated by Council's Planning Instruments and SEPP 65

Residential Flat Building Code is considered able to be supported based on the further assessment undertaken as well as the expert advice provided by Roger Hedstrom in specific response to the concerns raised by the panel.

A thorough assessment of the proposal has revealed that the proposed development does not represent an official non-compliance with Clause 7.4 of Liverpool LEP or SEPP 65 RDFC for the reasons outlined above.

Issue 5

That the current shortfall of car parking will not allow the demands of visitors and commercial space customers to be satisfied.

Council's Traffic Engineer has further reviewed the proposed development in response to the concerns raised by the Joint Regional Planning Panel. The following comment was provided to address these concerns:

"The shortfall of 10 spaces relates to visitor parking as it is the only parking that cannot be assigned to individuals. Visitor parking demand for residential units' peaks on Friday and Saturday evenings. At other times, visitor parking demand is low and such parking should always be available within the basement car park. Although the commercial tenancies are not defined, the majority of parking demand for the commercial tenancies will occur during normal business hours. Outside these hours commercial parking demand is low. If the spaces are used only for visitors, then commercial occupiers would have to find parking elsewhere, either on street or in commercial car parks, while at the same time there would be under utilised parking within the subject building.

As indicated above, visitor parking demand is greatest at night and on weekends. In addition, the surveys were taken in late November when social activity often increases as a prelude to Christmas. The survey indicates that there was a minimum of 18 spaces available, or 35% of the parking supply. This indicates that the shortfall can be accommodated on street. Further, the survey only included the streets adjacent to the development, whereas other streets within a few minutes walk of the site serve retail, education and medical activities that could typically have low parking demand when residential visitor parking demand is high.

The parking survey itself was undertaken on the two nights of the week when visitor parking demand is traditionally the highest. The survey was conducted according to standard practice for a survey of this type and there is no reason to question the results. The results however represent data for two nights

The effect of this potential use of on street parking will be to reduce the availability of parking for other developments. Future developments that wish to rely on the availability of on street parking will need to establish that parking is available when it is required. Additional parking however is likely to be found in other nearby streets where the adjacent land uses are retail, education or medical, and where parking demand is low when demand for visitor parking is likely to be at a maximum.

Even if the off street parking supply meets the DCP requirements, it is likely that some visitors will always park on street, despite the availability of off street parking.

With regard to parking allocation, there is no reason why visitors could not use the commercial spaces out of hours. In fact commercial visitors may want to park in the car park in the visitor spaces during working hours. A good outcome is to have maximum utilisation of off street parking. The critical measure will be the management of parking to ensure that parking spaces that are intended for particular uses remain available for that use when they are required. A parking management plan is required as a condition of consent. It will set out how access to the car park will be controlled, how parking spaces will be allocated and controlled. The plan may

include a set of by-laws to provide an enforcement mechanism, but ideally any scheme should be self enforcing.

A shortfall in parking of in effect five spaces is not considered to create a significant problem now or in the future. The additional on street parking can be expected to be similar to the variation in parking demand that one might see from one week to another.

A parking management plan will however be necessary to provide and manage parking to meet the needs of residents, visitors and commercial tenants."

It is considered that Council's Traffic engineer has provided ample justification as to why the proposed variation in car parking is able to be supported in this instance.

It is noted that a specific concern was raised by the Panel with respect to access and security management for the shared parking areas. A plan has been submitted to Council showing parking allocation, which ensures that visitors to the residential tenancies and non-residential tenancy parking is located on the ground floor, with all residential parking located within the two basement levels. This parking arrangement provides for easily managed security intercom/gate systems which will adequately separate parking areas for private and non-private uses within the development.

Condition no. 32 requiring a parking management plan has been amended to include the requirement of specific details relating to how security and access will be managed for private residential parking and the shared visitor/non-residential tenancy parking.

Expert advice provided by Rodger Hedstrom

As detailed earlier in the report, Roger Hedstrom who was chair of the Design Jury and Design Review Panel appointed for the proposed development has been sought to provide expert advice (see attachment no. 3) in response to the concerns raised by the Joint Regional Planning Panel.

The final component of the advice provided by Roger provides suggestions to better improve the design of the development. The suggestions made by Roger are as follows:

- *The southern facades of the two towers will require privacy screening to the ends of balconies and window openings to comply with the RFDC for 18m building separation (habitable / balcony to non-habitable) and to allow unscreened balconies and window openings to the northern facade of the future redevelopment of the adjoining property.*

This suggestion has been implemented via a draft condition of consent by way of a deferred commencement, which requires the provision of privacy screening with details of the finishes also to be provided.

- *Further architectural differentiation between the towers (this could be achieved by detailing and variation of external materials).*

Similarly, this suggestion has been implemented via a draft condition of consent by way of a deferred commencement, which requires details of the variation of finishes between the two towers to be provided.

- *The common meeting room would be better relocated (still at Level 1) so that it is integrated within the footprint of one of the two buildings and preferably adjacent to the common open space.*

This concern was discussed with the applicant and it was agreed upon that the common meeting room can be supported in its current location as it was intentionally isolated to

enable use of the room for multiple purposes. It was also agreed upon that further architectural improvements should be made to this structure of which details will be required by way of a draft deferred commencement condition.

- *The indicative landscape design needs further resolution and refinement to confirm detail of the proposal. This is critical for all aspects of the design at ground and podium levels and particularly including detail of the treatment of the car park and service entry which is open to sky.*

This concern will be addressed via a draft condition of consent by way of a deferred commencement.

4. DETAILS OF THE PROPOSAL

The development application seeks consent for the construction of a residential flat building comprising of two residential towers providing a total of 188 residential units. Seven ground floor tenancies are proposed on the ground floor (with use and fit-out subject to a separate development application). The proposal provides for three levels of basement car parking with associated landscaping and service facilities.

Specific components of the proposal are outlined in detail below:

- The development proposes the construction of two residential over a landscape podium and common basement car park.
- The development proposes a total of one hundred and eighty eight residential units. The apartment mix is 64 x 1 bedroom units, 98 x 2 bedroom units and 26 x 3 bedroom units. There will be two adaptable units located on the ground floor. The units vary in size from 50 square metres to 99 square metres.
- All units will contain a ground level courtyard or balcony. The size of the principal private open space areas in the form of a garden varies from 23.3 square metres to 56.2 square metres. All balconies are a minimum of 2000mm deep with most being 2400mm.
- One residential tower is proposed to the west of the site which has a frontage to both the Hume Highway and Browne Parade. This tower is proposed to be fifteen storeys in height and consist of a total of 72 residential units.
- One residential tower is proposed to the east of the site which has a frontage to both the Hume Highway and Bigge Street. This tower is proposed to be sixteen storeys in height. A total of 116 units are provided in this eastern tower as well as seven tenancies on the ground floor which are orientated towards Bigge Street.
- The seven residential tenancies range in size between 52m² and 74m².
- Individual pedestrian access is provided for each of the tenancies directly from Bigge Street.
- Three levels of car parking are provided for the development including the provision of two levels of basement car parking.
- A total of 216 car parking spaces are provided for the entire development. Additional loading bays are provided for the development as well as a designated bicycle parking area on the ground floor.
- A security gate with intercom system will be provided at the entrance to the basement car parking areas and residential apartments.
- Provision has been made on the ground floor for the storage of waste, with separate compartments for the residential component and the future tenancies. Services such as the fire pump room and plant areas are also made within the ground floor area of the development.
- Communal areas are provided within the centre of the development. This consists of a designated area of communal open space which is adjacent to the common meeting

room located on level 1 of the development. Additional common areas are provided for the development comprising the landscaped podium.

