

## JOINT REGIONAL PLANNING PANEL (Sydney West)

JRPP No	2016SYW047
DA Number	DA-180/2016
Local Government Area	Liverpool City Council
Proposed Development	Consolidation of five existing lots, demolition of existing structures and construction of a 13 storey (Tower A) and 11 storey (Tower B) residential flat building comprising a total of two hundred and twenty one (221) units. The development provides a unit mix of 33 x 1 bedroom apartments, 152 x 2 bedroom apartments and 36 x 3 bedroom apartments, above three levels of basement parking with two hundred and sixty five (265) spaces and associated driveway and landscaping.
Street Address	17-25 Bigge Street, Liverpool
Applicant/Owner	Applicant – CV McNally  Owner – Bigge Investments Pty Ltd
Number of Submissions	A petition containing 33 signatures
Regional Development Criteria (Schedule 4A of the Act)	The proposal has a capital investment value of over \$20 million, the Joint Regional Planning Panel is therefore the determining authority.
List of All Relevant s79C(1)(a) Matters	<p>1) <i>List all of the relevant environmental planning instruments: s79C(1)(a)(i)</i></p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development.</li> <li>• State Environmental Planning Policy No.55 – Remediation of Land.</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.</li> <li>• Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.</li> <li>• Liverpool Local Environmental Plan 2008.</li> </ul> <p>2) <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii)</i></p> <ul style="list-style-type: none"> <li>• N/A</li> </ul> <p>3) <i>List any relevant development control plan: s79C(1)(a)(iii)</i></p> <ul style="list-style-type: none"> <li>• Liverpool Development Control Plan 2008. <ul style="list-style-type: none"> <li>- Part 1 – General Controls for all Development.</li> <li>- Part 4 – Liverpool City Centre.</li> </ul> </li> </ul>

	<p>4) <i>List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv)</i></p> <ul style="list-style-type: none"> <li>No planning agreement relates to the site or proposed development.</li> </ul> <p>5) <i>List any coastal zone management plan: s79C(1)(a)(v)</i></p> <ul style="list-style-type: none"> <li>The subject site is not within any coastal zone management plan.</li> </ul> <p>6) <i>List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288</i></p> <ul style="list-style-type: none"> <li>Consideration of the provisions of the Building Code of Australia and National Construction Code (NCC)</li> </ul>
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> <li>Draft Conditions of consent</li> <li>Architectural Plans</li> <li>Clause 4.6 Variation</li> <li>Design excellence panel report</li> <li>Submissions lodged with the DA</li> <li>Statement of Environmental Effects</li> <li>SEPP 65 Design Verification Statement</li> <li>Arborist Report prepared by N.S.W Tree Services</li> <li>Heritage Impact Statement by Architecture + Planning</li> </ul>
Recommendation	Approval, subject to deferred commencement
Report by	Michael Oliveira
Report date	22 September 2016

## 1. EXECUTIVE SUMMARY

Council has received a Development Application for the consolidation of five existing lots, demolition of existing structures and construction of a 13 storey (Tower A) and 11 storey (Tower B) residential flat building comprising a total of two hundred and twenty one (221) dwellings. The development provides a unit mix of 33 x 1 bedroom apartments, 152 x 2 bedroom apartments and 36 x 3 bedroom apartments. The proposal also provides three levels of basement parking with two hundred and sixty five (265) spaces and associated driveway, drainage and landscaping works.

The subject site is zoned R4 High Density Residential pursuant to Liverpool Local Environmental Plan 2008 (LLEP 2008), within which the proposed development is permissible with consent.

Sydney West Joint Regional Planning Panel (JRPP) is the determining authority for the proposal, as the Capital Investment Value of the development is over \$20million, pursuant to Schedule 4A of the Environmental Planning and Assessment Act 1979. Accordingly, this application has been referred to the JRPP for determination.

The subject site comprises five separate allotments, identified as Lot 4 DP 13930 and Lots A, B, C and D in DP 345161, with a total site area of 5,715.8m<sup>2</sup>. The site is known as 17, 19, 21, 23 and 25 Bigge Street, Liverpool and is currently developed with eight (8) dwellings.

On 11 May 2016 a JRPP briefing for the subject DA was held. It was advised by the panel that the originally proposed variations to FSR and Building Height would not be supported. The permitted FSR for the site is 3:1 and the proposed FSR was 3.33:1, which is a 11% variation and is equivalent to an additional 1886.8m<sup>2</sup> of gross floor area within the development. The permitted height limit is 35m and Tower A is proposed with a height of 41.76m, which is variation of 6.76m or 19.2%. This was subsequently relayed to the applicant by the assessing officer. Notwithstanding the advice to achieve compliance with the FSR and building height development standards, the applicant amended the proposed development in order to adequately justify any additional GFA and building height proposed. The applicant amended the proposal to fully comply with Liverpool Development Control Plan 2008 (LDCP 2008) requirements for 'housing choice and mix'. The applicant then proposed that the additional height and floor space within Tower A contained within, storeys 12 and 13, be provided as three-bedroom dwellings, bringing the percentage of three-bedroom apartments within the overall development to 16.3%. These amendments to the building design reduced the FSR variation from 11% to 7.8%, however, the height variation of 6.76m (19.2%) above 35m to Tower A was maintained.

It is important to note, that there is a shortfall in apartment variety and types within the Liverpool City Centre. Over the last decade a majority of RFB developments within the city centre have been approved with greater than 80% of the units being two-bedroom apartments only. In this regard, there is limited accessibility to one and three-bedroom apartments in the locality and in close proximity to the centre's services.

In this regard, the applicant seeks to justify the additional floor space and height in Tower A where the non-compliances occur, by increasing the housing mix within the development above the 10% requirement for one and three bedroom apartments, by providing 16.3% three-bedroom dwellings and 15% one-bedroom dwellings and providing the additional floors (levels 11 and 12) as three-bedroom units. By providing additional housing mix within the development the applicant is also seeking to increase housing variety in the city centre to provide more housing choice to a diverse market, which is likely to have demands beyond two-bedroom apartments. The applicant has also designed the additional three-bedroom apartments on the additional levels to Tower A to have modest floor areas to ease affordability where possible. For these reasons compliance with the FSR and Building Height development standards is considered unnecessary.

The development application was on public exhibition from 24 March 2016 to 11 April 2016 in accordance with Liverpool Development Control Plan 2008 (LDCP 2008). During the exhibition period one submission was received in the form of a petition containing thirty-three (33) signatures, which raised concerns with the proposed development. Upon assessment of the submission the development proposal is considered acceptable in relation to those concerns. The concerns raised in the submissions are detailed and discussed further in this report.

The applicant has submitted a Stage 1 desktop Environmental Site Assessment for the proposed development. This report concluded that based on the scope of works undertaken the site poses a moderate contamination risk and that the site can be made suitable for the residential development provided the following additional work is undertaken:

- 1) Undertake a Stage 2 ESA to meet the sampling density outlined in the NSW EPA Contaminated Sites Sampling Design Guidelines (1995).

- 2) Undertake a waste classification assessment for the off-site disposal of material excavated for the proposed development.

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act (EP&AA) 1979. Based on the assessment of the application and the consideration of the written requests to vary development standards, it is recommended that the application be approved as deferred commencement requesting that a Stage 2 Detailed Site Investigation be undertaken.

## 2. SITE DESCRIPTION AND LOCALITY

### 2.1 The site

The subject site comprises five separate allotments, identified as Lot 4 DP 13930 and Lots A, B, C and D in DP 345161, with a total site area of 5,715.8m<sup>2</sup>. The site is an irregular shaped allotment with boundary dimensions of 75.59 metres at the eastern boundary, 75.355 at the western boundary, 84.66 metres fragmented at the northern boundary and 82.31 metres at the southern boundary. An aerial photograph of the subject site is provided below.



(Figure 1: Aerial photograph of the site)





(Figure 2: Site Plan)

The site currently contains eight (8) dwellings and each lot comprises the following:

- 17 Bigge Street, Lot 4 DP 13930 – Single storey fibro dwelling with a corrugated iron roof, and an associated driveway;
- 19 Bigge Street, Lot A DP 345161 – Single fibro dwelling with tiled roof, fibro shed, iron shed, associated driveway and path and a single tree located in the front setback;
- 21 Bigge Street, Lot B DP 345161 – Single fibro dwelling with tiled roof, fibro shed with tiled roof, iron shed, associated driveway and path and a single tree in the front setback and 1 in the rear;
- 23 Bigge Street, Lot C DP 345161 – Single brick dwelling with tiled roof, two brick sheds, iron shed, associated driveway and pathways, a single tree located in the front setback and 5 to the rear; and
- 25 Bigge Street, Lot D DP 345161 – Four brick villas with tiled roofs, associated hardstand and landscaping.

The site benefits from a street frontage of 75.59metres to Bigge Street at the east and provides a reasonably level parcel of land, with a fall of around 1.42 metres from north to south.

The site is currently adjoined by a six storey residential apartment development at its southern boundary, as well as a townhouse development, with street access from Tindall Avenue in the

south. The rear of the site is adjoined by several developments, which are accessed via George Street, to the west, and comprise a 6- 8 storey residential apartment building, as well as an undeveloped site featuring an older style 2 storey residential apartment building, as well as a single storey dwelling.

On the northern boundary, the site is adjoined by a 7-storey residential apartment building to the rear, with a further development approved for a 14-storey and a 9-storey residential apartment development on the corner of Bigge and Lachlan Street, comprising 13-15 Bigge Street and 4-6 Lachlan Street respectively.

Sydney Southwest Private Hospital and South Western Surgical Centre are directly opposite the site to the east.

## **2.2 The locality**

The site is located in the Liverpool City Centre and is zoned for mixed use, high density residential and commercial core purposes. Liverpool Town Centre is located immediately to the south of the site comprising a range of uses including office towers, schools, hospitals, shopping and retail malls and commercial premises.

The site is located within the Liverpool Town Centre, approximately 700 metres to the north of Liverpool Station, 260 metres to the south of the Hume Highway and 250 metres to the east of Liverpool Pioneer Memorial Park. The site is well catered for by a range of commercial, educational and recreational services.

The subject site is not located within the area of Draft LLEP 2008 Amendment 52.

The properties to the east comprise Sydney Southwest Private Hospital, Liverpool Girls High School and Liverpool Hospital. Further east on the eastern side of the railway line, comprises large scale industrial premises.

The properties generally located to the west comprises a mix of residential and commercial land, while development to the north is primary being redeveloped for high rise residential apartment development.

The locality demonstrates a combination of built forms, with buildings ranging from single storey dwellings to 16 storey apartment buildings built to the street alignment that comprises two and four lane roads. The built form is largely characterised by large scale modern commercial and residential developments.

The site provides high access to local services with Westfield located only 325 metres walking distance to the south east of the site. In addition, the site provides pedestrian access to Liverpool and Warwick Farm Stations and several bus stops located within 100 metres of the site.





(Figure 3: Locality Map)

## 2.3 Site affectations

The subject site adjoins a heritage Item at 13 Bigge Street – Item 75 on Schedule 5 of the LLEP 2008. This is discussed further in this report.

The subject site does not have any other affectations.

## 3. BACKGROUND

### 3.1 Issues Identified in Initial Assessment

Council sought further information and clarification regarding the following items on 4 July 2016

#### 1) Service vehicle non-compliance with the LDCP 2008

The original application was lodged with limited parking for service vehicles onsite within the basement levels. The applicant has amended the proposal to provide three spaces for service vehicles (small trucks) within the basement levels, which is now considered acceptable.

#### 2) Common Circulation

Originally, Tower B proposed 10 units of one circulation core for levels 1 and 2 of the building, which is inconsistent with the requirements of the ADG. The applicant amended the building

design to include an additional lift to service this portion of Tower B and comply with circulation core requirements. The inclusion of the additional lift core has resulted in a building that complies with the requirements of the ADG in respect to the maximum numbers of residential apartments off a single core being 8.

### **3) Unit Mix non-compliance with the LDCP 2008**

The original building did not comply with the required unit mix requirements. The LDCP 2008 stipulates that residential flat buildings provide a minimum of 10% of the units within the development as studio and/or one-bedroom units and 10% shall be three-bedroom units. The development has been amended by the applicant to comply with and exceed with this requirement within a compliant built form. In order to further address apartment variety in the city centre the additional FSR and Building height proposed on the 12<sup>th</sup> and 13<sup>th</sup> storey of Tower A has been amended to provide as three-bedroom apartments. Accordingly, the proposal is considered to adequately address Council units mix requirements and the objectives of this control. See Clause 4.6 Variation assessment below.

### **3.2 Design Excellence Panel**

The subject application was considered by the Design Excellence Panel (DEP) on 10 December 2015 (see Attachment No.4). The main outcomes from consideration by the DEP are summarised below:

*“The applicant demonstrated how a successful outcome could be achieved on the isolated site at 17 Bigge Street either as part of this proposed development if the application was able to purchase the site and as a standalone development if the site was not amalgamated.*

*The Panel recommended the following:*

- *The trees on the adjacent site should be protected and larger trees provided to the side boundaries than those shown on the landscape plan*
- *The driveway should be located under the building and the side of the driveway be landscaped.*

*This solution would result in:*

- *A better pedestrian entry to the building at the rear and the courtyard*
- *A better street address (because the proposed driveway is adjacent to a similar driveway that also has a lack of planting so there is a limited buffer between the sites)*
- *More landscape to the southern end of the courtyard*
- *In addition, there should be pockets of significant planting at a scale that reflects the scale of the buildings.*
- *That the applicant makes the case as to why the solar access cannot be met because of the L & E approval on 13-15 Bigge Street.*
- *The Panel noted that*
  - *The architects had undertaken significant work in relation to the adjoining isolated site and the over shadowing caused by the approved development on 13-15 Bigge St.*
  - *The courtyard has good dimensions.*
  - *The quality of the documents, precedents & aesthetics is commended*

*This application does not need to be reviewed by the Panel again.”*



**Comment:** The submitted proposal is considered to be consistent with the concept examined by the panel and is considered to have successfully incorporated their comments into the proposal. As stated by the DEP the application did not require any further referral to the DEP as part of the DA assessment process.

### 3.3 JRPP Briefing

A JRPP briefing meeting was held on 11 May 2016. The main outcomes of the briefing meeting with the JRPP are summarised below:

- 1) Amend FSR to comply with permitted FSR, as per LLEP 2008.

In response to the concerns raised by the JRPP the applicant has amended the mix of units within the buildings and amended Clause 4.6 Variation Statement in order to justify the additional FSR proposed within the development.

**Comment:** Council has reviewed the comments provided by the applicant in response to the concerns raised by the JRPP and considers the additional FSR to be acceptable due to the amendments to the proposal made by the applicant. See the Clause 4.6 Variation assessment below.

- 2) Amend Building Height to comply with permitted Building height, as per LLEP 2008.

In response to the concerns raised by the JRPP the applicant has amended the mix of units within the buildings and amended Clause 4.6 Variation Statement in order to justify the additional height proposed by the proposal.

**Comment:** Council has reviewed the comments provided by the applicant in response to the concerns raised by the JRPP and considers the additional building height to be acceptable due to the amendments to the proposal made by the applicant. See the Clause 4.6 Variation assessment below.

### 3.4 History

- 1) Initial Pre-DA meeting with Liverpool City Council, 8 July 2015.
- 2) Second Pre-DA meeting with Liverpool City Council, 11 November 2015.
- 3) Design Excellence Panel meeting, 10 December 2015. Building design and treatment was considered generally acceptable by DEP who stated no further DEP meetings for proposed development.
- 4) The development application was lodged on 1 March 2016.
- 5) The development application was notified from 24 March 2015 to 11 April 2015 in accordance with Liverpool Development Control Plan 2008 (LDCP 2008). During the exhibition period one submission was received in the form of a petition with thirty-three (33) signatures. .
- 6) The application was briefed to the JRPP on 11 May 2016.
- 7) Request for additional information was forwarded to the applicant on 4 July 2016 outlining concerns raised by planning, development engineering, the JRPP and in relation to objections received regarding the proposal.
- 8) The applicant submitted amended plans in response to the concerns raised on 31 August 2016. The amended information was assessed and the planning matters were considered to be resolved. The engineering matters were still considered unresolved at this stage.

- 9) Request for additional information was forwarded to the applicant on 9 September 2016 outlining the outstanding engineering matters.
- 10) The applicant provided amended information addressing the outstanding engineering matters on 13 September 2016. This information was reviewed by Council's Land Development Engineers who supported the application, subject to conditions, on 16 September 2016.
- 11) The DA is now recommended for approval, subject to conditions.

#### **4. DETAILS OF THE PROPOSAL**

The proposal involves consolidation of five existing lots, demolition of existing structures and construction of two residential flat buildings of 10-storeys and 13 storeys in height, comprising a total of two hundred and twenty one (221) dwellings. The development provides a unit mix of 33 x 1 bedroom apartments (15%), 152 x 2 bedroom apartments (68.7%) and 36 x 3 bedroom apartments (16.3%). The proposal also provides three levels of basement parking with two hundred and sixty five (265) car parking spaces and associated driveway, drainage and landscaping works.