- Pedestrian access to the residential towers is provided from both Bigge Street and Browne Parade, where a direct access to the lobby areas of both residential towers is provided.
- Each building will contain one two lifts from the lower basement level to the upper levels. All common areas (excluding the landscape podium) are accessible.
- Materials are a mixture of conventional solid materials on the base elements of the development, whilst the upper levels are clad in lighter materials, with more glass, metal panelling, and sliding sunscreens.

5. STATUTORY CONSIDERATIONS

5.1 Zoning

The subject site is located within the R4 – High Density Residential Zone under the provisions of Liverpool Local Environmental Plan 2008 (LLEP 2008). The proposed development is identified as a *Residential Flat Building* which is a permissible land use within the zone. An extract of the zoning map is provided in Figure 8 below.

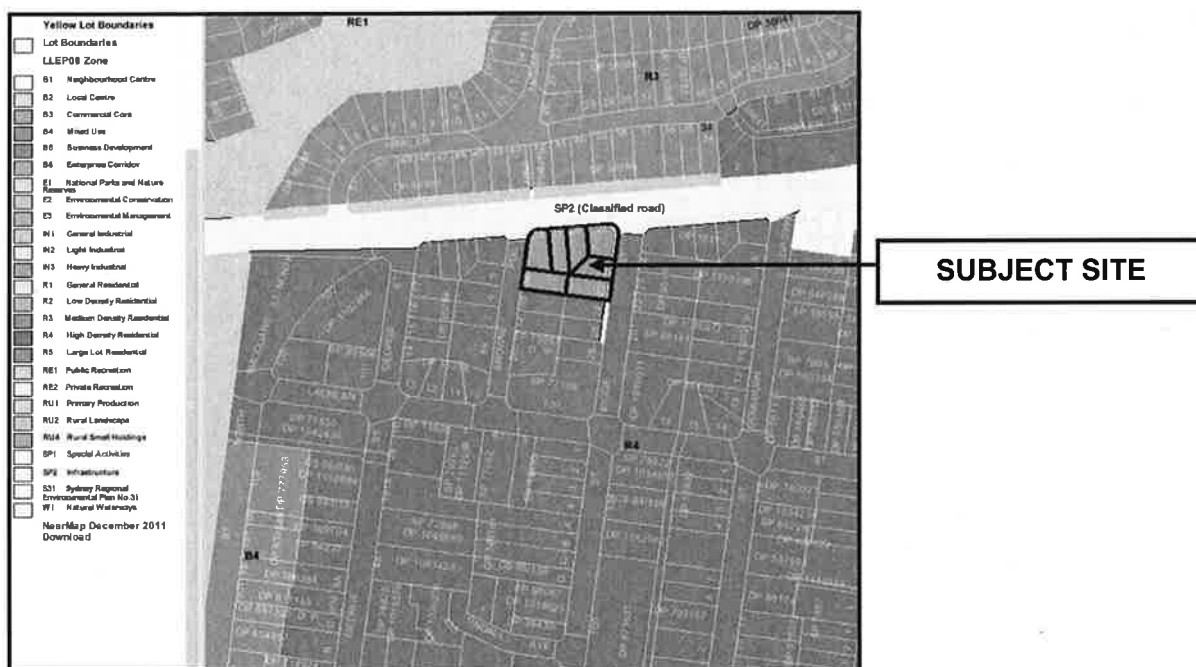


Figure 10: Extract of LLEP 2008 zoning map

As identified earlier, the proposal incorporates seven tenancies on the ground floor which are orientated towards Bigge Street. Each individual tenancy is subject to a future development application for usage and any associated fit-out.

Permissible uses of these tenancies within the R4 – High Residential zone includes:

- Neighbourhood shops;
- Kiosks; and
- Health service facilities.

The applicant has identified in their addendum to the Statement of Environmental Effects that *"the tenancies are to provide for a future land uses which will meet the day to day needs of residents....While occupancy of the proposed ground floor tenancies included in this proposal*

has not been confirmed, it is likely that one or more of the ground floor tenancies could be used as a neighbour shop."

A copy of the addendum to the Statement of Environmental Effects prepared by B. de C. Environmental Planning Pty Ltd is contained within attachment 1.

As identified in Figure 7 a portion of the site is zoned SP2 – Infrastructure and has been identified as future road widening. The proposed residential flat building development does not encroach upon this part of the land.

5.2 Relevant matters for consideration

The following Environmental Planning Instruments (EPI's), Development Control Plan and Codes or Policies are relevant to this application:

- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55);
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) and Residential Flat Design Code;
- State Environmental Planning Policy (BASIX) 2004;
- Liverpool Local Environmental Plan 2008 (LLEP 2008)
- Liverpool Development Control Plan 2008 (LDCP 2008), specifically:
 - Part 1.1 – General Controls for all development
 - Part 1.2 – Controls for all development;
 - Part 4 – Development in the Liverpool City Centre
- Liverpool Contributions Plan 2009.

6. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 79C of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation as follows:

6.1 Section 79C(1)(a)(1) – Any Environmental Planning Instrument

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

The proposed development is not in conflict with the objectives of the Plan which seeks to promote the protection of the Georges River Catchment. It is considered appropriate conditions of consent have been provided relating to erosion and sediment control and stormwater runoff mitigation.

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

Pursuant to Clause 7 of SEPP 55, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

The Statement of Environment Effects accompanying the application outlines that site investigations suggest that there is unlikely to be any contamination currently on the site that might pose any risk or impediment to future residential uses.

Council's Environmental Health Officer reviewed the application and concurs that the potential risk of contamination is considered to be low. Notwithstanding it is recommended that in the assessment and determination of the subject application that the precautionary principle be

adopted and that a Phase 2 Contamination Assessment be completed.

Based on the history of the site, it is considered that the proposed development is not in conflict with the aims and objectives of the Policy. The site is therefore considered to be suitable for development subject to the completion of a Phase 2 Contamination Assessment and any required remediation works. These requirements have formed part of the recommended conditions of consent.

(c) State Environmental Planning Policy 65 – Design Quality of Residential Flat Design Development (SEPP 65)

This Policy aims to improve the design quality of residential flat development through the promotion of high quality design. The Policy recognises the significance of residential flat development and aims to improve the built form and sustainability of development and to satisfy the demand for appropriate development in the social and built form context.

As identified earlier the site is identified as a key site and as such an architectural design competition was undertaken to ensure design excellence for a proposal on this site was achieved. Following ARC Architects being awarded the winner of the architectural design competition, the proponent proceeded to lodge the subject application for the site.

It is noted from the minutes of the Design Jury that a number of minor issues were to be resolved at development application stage. On this basis and to ensure that the proposal accompanying the development application still maintains the qualities and attributes on why it was awarded design excellence, the proposal was presented to the Liverpool Design Review Panel (DRP) for further consideration. It is noted that the Panel chair for this item was also Council's representative on the Design Jury for the architectural design competition. This was to ensure consistency from the architectural design competition to development application stage.