##### **Building and Site work:**

- The proposal involves construction of two residential apartment buildings.
- Tower A consists of thirteen (13) levels, including ground level, and is configured at the front of the site along the eastern boundary facing Bigge Street.
- Tower B consists of ten (10) levels, including ground level, and is set back towards the rear, approximately 20 metres from the Bigge Street boundary.
- The proposal involves the construction of a driveway, with access from Bigge Street, located toward the southern boundary of the site. The driveway will provide two-way vehicular access to a ramp located toward the southern boundary and providing access to three (3) levels of basement car parking, capable of accommodating 265 vehicles.
- The first level of basement parking provides 86 car spaces.
- The second basement level provides 116 car spaces.
- The third basement floor 63 car spaces.
- The basements comprise bin rooms, apartment storage, motorcycle parking, wash bays, lift and stair access for both apartments, associated utility infrastructure and parking for 3 service vehicles.
- During pre-DA discussions with Council, dated 11 November 2015, it was advised to relocate the substation and garbage collection area to the basement. The basement design has been amended to ensure all garbage and waste collection occurs within the basement. Also, the substation has been relocated south of the driveway entrance. The amended design enhances the residential amenity of the development by relocating waste collection and utility services away from residential zones.
- The proposal also involves landscaping works including trees and plants in the internal pathways, central open space square along with associated landscaping works around all the site boundaries. This includes a number of concept generators including communal amenity in the form of BBQ and seating areas, bench seating, ornamental trees, raised planters with varying depth to allow for large canopy trees, alfresco areas with built in benches and 2.7 metre high pergola along the path to the lobbies.

### **Communal Open Space and Landscaping**

- The proposed development provides a large communal open space courtyard, located between Tower A and Tower B in the centre of the site. The landscape design is based on place making principles to create a space that connects people within the residential community. The features of the open space design include:
  - Outdoor alfresco area with BBQ's, fixed and flexible seating, outdoor table tennis, kids play area and numerous seating areas;
  - Planter boxes designed of different materials, steps and heights to create a park-like experience;
  - Planter boxes cantilever of pedestrian paths with opportunity for LED strip lighting to accentuate the floating of the planter boxes;
  - Pedestrian pathways with high quality stone pavements with feature segments;
  - Ample built in seating to provide nooks within the landscape;
  - Planting incorporates canopy trees, palms, native and exotic in an informal arrangement.

### **Stormwater Drainage**

- The development includes On-Site Detention and Stormwater drainage works.

### **Tower A and B Unit Type Arrangements:**

<b>Residential Tower A</b>			
<b>Level</b>	<b>1 Bedroom</b>	<b>2 Bedroom</b>	<b>3 Bedroom</b>
<b>Ground</b>	4	6	0
<b>Level 1</b>	5	9	0
<b>Level 2</b>	5	9	0
<b>Level 3</b>	2	9	0
<b>Level 4</b>	2	9	0
<b>Level 5</b>	2	9	0
<b>Level 6</b>	2	9	0
<b>Level 7</b>	2	9	0
<b>Level 8</b>	0	8	2
<b>Level 9</b>	0	8	2
<b>Level 10</b>	0	8	2
<b>Level 11</b>	0	0	7
<b>Level 12</b>	0	1	5
<b>Unit Total</b>	<b>24</b>	<b>94</b>	<b>18</b>
<b>Residential Total</b>	<b>136</b>		



Residential Tower B			
Level	1 Bedroom	2 Bedroom	3 Bedroom
Ground	0	5	4
Level 1	1	6	3
Level 2	1	6	3
Level 3	1	5	2
Level 4	1	6	1
Level 5	1	6	1
Level 6	1	6	1
Level 7	1	6	1
Level 8	1	6	1
Level 9	1	6	1
Unit Total	9	58	18
Residential Total			85



(Figure 4: East Elevation – from Bigge Street)

## 5. STATUTORY CONSIDERATIONS

### 5.1 Relevant matters for consideration



### 5.3 Permissibility

The proposed development would be defined as a 'Residential Flat Building', which is permissible within the R4 Zone with consent.

## 6. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 79C of the EP&A Act 1979 and the Environmental Planning and Assessment Regulation 2000 as follows:

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

#### State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development.

State Environmental Planning Policy No. 65 applies to the proposal, as the application involves residential flat buildings greater than 3-storeys in height and containing more than 4 units. Clause 30(2) of SEPP 65 requires residential flat development to be designed in accordance with the design quality principles contained in Part 2 of SEPP 65. Following is a table summarising the nine (9) design quality principles outlined in SEPP 65, and compliance with such.

DESIGN QUALITY PRINCIPLE REQUIRED	DOES THE PROPOSAL ADDRESS THE PRINCIPLE?	HOW DOES THE PROPOSAL ADDRESS THE PRINCIPLE?
<b>PRINCIPLE 1: CONTEXT AND NEIGHBOURHOOD CHARACTER</b> Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.  Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.	Yes.	It is considered that the proposal is appropriate for the context considering it is located within the high density residential part of the Liverpool City Centre. It is considered the subject development is consistent with the desired future character of the area.



Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.		
<p><b>PRINCIPLE 2: BUILT FORM AND SCALE</b></p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	Yes.	<p>Proposed development is considered to be of an appropriate bulk and scale despite proposed non-compliance with FSR and Building Height. The bulk and scale was considered extensively at the Pre-DA stage where the applicant met with Council officers and the Design Excellence Panel. The DEP were satisfied that the height and bulk of the development could be managed within Tower A of the development which would concentrate solar impacts to Bigge Street when combined with expansive communal open space area provided between the two towers and where Tower B complies with building height requirements. As the proposal has been designed in response to the DEP's comments in relation to managing the bulk and scale of the development, it is considered to be consistent with the intended desired future character and scale of development in the area.</p> <p>The proposed built form is considered to suitably respond to the site's attributes, provide reasonably high quality residential amenity and importantly, it is unlikely to adversely affect the development potential of any adjoining sites. The built form provides functional and meaningful Communal Open Space between the 2 towers that would receive good solar amenity and contribute to the overall amenity of the residents.</p>
<p><b>PRINCIPLE 3: DENSITY</b></p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed</p>	Yes.	<p>Although the development exceeds the maximum FSR, the development is considered to be of an appropriate and justifiable density given the local context and established built form of Liverpool City Centre. The development responds to the areas desired future character by providing more housing choice and variety to residents that wish to reside close to established transport networks, medical facilities, schools and community facilities, etc.</p>

infrastructure, public transport, access to jobs, community facilities and the environment.		Density and FSR is discussed further in the Clause 4.6 Variation assessment below.
<p><b>PRINCIPLE 4: SUSTAINABILITY</b></p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	Yes.	The proposed development is consistent with the BASIX requirements applicable and with the BASIX certificates provided. The proposed development has maximised solar access and natural ventilation, based on the design.
<p><b>PRINCIPLE 5: LANDSCAPE</b></p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy</p>	Yes	<p>The site currently comprises inappropriate and poorly located tree species. The proposal seeks to establish a positive image and contextual fit of landscape elements into the locality.</p> <p>The consolidated site provides an opportunity to rationalise an effective and diverse landscaping and open space area. The development provides relatively good circulation and movement linkages in and around the proposed internal communal area. By establishing transparent connectivity within the site, the design optimises useability and social opportunity.</p> <p>The landscape design adopts a number of concept generators including 'green spillage', 'glue between buildings', 'establish community amenity', 'interacting vs private retreat' and 'legibility'.</p>

and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.		
<p><b>PRINCIPLE 6: AMENITY</b>  Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	Yes.	<p>The proposed development is considered satisfactory in terms of amenity. The design of the development provides appropriate room sizes and room locations in order to maximise the developments ability to achieve necessary solar access and, natural ventilation.</p> <p>The development has also doubled the required landscaping and COS area onsite, in order to provide high quality future occupant amenity.</p>
<p><b>PRINCIPLE 8: SAFETY</b>  Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	Yes.	<p>The proposal has been designed to take into account the safety and security both externally and internally of the development. The design is considered to appropriately incorporate the CPTED principles namely surveillance, access/egress control, territorial reinforcement and space management.</p>
<p><b>PRINCIPLE 8: HOUSING DIVERSITY AND SOCIAL INTERACTION</b>  Good design achieves a mix of apartment sizes, providing</p>	Yes.	<p>Development has been amended extensively by the applicant to provide an appropriate apartment mix to cater for a range of market demands.</p>



<p>housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>		<p>The applicant has designed 3 bedroom units within the development to be modest in regards to floor area, to assist in easing the affordability of these unit types.</p>
<p><b>PRINCIPLE 9: AESTHETICS</b></p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>Yes.</p>	<p>The proposed development is considered to be aesthetically pleasing. The proposed development has incorporated an appropriate diversity of building elements, textures, materials and colours to enable a suitable design outcome. The proposed development has effectively responded to its surrounding context in terms of streetscape appearance and the desired future character of the area.</p>

Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential flat development to be designed in accordance with the Department of Planning's publication entitled the Apartment Design Guide (ADG). The following table outlines compliance with the ADG, where numerical requirements ('controls') are specified.