The Liverpool DRP commented on the proposal with respect to the Design Jury comments. While the DRP were satisfied that the proposal adequately responds to the design principles prescribed by the SEPP, some minor amendments were recommended to further resolve the issues raised by the Design Jury. A summary is provided below with regards to their recommendations and comments:

"It is noted that a number of the issues raised by the Design Jury have not been adequately resolved and addressed in the proposal. These include:

- *The south elevation of Bigge Street tower remains unresolved, in regards to the relationship between the vertical elements and the building base.*
- *The proposal retains the large opening over the car park. It is noted that this was a major concern of the Design Jury. The Panel concur with the Design Jury comments in that this is a deficiency in the proposal. The proposal needs to be amended to incorporate screening in the southern component to reduce the extent of the large opening over the car park. This could include a communal facility or a landscaped treatment as previously identified by the Design Jury.*
- *For a proposal with the amount of residential units, communal facilities need to be provided to ensure the future amenity of occupants/residents.*
- *While primarily an issue for Council and the assessment officer, the Panel are of the opinion that the proposal should comply with the maximum FSR permitted including the 10% bonus.*
- *The scheme would benefit from the north and south-western corner be tapered.*
- *The proposal needs to be further developed to address Jury members concerns with the top of the building – roof elements/plant areas. It is noted that the top levels still need to be resolved and that the built form needs to provide for increased definition of the top element of the scheme.*

- *The development does not provide for adequate natural light into the northern portion of the development, as identified previously by the Design Jury. The proposal will need to be amended to provide adequate natural light into the northern end of the corridor into the higher building.*

In response to the concerns raised by the Liverpool DRP the application was amended to incorporate and respond to the issues raised by the DRP. The amendments to the proposal incorporated the elements to alleviate the Panels concerns:

- The height and floor space ratio (FSR) of the development was reduced so to comply with the prescribed height and FSR controls prescribed by LLEP 2008 (including the 10% bonus). This has seen a reduction in height from of the eastern residential tower and has consequently reduced the number of overall residential units. It is noted that the original proposal provided for a total of 195 residential units with the amendments to the proposal reducing the unit yield for the development to 188.
- The proposal was amended to incorporate a communal open room on level 1 to provide for increased amenity to future residents of the development. The common meeting room is expected to be utilised by residents for social interactions, birthday parties etc. The common room has an area of 30m² and is located adjacent the southern boundary. The common room is located adjacent the southern boundary of the development and is situated on the first level adjacent to the landscaped podium of the development.
- The proposal was amended to provide for a pergola structure over the large void area located on the top of the basement car park. This amendment increases the potential of the use of this area on level 1 as it provides for an extension of the common meeting room which can be utilised by all future residents of the development. The incorporation of the pergola structure also improves the connection to the landscaped podium by ensuring that the area can be utilised as additional common open space.
- Amendments to the proposal have improved the definition of the corner element which has resulted in the south-western corner of the residential units located on level 7-15 being tapered in accordance with the Design Jury and DRP recommendation.
- The proposal has been amended to incorporate light weight cladding panels to the roof to screen the plant areas of the development which also increases the definition of the top of the building.
- The proposal improves the provision of natural light to the northern portion of the development. This has been created by providing an opening to the corridor to the northern tapered wall and the inclusion of a projecting balcony.

Summary in relation to SEPP 65

The amended plans lodged with Council have incorporated and responded to the recommendations of the DRP which has further refined the overall design of the development and is consistent with the design principles prescribed by SEPP 65.

It is noted that the development has undergone a vigorous design process as a result of the architectural design competition and results in a development that is considered to achieve design excellence for the Liverpool City Centre. The amendments to the proposal appropriately responds to the recommendations made by the Liverpool DRP and resolves the issues noted by the Design Jury when the scheme was awarded the winner of the architectural competition.

It is considered that the proposal will assist in activating development within this northern precinct of the Liverpool City Centre as well as positively contribution to the streetscape by activating the street frontage adjacent Bigge Street. Activating the street level of the Bigge Street elevation is considered appropriate given the sites prominent position on the Hume Highway and that the overall character of Bigge Street is mixed given the dominance of medical suites and health services facilities on Bigge Street.

In contrast the Browne Parade frontage has a distinct residential character. As opposed to the

ground floor tenancies on Bigge Street, the ground level of the Browne Parade frontage provides for residential garden terraces which provide opportunity for casual surveillance of the street as well as providing for a variety of housing types within the development.

A key element of the proposal is the landscape podium which is accessible for all residents which provides additional area for future residents to utilise as communal open space. The landscape podium also provides for effective separation between the two residential towers which comprise the application as well as providing opportunity for the development to provide a landscaped buffer to the Hume Highway interface. The landscape podium also provides for a sound covering over the car parking areas of the development.

Despite the overall scale of the development, the proposal provides a street wall of pedestrian scale to both the Bigge Street and Browne Parade frontages. The proposal provides for a street frontage height of 4-7 stories which is consistent with the controls prescribed within LDCP 2008 – Part 4. This street wall along both street frontages contributes a strong definition to the street and the public domain and also ensures that the development maintains an adequate street scale for pedestrians. The effect of this street wall is further reinforced through the residential towers being set back from the street alignment.

In consideration of all of the above, the proposal is considered to satisfy the design principles and overall objectives of SEPP 65.

Residential Flat Design Code

Clause 30(2) of SEPP 65 requires residential flat development to be designed in accordance with the Department of Planning's publication *Residential Flat Design Code*. The following table outlines compliance with the code where numerical requirements ("controls") are specified.

STANDARD	OBJECTIVE	PROVIDED	COMPLIANCE
PART 1 – LOCAL CONTEXT			
BUILDING HEIGHT	To ensure that the proposed development responds to the desired scale and character of the street and local area and to allow reasonable access to all development and the public domain.	<p>The height of the proposal is in keeping with the height controls contained within Clause 4.3 of LLEP 2008. Clause 4.3 of LLEP 2008 prescribes a maximum building height of 45m.</p> <p>As the subject site is a key a site, the application was subject to a Design Excellence Competition, as per the requirements of Clause 7.5 "Design Excellence in Liverpool City Centre" of Liverpool LEP 2008.</p> <p>A scheme prepared by ARC Architects was considered by Design jury, and was identified as having design excellence. Pursuant to Clause 7.5, the consent authority may grant consent to the erection or alteration of a building that is a result</p>	Yes

		<p>of an architectural design competition in the Liverpool city centre that has a height of up to 10% greater than that allowed by clause 4.3.</p> <p>In this regard, the maximum building height permitted on the site (including the "bonus" 10% addition) is 49.5m.</p> <p>The proposal complies with the maximum building height provisions for the site, as an overall building height of 49.5 metres is proposed.</p>	
BUILDING DEPTH	In general, apartment depth should be between 10-18m.	<p>The residential apartments have varying depths comprising the following:</p> <p>Ground level and First Floor Level: A maximum apartment depth of 12 metres is provided; Level 2-4: A maximum apartment depth of 10 metres is provided; Level 5 and 6: A maximum apartment depth of 9 metres is provided; and Level 7-15: A maximum apartment depth of 10 metres is provided.</p>	Yes
BUILDING SEPERATION	As the building increases in height, differing separation distances between habitable rooms/balconies are required.	Controls are provided within LDCP 2008 – Part 4: Development in Liverpool City Centre.	See assessment under LDCP 2008 Part 4.
STREET SETBACKS	To establish desired spatial proportions of the street and define the street edge. To relate setbacks to the areas and street hierarchy.	Controls are provided within LDCP 2008 – Part 4: Development in Liverpool City Centre.	See assessment under LDCP 2008 Part 4.
SIDE & REAR SETBACKS	To minimise the impact of development on light, air, sun, privacy, views and outlook for neighbouring	Controls are provided within LDCP 2008 – Part 4: Development in Liverpool City Centre.	See assessment under LDCP 2008 Part 4.