Development Standard	Required	Proposed	Compliance
Building Depth	Max 10m – 18m	<p><b><u>Tower A</u></b></p> <p>All levels provide 18m-20m building depths.</p> <p><b><u>Block B</u></b></p> <p>All levels provide 18m building depths, with units</p>	<p><b>Partial Compliance</b></p> <p>The slight increased building depths on all residential unit levels on Tower A assist in providing building articulation. Solar access and natural</p>

Development Standard	Required	Proposed	Compliance
		on the north-western most corner of the development provide 25m building depths.	<p>ventilation is still achievable with proposed building depths.</p> <p>Tower B building depths of 25m predominately isolated to the northern western portion of the tower to accommodate 'L' shaped building which is intended to increase solar access and cross ventilation to that tower.</p> <p>Notwithstanding the increased building depth, the proposal demonstrates satisfactory compliance with solar access and ventilation, and is considered acceptable with regard to building depth.</p>
Building Separation	<p>Up to four storeys/12m, required 12m</p> <p>Between five to eight storeys/up to 25m required 18m</p> <p>Nine storeys and above/over 25m</p>	<p>The proposal satisfies building separation requirements in all instances, except within the following units, located within Tower B:</p> <p>B104, B304, B404 – provides 9.7m building separation to northern existing RFB from habitable room windows to existing POS balconies.</p> <p>B104, B304,B404 – provides 3.1m setbacks from POS to western rear boundary</p>	<p>Units B104, B304, B404 have been amended and have no habitable room windows. Complies.</p> <p>Units B104, B304, B404 have been amended to include privacy screening, however, this component of the proposed building is separate by 42m to an existing RFB</p>

Development Standard	Required	Proposed	Compliance
		<p>B105 B305 B405 provide 8.7m separation between areas of POS from the proposal to an existing western RFB and areas of POS.</p> <p>B804, B805 provide 3m setbacks to western the western boundary, where the development should be setback 12.5m from the western boundary to share building separation requirements.</p>	<p>development. Complies.</p> <p>Units B105, B305, B405, have been amended to include privacy screening on POS areas to maintain privacy between dwellings. POS areas and windows to units are staggered to reduced amenity issues between buildings. Considered acceptable.</p> <p>Both adjoining western sites, where non-compliance with Building Separation should be shared between boundaries, are already developed for RFB's. Accordingly, there is no need to share separation distances between sites. In addition, these sites contain RFB's which are under 9 storeys in height and thus B804 and B805 are not necessary to provide separation at those heights. Complies</p>
Deep Soil Zones	7% of the site are is to be for Deep Soil zone.	20% of site area provided as deep soil zone.	Complies
Communal Open Space	<p>25% of site area is to be provided as COS.</p> <p>Site area is 5715.8m<sup>2</sup></p>	<p>The proposal provides a communal open space area greater than 25%.</p> <p>The development provides site coverage of 47%, most of unbuilt area</p>	Complies

Development Standard	Required	Proposed	Compliance
	25% of site area is 1429m <sup>2</sup>	<p>will be provided in the form of communal open space and landscaping, approximately 2,500m<sup>2</sup>.</p> <p>Communal open space is consolidated into a well-defined square within the development site, providing equal access and common circulation to both Tower A and B respectively.</p>	
Building Entry	<p>Provide physical and visual connection between building and street</p> <p>Provide safe entrance</p> <p>Provide equitable entrance</p>	<p>Provided</p> <p>Safe entrance provided</p> <p>Provided</p>	Complies
Parking	<p>Provide underground car parking</p> <p>Provide bicycle parking</p>	The proposal has incorporated parking in excess of the applicable parking requirements of the DCP. The proposal entails three basement parking levels with provisions for service vehicles and waste management.	Complies
Solar and Daylight Access	<p>70% of units to receive 2 hours of daylight between 9am – 3pm midwinter</p> <p>A maximum of 15% of units receive no direct sunlight between 9am – 3pm midwinter</p>	<p>The proposed development provides 72.4% solar compliance.</p> <p>For cautionary purposes, the Land and Environment Court approved development at 2 Lachlan Street has been considered, which has not been acted on over 10 years. With this constructed, the</p>	Complies

Development Standard	Required	Proposed	Compliance
		<p>development provides 68.8% solar compliance</p> <p>As discussed earlier, the Land and Environment Court Approved development at 2 Lachlan Street has resulted in significant constraints of the site, particularly in relation to achieving a solar compliant scheme.</p>	
Natural Ventilation	60% of units to be naturally cross ventilated	The proposed development has been amended to provide 60% of units with natural cross ventilation.	Complies
Ceiling Heights	<p>Habitable rooms – 2.7m</p> <p>Non-habitable rooms – 2.4m</p>	The development only proposes single storey apartment units, each with a minimum ceiling height of 2.7 metres for habitable rooms and 2.4 metres for non-habitable rooms.	Complies
Apartment Layout	<p>Min apartment size: 1 Bed- 50 m<sup>2</sup> 2 Bed – 70m<sup>2</sup> 3 bed – 95m<sup>2</sup></p> <p>Master bedroom have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup></p> <p>Living rooms or combined living/ dining rooms have a minimum width of 3.6m for studio and 1-bedrooms; and 4m for 2 and 3-bedroom apartments</p>	<p>All apartments comply</p> <p>All of the apartment sizes provide the minimum internal areas stated within the ADG.</p> <p>A majority of units comply. In some instances combined living and dining rooms provide minimum dimensions of 3.6m. The applicant has demonstrated that these units can still accommodate furniture and are functional spaces.</p>	<p>Complies</p> <p>Complies</p> <p>Considered acceptable</p> <p>Considered acceptable</p>



Development Standard	Required	Proposed	Compliance
	<p>Width of cross-over or cross-through apartments over 4m, should be min. 15m deep</p> <p>Back of kitchen should be no more than 8m from a window</p>	<p>Cross through units are 3.8m but exceed 15m depth. Sufficient room size to allow solar access and natural ventilation.</p> <p>All apartments comply.</p>	Complies
POS and Balconies	<p>All apartments are required to have primary balconies as follows:</p> <p>Studio - 4m<sup>2</sup></p> <p>1 Bedder - 8m<sup>2</sup>, depth 2m</p> <p>2 Bedder - 10m<sup>2</sup>, depth 2m</p> <p>3+ Bedder - 12m<sup>2</sup>, depth 2.4m</p> <p>For apartments at ground level, POS is provided with minimum area of 15m<sup>2</sup> and 3 depth.</p>	<p>The proposed development satisfies private open space requirements for all units.</p> <p>Plans have been amended to ensure all are now POS compliant including the following units:</p> <p>A114 = 10m<sup>2</sup>  B102 = 10.4m<sup>2</sup>  B103 = 10m<sup>2</sup>  B105 = 10m<sup>2</sup>  A311 = 10m<sup>2</sup>  A302 = 43.1m<sup>2</sup>  A303 = 13.2m<sup>2</sup>  A305 = 38.7m<sup>2</sup>  A411 = 11.5m<sup>2</sup>  B402 = 10m<sup>2</sup>  B403 = 10m<sup>2</sup>  B404 = 17.6m<sup>2</sup>  A1011 = 10m<sup>2</sup></p> <p>Apartments at ground floor have provided open space with a minimum area of 17.1m<sup>2</sup> and minimum depth of 3m.</p> <p>All primary balconies and terraces are located adjacent to living spaces.</p>	<p>Complies.</p> <p>Complies</p>
Common Circulation and Spaces	Units accessed from a single corridor is 8	The applicant has made significant changes to the design of Tower B and the basement car parking	Complies

Development Standard	Required	Proposed	Compliance
		levels to provide an additional lift to meet the circulation requirements of the ADG. There is now no more than 8 units off a single service core up to the tenth storey of each building.	
Storage	In addition to storage in kitchens etc. the following storage area is required:  Studio - 4m <sup>3</sup> 1 Bedder - 6m <sup>3</sup> 2 Bedder - 8m <sup>3</sup> 3 Bedder - 10m <sup>3</sup>  At least 50% of the required storage is to be located within the apartment	All units comply	Complies
Apartment Mix	Apartment mix refers to the percentage of apartments with different numbers of bedrooms in a development. The number of bedrooms is directly related to floor area which in turn determines the yield that can be generated on the site	The development provides the following apartment breakdown: <ul style="list-style-type: none"> <li>• 15% 1 bedrooms</li> <li>• 68.7% 2 bedrooms</li> <li>• 16.3% 3 bedrooms</li> </ul>	Complies
Universal Design	Universal design is an international design philosophy that enables people to continue living in the same home by ensuring that apartments are	Over 20% of units comply with universal design requirements. These are a combination of adaptable apartments and Silver Level LGA (Liveable Housing Australia) compliant apartments.	Complies

Development Standard	Required	Proposed	Compliance
	able to change with the needs of the occupants. Universally designed apartments are safer and easier to enter, move around and live in. They benefit all members of the community, from young families to older people, their visitors, as well as those with permanent or temporary disabilities.		

As per the ADG compliance table provided above, the application complies with a majority of the requirements and is considered acceptable in regards to the ADG and SEPP 65.