	properties including the future buildings.		
FLOOR SPACE RATIO	To ensure that the development is in keeping with the optimum capacity of the site and the local area. FSR is not specified in the code.	<p>Clause 4.4 of Liverpool Local Environmental Plan 2008 prescribes a maximum FSR of 3.5 for the site. Pursuant to Clause 7.5, the consent authority may grant consent to the erection or alteration of a building that is a result of an architectural design competition in the Liverpool city centre that has a floor space ratio of up to 10% greater than that allowed by clause 4.4.</p> <p>The maximum FSR permitted for the site including the "bonus" is 3.85:1.</p> <p>The overall site area is 4179.6 square metres and the total floor area proposed is 16,091 square metres. In this regard, an FSR of 3.849:1 is provided which complies with the maximum FSR controls applicable to the site under the provisions of Liverpool LEP 2008.</p>	Yes
PART 2 – SITE DESIGN			
DEEP SOIL ZONES	A minimum of 25% of the open space area of the site should be deep soil zone, more is desirable.	<p>Deep soil zone planting is less than 25% of the site.</p> <p>The proposed development provides a deep soil zone of approximately 15.3% (647m²) which does not comply with the minimum requirements of SEPP 65. However, this complies with the minimum deep soil zone requirements stipulated within Council's DCP.</p>	No but is considered acceptable
OPEN SPACE	Communal open space may be accommodated on a podium or a roof in a mixed use building providing it has adequate amenity.	Communal open space is provided on the first floor in the form of a landscape podium, which has an overall area of approximately 180 square metres. In addition to	Yes

		this, a common area in the form of a meeting room with a floor area of 30 square metres is also provided on level 1.	
ORIENTATION	To protect the amenity of existing development and to optimize solar access to residential apartments within the development and adjacent to the development.	The orientation of units and private open space will allow for reasonable solar access and cross flow ventilation. The proposal will not result in unreasonable solar impacts to any future adjoining development.	Yes
PLANTING ON STRUCTURES	To contribute to the quality and amenity communal open space on rooftops, podiums etc.	Landscaping is provided within the landscape podium communal open space area located on level 1.	Yes
VISUAL PRIVACY	To provide visual privacy externally and internally, during the day and at night. Relates to separation distances.	The proposed design seeks to ensure visual privacy is maintained for both future occupants and existing developments.	Yes
PEDESTRIAN ACCESS	Identify access requirements from the street and parking areas to the residential apartments and ensure access is accessible.	Acceptable access is provided from Bigge Street and Brown Parade and parking areas.	Yes
VEHICLE ACCESS	Limit width of driveways to 6 metres and locate vehicle entries on the secondary frontage.	Driveway is 6m in width.	Yes
PART 3 – BUILDING DESIGN			
APARTMENT LAYOUT	<p>Single aspect apartments should be limited to a depth to 8m from a window.</p> <p>The back of a kitchen should be no more than 8 metres from a window.</p>	The layouts of the apartments are efficient in terms of circulation areas. The apartment layouts provide for optimal amenity. There are no single aspect apartments, and the back wall to kitchen window is less than 8m.	Yes
APARTMENT MIX	To provide a diversity of apartment types which cater for different household requirements now and in the future.	<p>A total of 188 residential units are provided. A mix of apartment types are provided as follows:</p> <ul style="list-style-type: none"> - 64 x 1 bedroom (37%) - 98 x 2 bedroom (52.1%) - 26 x 3 bedroom (13.8%) <p>2 units (Numbers 1 and 2)</p>	Yes

		are nominated as adaptable units.	
BALCONIES	Primary balconies to be a minimum of 2m in depth.	Primary balconies are all a minimum of 2m in depth, with most balconies providing a depth of 2400mm.	Yes
CEILING HEIGHTS	3.3m ceiling for ground floor and 2.7m for residential levels.	2.7m is provided for all residential levels. A 3.1m ceiling height is provided for the ground floor tenancies.	No but is considered acceptable
STORAGE	To provide adequate storage for every day household items within easy access of the apartment and to provide storage for sporting, leisure, fitness and hobby equipment. At least 50% of the required storage should be within each apartment.	Adequate storage within each unit is provided.	Yes
DAYLIGHT ACCESS	Limit the number of singly aspect apartments with a southerly aspect to a maximum of 10 percent the total units proposed.	Units have an east-west orientation.	Yes
NATURAL VENTILATION	60% of residential units should be naturally cross ventilated.	100% of the units are naturally cross ventilated.	Yes
WASTE MANAGEMENT	Supply waste management plan in conjunction with the DA.	<p>A waste management plan accompanies the development application.</p> <p>Appropriate conditions have been imposed in the recommended conditions of consent in relation to waste generated during the construction phase of the development as well as the waste generated by the development once the development is operational.</p>	Yes

Non-Compliances

Deep soil zones

Deep soil zones are areas of natural ground retained within a development which promote the growth of large trees with large canopies. The proposal accommodates the majority of the deep soil zone planting along the Hume Highway boundary of the site where large trees with large canopies can be accommodated.

While the proposed development does not provide for the percentage of deep soil zones required under the Code, the proposal is consistent with controls for deep soil zones prescribed by LDCP 2008 – Part 4. On this basis, the minor non compliance is considered to be acceptable.

Ceiling Height

The proposed development presents a minor non-compliance in ceiling height for the ground floor of both towers. The minimum floor to ceiling height of the ground floor is required to be 3.3 metres. The proposed development provides for a floor to ceiling height of 3.1 metres on the ground floor. It is considered that this minor variation is able to be supported as it is not likely to neither result in an adverse impact upon the amenity of future occupants nor restrict the usability of non-residential uses proposed within the seven tenancies to Bigge Street. It should be noted that a suggestion made by the Design Jury was to slightly reduce the floor to ceiling height of components of the development to ensure conformity with the maximum building height requirements applying to the site.

(d) State Environmental Planning Policy (BASIX)

The proposal is accompanied by a BASIX Certificate which is consistent with the aims and intent of the SEPP BASIX Policy.

(e) Liverpool Local Environmental Plan 2008 (LLEP 2008)

The subject site is zoned R4 – High Density Residential pursuant to Liverpool Local Environmental Plan 2008 (LLEP 2008).

The proposed development is considered to satisfy the definition of a “residential flat building” as prescribed by LLEP 2008. A “residential flat building” is defined as “a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing”.

LLEP 2008 prescribed the following zone objectives of the R4 – High Density Residential zone:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provides facilities or services to meet the day to day needs of residents.*
- *To provide for a high concentration of housing with good access to transport, services and facilities.*
- *To minimise the fragmentation of land that would prevent the achievement of high density residential development*

The development is consistent with the objectives of the R4 High Density Residential Zone for the following reasons:

- The development provides for high quality architecture and design which ensures a high visual quality in the public domain.
- The development provides housing within a high density residential environment to provide for the housing needs of the community.

- The proposal provides for a range of unit types and sizes which assist in promoting housing choice, flexibility and affordability.
- The proposal provides a high density development with access to local transport and neighbouring facilities.
- By consolidating the separate lots which form part of this development application, the development does not result in any fragmentation of land.

It is noted that the proposal provides for future non-residential uses along the ground floor frontage to Bigge Street. The floor plan for the development illustrates that seven non-residential tenancies are located on the ground floor which range in area between 52 and 74sqm.

LLEP 2008 permits the following non-residential uses within the R4 – High density residential zone:

- *Neighbourhood Shops*; and
- *Kiosk*

It is noted that both of the above permitted uses are subject to maximum floor area controls to ensure that the non-residential uses do not compromise or reduce the function of the Liverpool City Centre commercial core.

In addition to the above, it is noted that Health Service Facilities are a permissible land use within the R4 – High Density Residential zone as prescribed by State Environmental Planning Policy (Infrastructure) 2007.

While there are not uses proposed for the seven non-residential tenancies on the ground floor as part of this application, the flexibility provided by the floor plan is supported as it will provide opportunity for the developer to canvass appropriate permissible land uses which will support the needs of both current and future residents within this northern precinct of the Liverpool City Centre. As outlined earlier, the site is located within proximity to the established medical precinct of Liverpool. Council recognises the importance of this medical precinct to both the Liverpool City Centre and the wider LGA and on this basis future uses which compliment and strengthen this precinct are well supported.

Based on all of the above, it is considered that the proposal satisfies the relevant objectives of the R4 – High Residential zone and provides for a permissible form of development.

Clause 4.3 Height of buildings

The height of the proposal is in keeping with the height controls contained within Clause 4.3 of LLEP 2008.

Clause 4.3 of LLEP 2008 prescribes a maximum building height of 45m.

As the subject site is a key site, the application was subject to a Design Excellence Competition, as per the requirements of Clause 7.5 “*Design Excellence in Liverpool City Centre*” of Liverpool LEP 2008.

A scheme prepared by ARC Architects was considered by Design jury, and was identified as having design excellence. Pursuant to Clause 7.5, the consent authority may grant consent to the erection or alteration of a building that is a result of an architectural design competition in the Liverpool city centre that has a height of up to 10% greater than that allowed by clause 4.3.

In this regard, the maximum building height permitted on the site (including the “bonus” 10% addition) is 49.5m. The proposal complies with the maximum building height provisions for the site, as an overall building height of 49.5 metres is proposed.

Clause 4.4 Floor space ratio

Clause 4.4 of Liverpool Local Environmental Plan 2008 prescribes a maximum FSR of 3.5 for the site. Pursuant to Clause 7.5, the consent authority may grant consent to the erection or alteration of a building that is a result of an architectural design competition in the Liverpool city centre that has a floor space ratio of up to 10% greater than that allowed by clause 4.4.

The maximum FSR permitted for the site including the “bonus” is 3.85:1.

The application as originally submitted to Council exceeded the permitted FSR including the 10 bonus. This was raised as a significant concern by Council and was also raised as an issue by the Liverpool DRP. In response the applicant amended the proposal which reduced the number of levels of one of the residential towers and also reduced the overall number of residential units provided within the development.

The amended proposal provides for a total floor of 16,091 square metres. This resulted in an FSR of 3.849:1 is provided which complies with the maximum FSR controls applicable to the site under the provisions of Liverpool LEP 2008.

Clause 7.5 Design Excellence in Liverpool City Centre

Clause 7.5 of Liverpool Local Environmental Plan 2008 prescribes that development consent must not be granted to development involving the construction of a new building or external alterations to an existing building located on a key site within the Liverpool city centre unless the consent authority considers that the development exhibits design excellence. As such, the application was subject to an Architectural Design Competition and was awarded by the Design Jury as having design excellence. A copy of the Design Jury minutes are attached.

6.2 Section 79C(1)(a)(ii) - Any Draft Environmental Planning Instrument

No draft environmental planning instruments apply to the site or the development.

6.3 Section 79C(1)(a)(iii) - Provisions of any Development Control Plan

Liverpool Development Control Plan Parts 1.1, 1.2 and 4 apply to the development. Parts 1.1 and 1.2 prescribe general controls for all development (other than dwelling houses). Part 4 prescribes standards and criteria for Development in Liverpool City Centre. The main requirements are summarised in the following table:

Standard	Requirement	Proposed	Complies
Part 1.1 – General Controls for all Development			
Clause 2 Tree Preservation	Applies to the protection of trees that contribute to the Liverpool LGA and the protection of significant vegetation.	The subject site does not contain significant vegetation.	Yes
Clause 3 Landscaping and incorporation of existing trees	Landscaping planting shall be principally comprised of native species. Provide an integrated streetscape appearance with an appropriate mix of canopy trees, shrubs and ground cover in appropriate locations having regard to	The proposed development is accompanied by a detailed landscape plan prepared by KWC Capital Partners, which illustrates that adequate soft landscaping is provided to the development which comprises a mixture of shrubs and trees.	Yes

	safe ingress and egress of pedestrians and vehicles.	<p>The landscape plan also details proposed landscaping within the communal open space area.</p> <p>The landscape plan is supported by Council's Landscape officer, subject to conditions of consent requiring further details with respect to plant species, quantities and potting sizes.</p>	
Clause 4 Bushland and Fauna Habitat Preservation	Applies generally to specific zones.	Not applicable to this site.	N/A
Clause 5 Bush Fire Risk	Applies generally to bushfire prone land and land that requires bushfire hazard reduction.	The subject site is not identified as being bushfire prone land.	N/A
Clause 6 Water Cycle Management	Stormwater drainage concept plan required to be submitted.	A stormwater concept plan and details has been submitted by Hyder Consulting and is considered to be satisfactory by Council's Development Engineer.	Yes
Clause 7 Development near Creeks and Rivers	Applies to land that may impact upon a watercourse or the removal of riparian vegetation.	The subject site is not located in proximity to any watercourse.	N/A
Clause 8 Erosion and Sediment Control	Soil and water management plan or erosion and sediment control plan required to be submitted.	An erosion and sediment plan has been submitted. Appropriate conditions have been imposed regarding the implementation of erosion and sediment control during construction works.	Yes
Clause 9 Flooding Risk	Applies to flood prone land.	The subject site is not identified as flood prone land.	N/A
Clause 10 Contamination Land Risk	Applies to potential or actual contamination or known past or current specific land uses.	Council's Health Officer has reviewed the application and has recommended conditions to be included within the draft conditions of consent requiring the submission of a validation report, confirming the sites suitability for residential development. The condition will also require remediation works to be undertaken on the basis that the findings of the report suggest that the site is not suitable for residential	Yes

		development in its current form.	
Clause 11 Salinity Risk	Salinity management plan required for high risk activities in salinity affected areas.	Appropriate salinity management conditions have been incorporated into draft conditions of consent.	Yes
Clause 12 Acid Sulphate Soils	Applies to land with potential acid sulphate soils.	The site is not identified as being affected by acid sulphate soils.	N/A
Clause 13 Weeds	Weed management strategy required to be submitted if site contains native weeds.	The site does not contain weeds.	N/A
Clause 14 Demolition of Existing Developments	Demolition to comply with AS2601-1991.	The proposal does not involve demolition as the site is currently vacant.	N/A
Clause 15 On-site sewerage disposal	Applies to land with no access to reticulated sewer system.	The subject site has access to sewer services.	N/A
Clause 16 Aboriginal Archaeology	Applies to land identified as having known or potential Aboriginal archaeological significance.	The site is not identified as having any Aboriginal archaeological significance.	N/A
Clause 17 Heritage	Applies to heritage items of land in the vicinity of a heritage site, conservation area or archaeological site.	<p>Bigge Street forms part of the street pattern identified as the "Hoddle Grid Street Pattern" which is listed as a heritage item of local significance under Liverpool LEP 2008.</p> <p>Council's Heritage Advisor has reviewed the application and raises no objection to the proposal subject to conditions of consent, which will ensure that appropriate measures are undertaken if significant archaeological deposits are located on the site; particularly given that significant excavation will be undertaken in order to facilitate for the basement car park.</p> <p>The above recommendation is contained within the recommended conditions of consent.</p>	Yes
Clause 18 Advertising	Development to be notified / advertised.	The development application was advertised in accordance with the DCP. Submissions are	Yes

		addressed in detail further within this report.	
Part 1.2 – Additional Controls for Development			
Clause 2 Car Parking and Access	<p>Car parking to be provided in accordance with the following; and also to comply with Australian Standards for design and access.</p> <p>Residential component requires:</p> <ul style="list-style-type: none"> • 1 space per 1 bedroom unit • 1 spaces 2 bedroom unit • 1.5 spaces per 3 or more bedroom unit. <p>TOTAL REQUIRED FOR RESIDENTIAL UNITS:</p> <p>Visitor component:</p> <ul style="list-style-type: none"> • 1 visitor car space for every 10 dwellings or part thereof <p>TOTAL VISITOR SPACES</p> <p>Non-residential component</p> <ul style="list-style-type: none"> • All other development 1 space per 100 square metres of floor area. <p>TOTAL NON-RESIDENTIAL COMPONENT</p> <p>TOTAL CAR PARKING REQUIRED</p> <p>TOTAL CAR PARKING PROVIDED</p>	<ul style="list-style-type: none"> • 64 x 1 bedroom = 64 spaces • 98 x 2 bedroom = 98 spaces • 26 x 3 bedroom = 39 spaces <p>201 RESIDENTIAL SPACES</p> <ul style="list-style-type: none"> • 18 visitor spaces required. <p>18 SPACES</p> <ul style="list-style-type: none"> • Total floor area of non-residential tenancies is 452 square metres. Therefore 5 spaces are required for the non-residential component of the development. <p>5 SPACES</p> <p>224 SPACES REQUIRED</p> <p>216 PROVIDED</p>	No, but considered