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

The objectives of SEPP 55 are:

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

Pursuant to clause 7 the above SEPP, Council must consider:

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

The applicant has undertaken a Stage 1 desktop Environmental Site Assessment for the proposed development. This report concluded that based on the scope of works undertaken the site poses a moderate contamination risk and that the site can be made suitable for the residential development provided the following additional work is undertaken:

- 1) Undertake a Stage 2 ESA to meet the sampling density outlined in the NSW EPA Contaminated Sites Sampling Design Guidelines (1995).
- 2) Undertake a waste classification assessment for the off-site disposal of material excavated for the proposed development.

Based on the above Council's Environmental Health section have recommended that a Stage 2 Detailed Site Investigation be undertaken as a deferred commencement condition. This investigation shall give regard to the potential effects of any contaminants on public health, the

environment and building structures and shall meet the sampling density outlined in the NSW EPA Contaminated Sites Sampling Design Guidelines (1995).

If the Stage 2-Detailed Site Investigation indicates that the site poses unacceptable risks to human health or the environment, a Remedial Action Plan (RAP) shall be prepared by a suitably qualified and experienced Contaminated Land Consultant in accordance with guidelines made or approved by the NSW EPA under the Contaminated Land Management Act 1997. In these circumstances, the Remedial Action Plan shall be referred to Liverpool City Council for review.

Considering that the site history has indicated that it has been utilised solely for residential purposes there is no evidence that the site contained potentially contaminating activities pursuant to table 1 of the contaminated land planning guidelines. On this basis, the recommendation of a deferred commencement to ensure compliance is achieved by the Stage 1 report is considered acceptable.

#### **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.**

A BASIX certificate and report has been submitted with the development application.

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

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

When a consent authority determines a development application planning principles are to be applied (Clause 7(b)). Accordingly, a table summarising the matters for consideration in determining development application (Clause 8 and Clause 9), and compliance with such is provided below.

<b>Clause 8 General Principles</b>	<b>Comment</b>
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	The proposal provides soil and erosion control measures and a Stormwater Concept Plan. The plans provided have been reviewed by Council's development engineer and considered satisfactory
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The proposal has provided suitable storm water concept plans that have been reviewed and considered satisfactory.
d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.

available from the respective offices of those Departments),	
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning),	The proposal includes a Stormwater Concept plan. There is no evidence that with imposition of mitigation measures, the proposed development would affect the diversity of the catchment.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice,	No State Government Agencies were required to be notified as part of the proposal.
(g) whether there are any feasible alternatives to the development or other proposal concerned.	The site is located in an area nominated for residential/commercial development.

Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The land is not identified as containing Acid Sulfate Soils.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The subject site is not identified as being flood prone.
(4) Industrial discharges	Not applicable in this instance.
(5) Land degradation	An erosion and sediment control plan aims to manage salinity and minimise erosion and sediment loss.
(6) On-site sewage management	Not applicable.
(7) River-related uses	The proposal does not prevent access to the foreshore area by the public.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	A Stormwater Concept Plan proposes connection to existing services.
(10) Urban development areas	The site is not identified as being located within the South West Growth Centre within the Metropolitan Strategy.  The site is not identified as being an Urban Release Area under LLEP 2008.
(11) Vegetated buffer areas	The site is not located within a Vegetated buffer area
(12) Water quality and river flows	A drainage plan proposes stormwater connection to existing services.
(13) Wetlands	Not applicable.

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



## Liverpool Local Environmental Plan 2008

As stated previously the subject site is zoned R4 – High Density Residential under Liverpool LLEP 2008. The proposed development is defined as a *Residential Flat Building* and is a permitted form of development in the zone, subject to Council consent.

### Zone Objectives

The objectives of the R4 – High Density Residential zone are identified as follows:

- *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 provide 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 proposed development is considered to be consistent with the objectives of the R4 zone, despite variations proposed to FSR and Building height. This is discussed further in the report below.

### Principal Development Standards

The following principal development standards are applicable to the proposal:

Development Provision	Requirement	Proposed	Comment
4.3 Height of Building	The maximum building height permitted on the subject land is 35 metres and is marked "V" on the building heights map	Building A = 41.7m at its highest point  Building B = 34.98m at highest point	<b>NO</b> (Refer to clause 4.6 variation below)  Yes
4.4 Floor Space Ratio	The permitted FSR for the site is 3:1 or GFA of 17,147.4m <sup>2</sup>	FSR proposed is 3.24:1 or GFA of 18,492.8m <sup>2</sup>  This is a variation of 7.8%	<b>NO</b> (Refer to clause 4.6 variation below)
5.10 Heritage Conservation	See assessment below	See assessment below	Yes
7.1 Objectives for development in Liverpool City Centre	No comment.	No comment.	Proposed development does not contravene the objectives of clause 7.1
7.2 Sun access in Liverpool City Centre	N/A	N/A	Subject site does not apply to this clause

7.3 Car parking in Liverpool City Centre	N/A	N/A	Subject site does not apply to this clause
7.4 Building Separation in Liverpool City Centre	<p>-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</p> <p>-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</p> <p>-18 metres for parts of buildings above 35 metres on land in Zone R4 High Density Residential and</p>	Sufficient building separation is provide onsite and between buildings on adjoining sites	Yes
7.5 Design excellence in Liverpool City Centre	Must comply with objectives of 7.5(3)	Proposed development is considered to achieve design excellence as per Design Excellence Panels comments. See Attachment No.4	Complies
7.14 Minimum building street frontage	<p>Development consent must not be granted to development, unless the site on which the buildings is to be erected has at least one street frontage to a public street (excluding service lanes) of at least 24 metres:</p> <p>-any building on land in Zone B3</p>	Site provides 75m frontage to Bigge Street.	Complies

	<p>Commercial Core or B4 Mixed Use, or</p> <p>-any building of more than 2 storeys on land in Zone R4 High Density Residential, B1 Neighbourhood Centre or B2 Local Centre, or</p> <p>-any residential flat building.</p>		
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### **Discussion on variation under Clause 4.6 of LLEP 2008 development standards**

As identified in the compliance table above, does not comply with the provisions of the LLEP 2008 with respect to height of buildings and FSR. These are discussed as follows:

#### **Variation to Clause 4.3 Height of Buildings**

Clause 4.3 of the LLEP 2008 stipulates that the maximum height permissible for the subject site is 35m. The proposed development has been lodged with a maximum height of 34.98m for Tower B and a maximum height of 41.7m for Tower A, representing a variation of 19.2% in this tower. Consequently the applicant has provided a clause 4.6 variation to justify the non-compliance. The clause 4.6 variation is attached to this report, see Attachment No.3.

The submitted written request to vary Clause 4.3 (Height of buildings) has been assessed against the provisions of Clause 4.6; the objectives of the Clause being varied; and the objectives of the R4 zone, are discussed below:

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

- (b) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (c) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) the consent authority is satisfied that:*

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- 1) Written request addressing why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the contravening of the development standard

The applicant has provided the following comments addressing why compliance with the development standard is unreasonable or unnecessary in this case, as summarised:

*The variation is considered reasonable on the basis that:*

- *The overall development contributes 16.2% of the unit mix as 3 bedrooms apartments and 15% 1 bedroom apartments. This is to satisfy a shortfall in the local market where there is limited ability to obtain apartment buildings that are not 2 bedroom;*
- *The non-compliant height (levels 11 and 12) will provide 12 out of the 36 proposed 3 bedroom apartments proposed within the development;*
- *The non-compliant height and FSR contained in levels 11 and 12 have been added to address the lack of three-bedroom apartments in the city centre and to increase housing choice for the community and cater for larger family units;*
- *The 10% 3 bedroom and 10% 1 bedroom unit requirements of the DCP will be achieved within a compliant building form. The proposal was amended significantly by the applicant to comply with these percentages to help support the proposed variations to building height and FSR;*
- *Level 12 has been amended to recess into the building and minimise any perceived bulk and scale impacts;*
- *The proposed massing and built form outcome has been workshopped extensively with Council over three Pre-DA meetings, as well as post-lodgement discussions where additional heights in the style proposed were supported in principle;*
- *The proposal offers superior open space in the form of a communal square, which provides a range of quality outdoor experiences including alfresco area, BBQs, fixed and flexible seating, outdoor table tennis, kids play area and numerous seating areas; The COS area is approximately 50% of the site area and provides a sufficient balance between built form and open space to support 2 additional levels on the building that are intended to help increase housing choice in the city centre;*
- *Despite the additional height, the proposal will be of an appropriate bulk, scale and will not result in adverse visual impacts and will not detract from the continuity of the streetscape;*
- *The proposal delivers a high quality and well defined urban form despite the 6.7m height exceedance;*
- *The site has excellent access to Liverpool City Centre and public transport options and thus is able to support any additional density resulting from two additional levels, as per the building height non-compliance;*
- *It is not considered that the additional height will impact on the areas surrounding and heritage context beyond a compliant development at the site; and*
- *It will not result in any adverse amenity issues to surrounding properties or the locality as building massing has been concentrated to the street frontage as advised by Liverpool Council and the Design Excellence Panel at both pre-DA meetings for the proposal.*

Importantly, 3 bedroom units are a desired product and the subject variation offers that which is currently limited in city centre. The unit mix comprises 16.2% dedicated to 3 bedroom units

*and 15% 1 bedroom units, which is substantially larger than the 10% requirement prescribed under the DCP.*

*The 12 x 3 bedroom units located within the non-compliant building height will contribute greatly towards housing diversity in the city centre and provide a type of housing for larger families and also penthouse living opportunities.*

In response to the applicant's submission, Council accepts that strict compliance with the applicable height control is unreasonable and unnecessary having regard to the following:

- The original submitted proposal included the proposed 19.2% increase to the permitted building height with an 11% variation to the maximum permitted FSR on the basis that high quality building and site design would justify any contravention to these development standards. Subsequent to the JRPP briefing on 11 May 2016, the applicant was requested to remove the additional building height and FSR.
- As an alternative and in order to address the objectives of the development standard, Clause 4.6 of the LEP 2008 and the R4 zone the applicant proposed to respond to a shortfall in apartment mix and choices currently experienced in Liverpool City Centre. A majority of RFB developments within the city centre over the last 5-10 years have been approved with more than 80% of units provided as two-bedroom dwelling types, which significantly constrains housing options for larger and individual family units seeking housing in the centre in close proximity to its services.
- Accordingly the applicant amended their proposal to maintain the two additional levels on Tower A but amend the floor plates of the additional levels with the intention to provide three-bedroom units. This decreased the FSR variation from 11% to 7.8% allowing level 12 to be recessed behind the building lines at the street frontage. To further ensure that an appropriate mix of units is provided within the locality, the applicant amended the design of both buildings within the permitted FSR and Building heights to meet LDCP 2008 requirement for RFB's to provide 10% one-bedroom apartments and 10% three-bedroom apartments within the proposal. Accordingly, the development now complies with mix of unit requirement as per LDCP 2008 and provides only additional three-bedroom dwellings above the permitted building height in order to address a shortfall of three-bedroom apartments in the locality. It should be noted that within the compliant building scheme the applicant amended the proposal to exceed the required amount of 1 bedroom units and now proposes 15% of apartments as one bedroom dwellings.
- It should be noted that the design of three-bedroom apartments on the additional levels 11 and 12 have been done consciously with regards to keeping them under 100m<sup>2</sup> so that they are likely to remain affordable.
- The proposed non-compliant building height was reviewed separately during prior to the DA process the DEP. The panel found that the proposed development exhibits design excellence when assessed against the design principles of SEPP 65 such as context, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.
- The DEP were in support of the additional height at the street frontage despite the non-compliance.
- Given the large site area, it is considered that the proposed development is of an appropriate bulk and scale.



- The proposal has presented a suitable design outcome and has taken into account the desired future character of the area while seeking to respond to shortfalls in apartment choices in the city centre.

## 2) Consistency with objectives of the development standard Clause 4.3 Height of Buildings

The objectives of Clause 4.3 and assessment are as follows:

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved*
- (b) to permit building heights that encourage high quality urban form,*
- (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,*
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.*

The proposed development is considered to be consistent with the objectives of Clause 4.3 of LLEP 2008, in that notwithstanding the height exceedance, it will provide floor area that will increase apartment diversity in the City Centre. The proposal allows for a development that encourages high quality urban form with the inclusion of extensive communal open space and landscaped areas at ground level. The design of the buildings including their predominant design and concentration of built form to the street frontage enables adjoining development sites to receive satisfactory exposure to sunlight. The proposal takes into account the envisaged and intended future character of the area particularly with respect to the subject site and its location in the city centre. Therefore having regard to above, it is considered that the proposed development is consistent with the objectives of Clause 4.3 of LLEP 2008.

## 3) Consistency with objectives of the zone – R4 High Density Residential

The objectives of the R4 zone are as follows;

- *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 provide 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 proposed variation and development is considered to maintain consistency with the majority of the R4 zone objectives. The applicant has taken considerable measures to acquire number 17 Bigge Street at the pre-DA stage to minimise the fragmentation of land in the city centre. The applicant has amended the proposal to comply with Council's apartment mix requirements within the compliant built form and proposes two additional levels of three-bedroom apartment types in order to provide for the housing needs of the community and provide a variety of housing types within a high density environment. Accordingly, the proposed development including the additional building height would provide a high concentration of housing with good access to transport, services and facilities.

#### 4) Consistency with Clause 4.6 objectives

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

It is considered appropriate in this instance to apply a degree of flexibility when applying the maximum height development standard applicable to the subject site given the developments potential to increase housing variety in a location of high accessibility to transport, services and facilities. As the stated by the applicant:

*The proposal in its current form enables the development to be commercially viable and will build upon the residential and apartment growth in Liverpool City Centre. The proposal seeks to provide excellent amenity outcomes in respect of larger private open space areas than prescribed under SEPP 65, large communal open space with varying depths for deep soil zones, opportunities for recreation and seating areas, provision of waste disposal in the basement parking and generous lobby and meeting areas. The provision of such amenity has an economic cost and will be supported partially by the ability to provide additional building height to cater for additional 3 bedroom units and to enhance housing diversity of the city centre.*

It is considered that achieving a greater height in this instance will allow for the creation of a high quality development within the locality and in turn represent a design outcome that is suitable for the city centre.

#### 5) Recommendation

With considerations to the discussion above, the proposed variation to the Clause 4.3 “*height of buildings*” has satisfied the provisions of Clause 4.6 and is supported in this circumstance.

#### **Variation to Clause 4.4 Floor Space Ratio**

Clause 4.4 of the LLEP 2008 stipulates that the maximum FSR permissible for the subject site is 3:1. The proposed development has been lodged with a maximum FSR of 3.24:1, representing a variation of 7.8% or 1345.4m<sup>2</sup> of additional GFA. Consequently the applicant has provided a clause 4.6 variation to justify the non-compliance. The clause 4.6 variation is attached to this report. See Attachment No.3.

The submitted written request to vary Clause 4.4 (Floor space ratio) has been assessed against the provisions of Clause 4.6; the objectives of the Clause being varied; and the objectives of the R4 zone, are discussed below:

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

- (d) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (e) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from*

*the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (c) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (d) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
- (b) the consent authority is satisfied that:*
    - (iii) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (iv) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- 1) Written request addressing why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the contravening of the development standard

In response to the applicant's submission, Council accepts that strict compliance with the applicable FSR control is unreasonable and unnecessary having regard to the following justification provided by the applicant:

- *All of the additional FSR proposed within the development is contained in levels 11 and 12 of Tower A. The development has been designed so that FSR complies within the first 10 levels of the development.*
- *Within the compliant height scheme (ground floor to level 10), the proposed development provides a FSR of 3.0:1;*
- *The additional FSR has been proposed as three-bedroom apartments and contributes to a substantial supply of additional 3 bedroom units within the development.*
- *Access to 3 bedroom apartments for larger family types within the city centre is currently limited and the additional FSR would improve housing choice in the city centre;*
- *The 12 additional 3 bedroom units on levels 11 and 12 of Tower A have been designed to not be overly spacious in an attempt to ensure their affordability.*
- *In order to satisfy DCP requirements and further support non-compliance with FSR and building height the proposed development has been amended significantly to comply with 'housing choice mix' of the Liverpool City Centre DCP within the compliant development (up to 10 storeys). The housing choice control requires RFB's to provide at least 10% of apartments as 1 bedroom and 10% of apartments as 3 bedroom units. Accordingly, the additional 3 bedroom units enhances housing choice in Liverpool City Centre and offers a 3 bedroom mix beyond what is required under the LDGP 2008;*
- *The proposed massing and built form of the proposal has been workshopped extensively with Council over three pre lodgement meetings, where additional heights and FSR in the style proposed were supported in principle;*
- *The proposal offers superior open space in the form of a communal square, which provides a range of quality outdoor experiences including alfresco area, BBQs, fixed and flexible seating, outdoor table tennis, kids play area and numerous seating areas; The COS area is approximately 50% of the site area and provides a sufficient balance between built form and open space enough to support 2 additional levels of floor space within the building that are intended to help increase housing choice in the city centre;*
- *The site has excellent access to Liverpool City Centre, service, facilities and public transport options and thus is able to support any additional density resulting from two additional levels;*

- *Despite the additional FSR, the proposal will be of an appropriate bulk, scale and will not result in adverse visual impacts and will not detract from the continuity of the streetscape;*
- *The proposal delivers a high quality and well defined urban form despite the additional FSR;*
- *It is not considered that the additional floor space will impact on the areas surrounding heritage context beyond a compliant development at the site; and*
- *It will not result in any adverse amenity issues to surrounding properties or the locality as building massing containing the added floor space has been concentrated to the street frontage as advised by Liverpool Council and the Design Excellence Panel at both pre-DA meetings for the proposal.*

*The additional floor space created is a product of carefully considered site analysis and acknowledgement of the site's ability to provide appropriate housing development in the area. The proposed floor space seeks to capitalise on the sites unique proximity to a range of established services and is able to accommodate increased housing variety around those services by allowing greater density onsite.*