	Access for removalists and garbage servicing.	Adequate access for removalists and garbage servicing is provided. Service access is incorporated into the development.	acceptable Yes
	Compliance with Australian Standard 2890.1	The development proposes one combined access (entry/exit) from the frontage to Browne Parade. The car parking design shall comply with Australian Standard 2890.1:2004.	Yes
Clause 4 Water Conservation	All fixtures and appliances to be 3 stars under the WELS system or better rated.	Water Conservation shall be implemented via the BASIX Certificate, which includes measures such as water tanks and efficient fixtures/appliances.	Yes
Clause 5 Energy Conservation	Comply with the Energy Efficiency provisions within the BCA. Maximise natural light in buildings.	Energy Conservation shall be implemented via the BASIX Certificate, which includes measures such as energy efficient fixtures/appliances. The proposal will also comply with the BCA to maximise natural light.	Yes
Clause 6 Landfill	Requirements for any cutting or filling of land.	Minimal filling and cutting of land will be required. Appropriate conditions of consent will be imposed to ensure any cut or fill of land is carried out in accordance with Council requirements.	Yes
Clause 7 Waste Disposal and re-use facilities	Waste Management Plan required for all developments.	Waste Management Plan provided. Appropriate conditions of consent will be imposed to ensure compliance with the Waste Management Plan.	Yes
Clause 8 Outdoor Advertising and Signage	Controls for any signage for all development.	No signage has been proposed as part of the development application.	N/A

Part 4 – Development in the Liverpool City Centre			
1.1 Building Form			
Building to street alignment and setbacks	<p>Street building alignment and street setbacks are to comply with Figure 3 which requires:</p> <ul style="list-style-type: none"> • Bigge Street:: 4-4.5m • Browne Parade:4-4.5m • Hume Highway:8m 	<p>The proposal adopts the following street building setbacks:</p> <ul style="list-style-type: none"> • Bigge Street: 4.6-5m • Browne Parade: 4.2m • Hume Highway: 8m 	<p>No, but considered acceptable Yes</p>
Street frontage height	<p>The street frontage height of buildings must comply with the minium and maximum heights above ground level as shown in Figure 5. Figure 5 requires a street frontage setback between 15-25m or 5-7 storeys.</p>	<p>6 storeys – Bigge Street frontage (Bigge Street tower) 5 storeys – Browne Parade frontage (Browne Parade tower) 6 storeys – Hume Highway frontage (both towers)</p>	<p>Yes</p>
Building depth and bulk	<p>The maximum floor plate sizes and depth of buildings are to comply with figure 6 – maximum GFA per floor is 500sqm and maximum building depth is 18m. (Floor plate sizes and depths apply above street frontage height).</p> <p>The component of the building above the street frontage height is not to have a building length in excess of 45m.</p>	<p>The maximum floor plate on levels 7 to 15 is 566 square metres for the Bigge Street tower.</p> <p>The maximum floor plate on levels 7 to 14 is 432 square metres for the Browne Parade tower.</p> <p>The depth of the floor plates do not exceed 18m for both towers.</p> <p>The length above street frontage height for both towers is less than 45 metres.</p>	<p>No, but variation is considered acceptable</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Boundary setbacks and building depth	<p>The minimum building side setbacks are to comply with the following:</p>		

and bulk	<p>Residential uses up to 12m in height:</p> <ul style="list-style-type: none"> • 3m for non-habitable rooms • 6m for habitable rooms <p>Residential uses between 12-25m in height:</p> <ul style="list-style-type: none"> • 4.5m side setback for non-habitable rooms • 9m for habitable rooms <p>Residential uses between 25-45m height:</p> <ul style="list-style-type: none"> • 6m side setback for non habitable rooms. • 12m side setbacks for habitable rooms. <p>Residential uses between 35-45m height:</p> <ul style="list-style-type: none"> • 6m side setback for non habitable rooms. • 14m side setbacks for habitable rooms. 	<ul style="list-style-type: none"> • 1.2m-Non-habitable rooms • 1.2m-Habitable rooms <ul style="list-style-type: none"> • 9m-Non-habitable rooms: • 9m-Habitable rooms: <ul style="list-style-type: none"> • 9m-Non-habitable rooms: • 9m-Habitable rooms: <ul style="list-style-type: none"> • 9m-Non-habitable rooms: • 9m-Habitable rooms: 	<p>No but considered acceptable</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No, but is considered acceptable</p> <p>Yes</p> <p>No, but is considered acceptable</p>
2.3 Site cover and deep soil zones			
Site coverage	The maximum site coverage for the residential component of the development is 50%	Site coverage for the residential component of the development is 65.1%	No, but is considered acceptable
Deep soil zones	Deep soil zone planting is 15%.	Deep soil zone planting provided is approximately 15.3%.	Yes

Non compliances

Car parking

It is noted that the proposal provides for a shortfall of eight car parking spaces for the development. While the proposal accommodates the required car parking spaces for the residential units, there is a minor shortfall of car parking spaces for the visitor component of the development.

The applicant has requested Council vary the car parking controls on the basis that the car parking layout has been designed to offer shared car parking facilities for the visitor component of the residential development and the customer car parking for the non-residential tenancies.

This variation to the car parking controls is supported from Council given that the future uses of the non-residential tenancies are to provide services for the day to day needs of the local

residential community and on this basis is unlikely to generate a high volume of traffic.

This non-compliance with the car parking has been assessed by Council's traffic engineer's who have supported the variation to the car parking controls given the sites location and proximity to public transport services.

It is considered that this non compliance to the DCP is supported and that shortfall of eight spaces does not warrant the refusal of the application.

Site coverage

Controls within LDCP 2008 requires maximum site coverage within residential zones of 50%. The site coverage of the development is 65.1% which represents a departure from the controls of 5.1%.

It is noted that the objectives of the site coverage controls is to limit site cover to ensure adequate separation is provided between buildings. In addition, limiting the site coverage improves amenity by providing daylight access, visual privacy and provides for increased opportunity for recreation and social activities.

Despite the variation to the site coverage controls, the proposal and the minor non-compliance is considered acceptable given that an integral component of the development is the landscaped podium which provides adequate separation between the two residential towers which form part of this development. The landscaped podium is located within the centre of the development and has a northern orientation. Amenity to the landscaped podium is protected by the proposed landscaped buffer to the Hume Highway which also ensures that this space is clearly defined and separated from the public domain. The proposal also incorporates a common room which can also be utilised for recreation and social activities by future residents of the development. This landscaped podium and common room is accessible to all residents from the central lift lobby of both residential towers.

Based on the above, it is considered that the departure from the site coverage controls is acceptable and will not compromise future amenity of residents of the development.

Street Frontage Heights

LDCP 2008 requires a street frontage height of 4-4.5 metres along the Bigge Street frontage. The proposed development provides for a street frontage height ranging between 4.6-5 metres along the frontage to Bigge Street.

It is noted that the DCP through establishing street frontage height controls tries to establish a strong definition along the street which positively contributes to the public domain. This will ensure new development responds to the existing lower scale nature of Liverpool City Centre and maintains an appropriate pedestrian scale.

The proposal seeks a departure from the controls by 500mm which is considered to be minor and that the overall scale of the street frontage height despite the non compliance will not result in a development which is contrary to the objectives and the intent of this control. On this basis, this minor non-compliance is supported.