*In our view, the proposed floor space to create additional units is considered entirely appropriate given the close proximity to a range of health, education and transport infrastructure and the generation of pedestrian and vehicular traffic arising from an intense use of the site. Numeric compliance in this instance does not support any additional benefits to the locality.*

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

- The original submitted proposal included the proposed 19.2% increase to the permitted building height with an 11% variation to the maximum permitted FSR on the basis that high quality building and site design would justify any contravention to these development standards. Post the JRPP briefing, dated 11 May 2016, the applicant was requested to remove the additional building height an FSR.
- As an alternative and in order to address the objectives of Clause 4.6 of the LLEP 2008 the applicant proposed to respond to the shortfall in apartment mix and choices currently experienced in Liverpool City Centre. A majority of RFB developments within the city centre over the last 5-10 years have been approved with more than 80% of units provided as two-bedroom dwelling types, which significantly constrains housing options for larger family units seeking housing in the centre in close proximity to its services and individual persons or small family units seeking one-bedroom housing options.
- Accordingly the applicant amended their proposal to maintain two additional levels on Tower A but amend their floor plates with the intention to provide extra three-bedroom units. This decreased the proposed FSR variation from 11% down to 7.8%, equivalent to a reduction of 541.4m<sup>2</sup> or a loss of 12 apartments from what was originally proposed. To further ensure that an appropriate mix of units is provided within the locality, the applicant amended the design of both buildings within the permitted FSR and Building heights to meet LDCP 2008 requirement for RFB's; to provide 10% one-bedroom apartments and 10% three-bedroom apartments within the proposal. Accordingly, the development now complies with mix of unit requirement as per LDCP 2008 and provides only additional three-bedroom dwellings above the permitted building height

and FSR in order to address a shortfall of three-bedroom apartments in the locality. The development also provides 15% of units within the compliant portion of the proposed as one bedroom apartments, in exceedance of the minimum requirement.

- Furthermore, the additional three-bedroom apartments have been designed with regards to keeping them as close to 100m<sup>2</sup> as possible so that they are likely to remain affordable, as opposed to the traditional penthouse style three-bedroom apartments.
- The proposed non-compliant FSR was reviewed separately prior to the DA process by DEP. The panel found that the proposed development exhibits design excellence when assessed against the design principles of SEPP 65 such as context, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics. Accordingly, the design of the building in consideration of the additional FSR is considered acceptable.
- The DEP were in support of the additional FSR and bulk at the street frontage despite the non-compliance.
- Given the large site area, it is considered that the proposed development is of an appropriate bulk and scale.
- The proposal has presented a suitable design outcome and has taken into account the desired future character of the area while seeking to respond to shortfalls in apartment choices in the city centre.

## 2) Consistency with objectives of the development standard Clause 4.4 Floor space ratio

The objectives of Clause 4.3 and assessment are as follows:

- (a) to establish standards for the maximum development density and intensity of land use, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic,*
- (b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different locations,*
- (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- (d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- (e) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (f) to facilitate design excellence in the Liverpool city centre by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.*

The proposed variation maintain consistency with a majority of the objectives of Clause 4.4 of LLEP 2008. The proposal maintains a suitable density and bulk in respect to the site area which achieves the desired future character of the Bigge Street. The proposal is consistent with maximum intensity of a residential land use of this nature while maximising use of infrastructure in the city centre. The building displays design excellence and has support of Council's DEP. The proposal has been designed to concentrate all additional FSR to Tower A, in order to mitigate any solar and related amenity impacts to the adjoining southern uses. Therefore having regard to above it is considered the proposed development is consistent with the objectives of Clause 4.4 of LLEP 2008.



### 3) Consistency with objectives of the zone – R4 High Density Residential

The objectives of the R4 zone are as follows;

- *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 provide 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 proposed development is considered to maintain consistency with the majority of the R4 zone objectives. The applicant has taken considerable measures to acquire number 17 Bigge Street at the pre-DA stage to minimise the fragmentation of land in the city centre. The applicant has amended the proposal to comply with Council's apartment mix requirements within the compliant built form and proposes two additional levels of three-bedroom apartment types in order to provide for the housing needs of the community and provide a variety of housing types within a high density environment. Accordingly, the proposed development including the additional building height would provide a high concentration of housing with good access to transport, services and facilities.

### 4) Consistency with Clause 4.6 objectives

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

It is considered appropriate in this instance to apply a degree of flexibility when applying the maximum height development standard applicable to the subject site given the developments potential to increase housing variety in a location of high accessibility to transport, services and facilities. As the stated by the applicant:

*The proposal in its current form enables the development to be commercially viable and will build upon the residential and apartment growth in Liverpool City Centre. The proposal seeks to provide excellent amenity outcomes in respect of larger private open space areas than prescribed under SEPP 65, large communal open space with varying depths for deep soil zones, opportunities for recreation and seating areas, provision of waste disposal in the basement parking and generous lobby and meeting areas. The provision of such amenity has an economic cost and will be supported partially by the ability to provide additional building height to cater for additional 3 bedroom units and to enhance housing diversity of the city centre.*

It is considered that achieving a greater height in this instance will allow for the creation of a high quality development within the locality and in turn represent a design outcome that is suitable for the city centre.

### 5) Recommendation

With considerations to the discussion above, the proposed variation to the Clause 4.3 "*height of buildings*" has satisfied the provisions of Clause 4.6 of LLEP 2008 and is supported in this circumstance.

### **Clause 5.10 Heritage Conservation**

The objectives of clause 5.10 are as follows;

- (a) to conserve the environmental heritage of Liverpool,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

Other pertinent sub clauses under clause 5.10 that apply to this site are as follows;

#### **(4) *Effect of proposed development on heritage significance***

*The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).*

#### **(5) *Heritage assessment***

*The consent authority may, before granting consent to any development:*

- (a) on land on which a heritage item is located, or*
- (b) on land that is within a heritage conservation area, or*
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

### **Heritage Items**

**Comment:** The subject site is within the proximity of 2 identified heritage items under schedule 5 of the Liverpool Local Environmental Plan 2008. The items in the vicinity of the development are identified as follows;

**Item No.75** – Dwelling – 13 Bigge Street, Liverpool

**Item No.89** – Plan of Town of Liverpool (early town centre street layout – Hoddle 1827).



(Figure 6: Heritage Items in the locality)

It is considered that the proposal would not generate any adverse impacts on the heritage significance of either the dwelling house or the historic street layout due to their physical separation from the development site, the existing and desired streetscape context and the design of the proposed building.

As part of the proposal the applicant submitted a Statement of Heritage Impact, dated November 2015 (see Attachment No.9). The statement was prepared to determine the potential heritage impact of the proposed buildings on the above-mentioned items. The conclusion of the heritage impact statement provides that, although the proposed development will change the streetscape setting it would not diminish the heritage significance of the nearby heritage items along Bigge Street; therefore the development is acceptable from a heritage perspective. It is outlined in the statement that:

*“The proposed development is found to have limited impact upon the heritage significance of the listed building at 13 Bigge Street by virtue of separation distance and the approval of a multi storey residential apartment building to be located between the site of 13 Bigge Street and the site of the subject development.*

*Articulation, external finishes and building alignment of the new development at 17-25 Bigge Street will complement and enhance the overall townscape of Liverpool and reinforce the colonial grid town plan.*

*Whilst separation and screening by other approved developments will substantially mitigate impact of the proposed works on the site at 13 Bigge Street and on the more distant former Liverpool Hospital, St Luke’s Church and Liverpool Pioneers Park sites, it is considered that interpretive devices located either at the site of 13 Bigge Street or along a greater length of the street would serve to enable understanding of the historic character of this now substantially altered setting.*

*Based upon the above assessment the proposed development is found to have minimal and acceptable impact upon the heritage significance of the nearby site of 13 Bigge Street and of other listed sites within the greater context of Liverpool town centre.”*

The subject proposal was also reviewed by Council’s Heritage Officer. Council’s Heritage Officer generally agreed with the findings of the submitted Statement of Heritage Impact, dated November 2015.

In regards to the building design and scale Council’s Heritage officer stated:

*“The Heritage Impact Statement confirms with the standards established by the NSW Heritage Office for such reports and provides good coverage of the history and development of the area surrounding the subject site. The report notes the local significance of the property at 13 Bigge Street and the dilution of this significance due to a fire and lack of maintenance.*

*In relation to the impact, it is acknowledged that the project makes three gestures to acknowledge the context:*

- The lower three floors provide a podium*
- The orientation is parallel to the street and*
- The vertical glazing divides the bulk into two distinct elements*

Accordingly, the proposal is not considered to encroach on the physical curtilage of the items along Bigge Street and the subject development would not detrimentally impact the heritage significance of items in the area beyond the impacts of the current character of this part of Liverpool City Centre.