Maximum floor plate sizes

The maximum floor plate provided on levels 7 to 15 (above street frontage height) is 566 square metres for the Bigge Street tower. This provides a departure of 66 square metres for each of these storeys.

Through establishing maximum floor plates above the street frontage height the controls within LDCP 2008 try to control and limit the size of the upper level floor plates to ensure adequate internal amenity for new developments is provided, particularly in relation to natural light and ventilation. The floor plate controls also assist in mitigating any potential adverse impacts with

regards to overshadowing that is often associated with tall buildings.

In view of the overall planning of the development and the internal layout of each residential unit, it is considered that the internal amenity of each unit in regards to solar access and natural ventilation is not sacrificed as a consequence of the non compliance with the floor plate controls.

In addition, the proposal provides adequate solar access and natural ventilation to the residential units and overall the proposal is considered to have design excellence and promote the sustainable design of buildings through ensuring that the units maximise the east-western aspect of the units.

It should be noted that the shortfall of 68m² to the maximum provisions for floor plate area for the Browne Parade tower (floor plate area for Browne Parade tower - 432m²), is an intentional design initiative which ensures that the excessive floor plate area for the Bigge Street tower does not compromise the amenity of the adjoining Browne Parade tower and neighbouring development. The significant variation in floor plate area between the two towers is considered to be a good design response as it provides for a visually aesthetic development whilst ensuring there are no adverse impacts on the amenity of the locality.

On this basis, the proposal is considered to be worthy of support and this non-compliance does not warrant refusal of this application.

Side setbacks

It is noted that the proposal does not comply with the setback controls prescribed by LDCP 2008. The component of the development that does not comply with the setbacks is the southern portion of the residential tower that is orientated towards Bigge Street.

This portion of the development is setback 1.2m from the southern boundary from the ground to level 6, with the side setback increasing to 9m for the upper 8 levels. While this represents a variation to the controls, this variation is considered acceptable for the following reasons:

- The proposed setback will not reduce the amenity of the future residents of the proposed residential flat development. The residential units which are setback 1.2m from the southern boundary adopt a east-west orientation and the internal unit configuration ensures that active areas such as living areas and balconies are either orientated to overlook Bigge Street or communal open space within the centre of the development. This ensures that despite the reduced setback of 1.2m no adverse amenity impacts arise given the limited opportunity for overlooking or reduction in visual privacy. In addition, by having a floor plan which has active areas orientated to the street or communal open space, there is a reduced need to have windows located on the southern elevation which reduces the potential for overlooking or cross viewing between units.
- The upper levels between the 7th and 15th floor adopt a 9m setback from the southern boundary. Again the floor plans of each individual unit ensures that active areas of each unit are orientated towards Bigge Street or communal open space. Rooms located against the southern elevation predominantly include en-suites and bedrooms which have relatively small openings.
- The site adjacent the southern boundary is currently vacant. While it is expected that this site will be developed in the future, the reduced setbacks to the southern boundary will not restrict development on the adjacent site nor restrict the development potential on the adjacent property.

In consideration of all of the above, it is considered that the proposed development despite this non compliance with the side setbacks are worthy of support.

6.4 Section 79C(1)(a)(iv) – The Regulations

The EP&A Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). Conditions of consent have been imposed requiring compliance with the BCA.

6.5 Section 79C(1)(b) – The Likely Impacts of the Development

(a) Natural and Built Environment

The scale, density, and built form is considered appropriate with respect of the context of the site and the desired future character of the area. The development presents as a high quality architectural built form and does not result in any adverse impacts to the built environment as demonstrated in this report.

The development is not considered to result in unreasonable amenity impacts to surrounding lands, taking into account both existing and possible future development. The development will provide a positive contribution to the streetscape of all street frontages, whilst maintaining a sympathetic approach to existing residential development. The proposal is thus considered satisfactory with respect of the natural and built environment.

(b) Social and Economic Impacts

The proposed development will have a positive social and economic impact through the provision of housing choice within the locality and a high quality living environment which will positively contribute to the area.

6.6 Section 79C(1)(c) – The Suitability of the Site for the Development

These matters have been considered in the assessment of the development application. The site is not known to be affected by any site constraints or other natural hazards likely to have a significant adverse impact on the proposed development. The proposal is suitable as it will provide a high density residential development that is cognisant of the desired future character of the area.

Accordingly, the site is considered suitable to accommodate the proposed development, being for construction of a new residential flat building to a site located within the R4 High Density Residential zone, in the context of the site and locality.

6.7 Section 79C(1)(d) – Any submissions made in relation to the Development

(a) Internal Referrals

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

DEPARTMENT	COMMENTS
Landscape	Satisfactory, with recommended conditions.
Traffic Engineers	Satisfactory, with recommended conditions.
Health	Satisfactory, with recommended conditions.
Development Engineers	Satisfactory, with recommended conditions.
Heritage	Satisfactory, with recommended conditions.
Waste Services	Satisfactory, with recommended conditions.
Building	Satisfactory, with recommended conditions.

(b) External Referrals

The following comments have been received from External Authorities:

DEPARTMENT	COMMENTS
Roads and Maritime Services NSW (RMS)	Satisfactory, with recommended conditions.

(c) Community Consultation

The development application has been advertised in accordance with Liverpool DCP 2008, Part 1.1. This included a notice placed on site and an advertisement in the local paper.

The development application was advertised for twenty one (21) days from 13 April 2011 to 6 May 2011. A total of six objections were received. The issues raised in the submissions include:

- inadequate provision for visitor parking;
- inadequate provision for resident parking;
- inadequate vehicular access;
- overshadowing;
- traffic;
- noise;
- inadequate Recreational space for occupants;
- amenity (in general);
- overdevelopment of the site;
- impact of large development; and,
- large building and excessive cars parked in Bigge St as a result of the development will create an increase in crime.

The following comments are made in relation to the issues raised in the submissions:

ISSUE 1: Inadequate provision for visitor car parking.

Comment:

The proposed development provides parking in accordance with the controls prescribed by LDCP 2008 for the residential component of the development. However, it is acknowledged that the proposal provides for a shortfall of visitor car parking spaces for the visitor component of the development.

The applicant has outlined that it is their intention to share the visitor car parking component of the development with the customer/client car parking spaces of the non-residential tenancies. This variation to the controls is supported by Council's traffic engineers.

In regards to the non-compliance with the car parking controls for visitor car parking, the variation is supported as the size of the non-residential tenancies and the future use is unlikely to generate a high demand for visitor/customer car parking. In addition, the future uses of the tenancies are predominately to service the day to day needs of residents and on this basis customers to the tenancies are likely to be within proximity to the proposed development.

It is recommended to ensure that the future operation of the development ensure that adequate car parking is dispersed amongst both residential and non-residential components of the development. In this regard, it is recommended that a condition be imposed requiring the applicant to provide a parking management plan to discuss the allocation of parking spaces to residents, commercial tenants and visitors; and the ongoing management of parking for the non-residential component of the development.

ISSUE 2: Inadequate provision for resident parking.

Comment:

The proposed development provides adequate residential car parking in accordance with the LDCP 2008.

ISSUE 3: Inadequate vehicular access

Comment:

Council's Traffic Engineer has reviewed the application and is satisfied that vehicle manoeuvring and access requirements within the car park generally conform to the requirements of AS 2890.1

Some amendments to the basement car park are required to ensure that car park provides full compliances with Australian Standards. However, as the design changes required are minor, condition of consent requiring amended plans to address these concerns prior to the release of the Construction Certificate will be included in the draft conditions.

The changes to the basement car park that are required to be made via conditions of consent include a variation in the grade of the internal ramps. In this regard, the applicant is required to submit revised plans showing an altered ramp profile that complies with the AS 2890.1 requirement.

ISSUE 4: Overshadowing

Comment:

The orientation of the units and private open space areas will allow for reasonable solar access and cross flow ventilation to the subject site. The submitted shadow diagrams illustrate that the proposal will not result in unreasonable solar impacts to current or future adjoining development.

It is noted that development to the east of the site will receive a minimum of three hours sunlight from 9am to 12pm on the winter solstice, and development to the west of the site will receive a minimum of three hours sunlight from 12pm to 3pm on the winter solstice.

ISSUE 5: Traffic

The proposed development has been assessed with respect to the potential for adverse traffic impacts, and it is considered that the nature of the proposed development is suitable for the site and will not produce a high flow of traffic that will result in adverse impacts to the amenity of the area.

Council's Traffic Engineer has reviewed the application and raises no objection to the proposal subject to conditions.

Given the site's proximity to the Hume Highway, a referral to the NSW Roads and Maritime Services in accordance with the SEPP (Infrastructure) 2007 was undertaken. The RMS have reviewed the application. In this regard the proposal is not considered to affect the functioning of the Hume Highway in relation to traffic generation and the location of the driveway entry/exit points. The recommendations provided by the RMS have been incorporated into the recommended conditions of consent.

ISSUE 6: Noise

Comment:

The potential noise impacts created by additional traffic generated by the proposed development have been assessed and are not considered to result in undue impacts upon the acoustic amenity of neighbouring development.

Council's Health Officer has also reviewed the proposed development including the Noise Assessment Report submitted with the application, and raises no objection to the proposed development subject to conditions of consent which have been recommended to ensure the acoustic amenity of the occupants of the residential units within the proposed development, given its vicinity to a classified road.

ISSUE 7: Inadequate recreational space for occupants

Comment:

Each residential unit is provided with private open in the form of a private terrace area for ground floor units and a balcony for each of the upper levels. In addition to the private open space provided for each residential unit, the development provides a landscaped podium within the centre of the site. This landscaped podium provides an area of approximately 180sqm which can be utilised by the future residents of the development.

During the assessment of the development application, it was recommended by the Liverpool DRP that a development of this size should provide for a communal room adjacent to the communal open space which can provide an additional space for residents. This can assist in providing an additional area for recreation activities for the residents due to its connecting to the communal open space.

In consideration of all of the above, it is considered that the development provides for adequate area for recreational use for future residents and occupants of the development.

ISSUE 8: Amenity

Comment:

The application has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, and the relevant Environmental Planning Instruments including the applicable State Environmental Planning Policies, Liverpool Local Environment Plan 2008, Liverpool Development Control Plan 2008, and the relevant codes and policies of Council.

The proposed development is well within the context of the area which is characterised by a mixture of development, including higher density residential development. The high quality architectural design is appropriate for the subject site and takes into consideration the amenity of existing adjoining land uses and future expected occupants.

ISSUE 9: Overdevelopment of the site

Comment:

It is acknowledged that the development represents a significant larger building to existing single dwellings and some of the existing residential flat buildings within the immediate locality. However it is recognised that this northern precinct along with other areas of the Liverpool City Centre is planned to accommodate a much higher residential density and urban growth which is consistent with Liverpool's regional city status.

It is noted that at strategic planning stage, one of the key aims for the Liverpool City Centre was to accommodate a higher residential density, particularly along the periphery of the city centre such as this northern precinct. This northern precinct is considered to offer future residents high

levels of amenity due to the proximity of this area to the medical and educational precincts of Liverpool located east of the city centre and along the more southern portion of Bigge Street.

It is noted that the original design submitted initially with the development application represented a FSR which exceeded Council's FSR controls for this area of the City Centre. This was also a concern raised by the Liverpool DRP. In response, the application has been amended to provide for a development which is consistent with the maximum FSR permitted for the site (including the 10% FSR bonus).

It is considered that the overall design of the development incorporates a number of features to ensure that the bulk and scale of the development is minimised. This includes by providing two residential towers which are orientated towards Bigge Street and Browne Parade. This enables the two towers to be appropriately separated by a landscape podium which not only provides communal open space for the development but incorporates a responsive landscape design to reduce to bulk of the development. The proposal also provides for appropriate street frontage height which will ensure that an adequate pedestrian scale is maintained.

ISSUE 11: Vehicles parked in Bigge St as a result of the development will create an increase in crime.

Comment:

The proposal has been designed to provide for car parking within the ground floor and over two levels basement levels. This includes the provision of controlled entry and exit points which form part of this development application.

While the proposal represents a shortfall of eight car parking spaces, it is unlikely that the proposed development will generate additional demand for on-site car parking along Bigge Street that would increase the likelihood of crime or anti-social activity.

It is noted that the proposed development does provide for seven non-residential tenancies on the ground floor which are orientated towards Bigge Street and that the likely use of these units are identified to be either neighbourhood shops, kiosk or health service facilities. These uses generally have a higher turn over of customers/clients and in this regard by providing these uses on the ground floor and which are orientated towards Bigge Street the development will assist in activating this portion of the development as well as providing opportunity for casual surveillance.

6.8 Section 79C(1)(e) – The Public Interest

The provision of high density residential units will contribute to the diversity of housing within the locality. The development will not result in any unacceptable amenity impacts to the surrounding properties. The proposed development seeks to provide a contemporary building of high quality that will address the surrounding public spaces and achieve a satisfactory form as presented to the immediate and wider locality.

The development satisfactorily addresses the relevant planning objectives under all the applicable legislations, State Environmental Planning Policies, and Local Environmental Planning Controls. It is therefore considered that the proposal serves the broader public interest.

7. Liverpool Contributions Plan 2007 (Liverpool City Centre)

The application is subject to Section 94 Contributions as detailed in the Liverpool Contributions Plan 2007 (Liverpool City Centre). In the event the application is approved, a condition of consent will be imposed requiring the applicant to pay to Council a levy equal to 1% of the proposed cost of carrying out development, as the site is located within the R4 High Density Residential zone.

8. CONCLUSION

The application has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, and the relevant Environmental Planning Instruments including the applicable State Environmental Planning Policies, Liverpool Local Environment Plan 2008, Liverpool Development Control Plan 2008, and the relevant codes and policies of Council.

The proposed development is generally consistent with the standards contained within LLEP 2008 as well as the intention and objectives of the design principles contained within the Residential Flat Design Code in accordance with SEPP 65.

The proposal is also generally consistent with the controls contained within Liverpool DCP 2008, except for several departures relating to side building form, car parking and site coverage which have been assessed on their merits and found to be acceptable. Furthermore, the proposal has been awarded "Design Excellence" and considered satisfactory by the Design Review Panel (DRP).

The proposed development for a residential flat building is well within the context of an area earmarked for higher density residential development. The high quality architectural design is appropriate for the subject site and takes into consideration the amenity of existing adjoining land uses and future expected occupants.

Following detailed assessment of the proposal and consideration of the issues raised in the submissions, the development application has been assessed on its merits and is considered satisfactory. Accordingly, it is recommended that the development application be approved subject to conditions of consent.

9. RECOMMENDATION

That Joint Regional Planning Panel Sydney West Region (JRPP) approve Development Application 946/2011 by way of a deferred commencement for the construction of a mixed commercial/residential development comprising two residential tower buildings containing 188 residential apartments, seven ground floor tenancies, three levels of basement car parking and associated landscaping and service facilities at, 2 Browne Parade, 1-3 Bigge St and 26-32 Hume Highway, Warwick Farm NSW 2170, subject to the attached conditions.

9. ATTACHMENTS

9.1 Joint Regional Planning Panel minutes

9.2 Amended Plans

9.3 Addendum to Statement of Environmental Effects

9.4 Roger Hedstrom advice

9.5 Recommended Conditions of Consent