It is important to note that Item No.75, the dwelling house heritage item at 13 Bigge Street, Liverpool has been recently approved (DA No. 498/2004/A) for redevelopment as a RFB. While the approved RFB will retain the heritage item it will provide a 14 to 8 storey building that wraps around the heritage item on its western and southern elevations, which would affectively screen the item completely from the proposal. In this regard, the proposed development is not considered likely to detrimentally impact upon the heritage significance of that item beyond the approved development upon that item and it would also be completely screening from that item.

Notwithstanding this, Council’s Heritage Officer requested that the external colours and finishes of the building be amended to incorporate materials that reflect the historic material selection of the heritage items in the locality and increase the developments sympathy to the heritage significance of the area. This includes:

*“...minor modifications are required to ensure that the impact is acceptable.*

*The modifications take the form of mitigation measures to the materials and colours on the Bigge Street building – North, South and East (Bigge Street) elevations.*

*1. The top two floors of the building facing Bigge Street to be provided with a distinct mid Grey uniform colour scheme in order that they produce a clearly defined roof element and model the overall bulk and scale of the design, consistent with the typology of the development in the streetscape;*

*2. The external cladding of levels One and Two on the Bigge Street and related side elevations are modified to indicate a brick masonry clad structure to interpret the traditional character of*

*the heritage building and to complement the traditional scale and character of the setting and streetscape;*

*3. The colour and or external cladding of Level Three is modified to provide a dark grey colour in order that it read as visually recessive and a dividing element between the podium and tower, improving the modelling of the form and producing a direct interpretation of the scale of the streetscape;*

*4. An interpretation strategy is developed in conjunction with the Liverpool Historical Society (LHS) to provide material which illustrates the local historical significance of the streetscape and its history as indicated in the Heritage Impact Statement and that at least three interpretive panels are provided on the Bigge Street frontage in locations which are accessible and readable from the public space.*

These matter will form conditions of consent.

In regards to the above, the proposed development is considered to comply with clauses 5.10(4)(5), in that the proposed development is unlikely to generate a detrimental impact on the significance of the heritage items. As the proposal generally represents a positive response to the surrounding heritage items, with the recommended inclusion of historic material finishes on the building elevations, it is considered the proposal is worthy of support in this instance.

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

The following draft Environmental Planning Instruments applies to the site,

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

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

The following compliance table outlines compliance with these controls.

<b>Controls</b>	<b>Comment</b>	<b>Complies</b>
<b>PART 1 - GENERAL CONTROLS FOR ALL DEVELOPMENT</b>		
2. TREE PRESERVATION	Removal of trees to be replaced as per landscape plan.	Yes
3. LANDSCAPING	50% of the site is provided as landscaped area and 20% of the site is provided as deep soil planting area.	Yes
4. BUSHLAND AND FAUNA HABITAT PRESERVATION	N/A	N/A
7. DEVELOPMENT NEAR A WATERCOURSE	Subject site is not near a watercourse or river.	N/A
8. EROSION AND SEDIMENT CONTROL	Will be addressed through conditions of consent.	Yes
9. FLOODING RISK	Subject site not flood affected	Yes

10. CONTAMINATION LAND RISK	Site not recognised as being contaminated.	N/A
11. SALINITY RISK	Proposal will not have detrimental impacts on salinity	Yes
12. ACID SULFATE SOILS	Site is not affected by Acid Sulfate Soils.	N/A
13. WEEDS	No identifiable noxious weeds on site.	N/A
14. DEMOLITION OF EXISTING DEVELOPMENT	Existing multi-unit dwelling and detached dwelling houses to be demolished at the site.	Yes
15. ON-SITE SEWERAGE DISPOSAL	Existing connection. Condition of consent will be placed ensuring sewerage is upgraded to handle proposal.	Yes
16. ABORIGINAL ARCHAEOLOGICAL SITES	No items identified	N/A
17. HERITAGE AND ARCHAEOLOGICAL SITES	No heritage sites	N/A
18. NOTIFICATION OF APPLICATIONS	Application was notified in accordance with DCP. One submission received containing 33 signatures.	Considered acceptable. See assessment of submission below.
19. USED CLOTHING BINS	N/A	N/A
20. CARPARKING AND ACCESS	<p><b>Within the Liverpool City Centre</b></p> <p><b>Car Spaces</b></p> <p><b><u>Residential Component</u></b></p> <p>1 space per two studio apartments</p> <p>1 space per 1 and 2 bedroom apartments</p> <p>1.5 spaces per 3 bedroom apartment</p> <p>1 visitor car space for every 10 apartments</p> <p>1 bedroom units = 33 2 bedroom units = 152 3 bedroom units = 36</p> <p><u>Car parking:</u></p> <p>33 + 152 + 54 = 239 + Visitors = 22.1 Total = 261.1</p> <p><u>Proposed:</u></p> <p>265 proposed onsite.</p>	<p>Yes</p> <p>Additionally, the development proposes 12 spaces for motorbikes and 90 spaces for bicycles.</p>

1 service vehicle bay per 40 dwellings, up to 4 service bays	3 service vehicle bays, considered acceptable.	
21. SUBDIVISION OF LAND AND BUILDINGS	No subdivision proposed	N/A
22. WATER CONSRVATION	Proposed development provided BASIX certificate. Certificate was reviewed and considered satisfactory.	Yes
23. ENERGY CONSERVATION	Proposed development provided BASIX certificate. Certificate was reviewed and considered satisfactory.	Yes
25. WASTE DISPOSAL & RE-USE FACILITIES	Consent will have necessary conditions imposed regarding waste disposal	Yes
26. OUTDOOR ADVERTISING AND SIGNAGE	N/A	N/A
27. SOCIAL IMPACT	It is considered that the proposed development is generally consistent with the objectives of Chapter 27 of Part 1 LDCP 2008, in that the development will result in positive social impacts by encouraging communities where people want to live and enjoy due to the good amenity provided by the COS proposed within the development, proximity to public recreational space in the City Centre and access to community and transport services also within the City Centre.	Yes

Controls	Comment	Complies
<b>PART 4 – LIVERPOOL CITY CENTRE</b>		
<p>2.1 Building Form</p> <p><b>Front Setback:</b> 1) Street building alignment and street setbacks are to comply with Figure 3. Required 4-4.5m landscaped setback to Bigge Street.</p> <p><b>Street Frontage Height:</b> 1) The street frontage height of buildings must comply with the minimum and maximum heights above mean ground level on the street front as shown in Figure 5. Required 16-25m to Bigge Street.</p> <p><b>Building Depth and Bulk:</b> 1) The maximum floor plate sizes and depth of buildings are specified and illustrated in Figure 6 and Table 1. Maximum GFA per floor plate is 500sqm and Maximum building depth is 18m.</p> <p><b>Side and Rear Setbacks:</b> Ground to 12m -</p> <p>Side 3m to non-habitable rooms and 6 to habitable rooms</p> <p>Rear 6m to both non-habitable and habitable rooms</p>	<p>The proposed building design including: setbacks, street frontage height and building depth and bulk, was considered extensively at the pre-DA stage. The Design Excellence Panel and the City Architect consented to the proposed building design and on this basis compliance with the DCP requirements is considered acceptable.</p>	<p>Considered acceptable.</p>
<p>2.3 Site Cover and Deep Soil Zones</p> <p>2) Developments with a residential component in all zones, except the Commercial Core, must include a deep soil zone.</p> <p>3) The deep soil zone shall comprise no less than 15% of the total site area (or proportionate to the percentage of residential uses in a mixed-use development). It is to be provided preferably in one continuous block but otherwise with no dimension (width or length) less than 6m.</p>	<p>Development provided deep soil zones on site.</p> <p>Furthermore, the development provided 20% of the site as deep soil zone, which exceeds the requirements.</p>	<p>Complies</p>
2.4 Landscape Design		



<p>1) Landscaped areas are to be irrigated with recycled water.</p> <p>2) Landscape species are to be selected in accordance with Council's schedule of Preferred Landscape Species.</p>	<p>The submitted landscape plans were reviewed by Council's Natural Environment Landscaping section, who raised no objection to the landscape components of the proposal</p>	<p>Complies.</p>
<p><b>3.4 Safety and Security</b></p> <p>1) Address „Safer-by-Design“ principles to the design of public and private domain, and in all developments (including the NSW Police „Safer by Design“ crime prevention through environmental design (CPTED) principles).</p>	<p>The DA was referred to NSW Police as part of the assessment of safety, security and CPTED principles associated with the proposed development. NSW Police, raised no objection to the proposal subject to imposition of security related conditions.</p>	<p>Complies.</p>
<p><b>4.3 On Site Parking</b></p> <p>1) Except as separately provided for in the <i>Liverpool LEP 2008</i>, on site vehicle and bicycle parking is to be provided in accordance with Table 3.</p>	<p>Parking complies. See assessment above.</p>	<p>Complies.</p>
<p><b>5.1 Energy Efficiency and Conservation</b></p> <p>Residential</p> <p>1) New dwellings, including dwellings within a mixed use building and serviced apartments intended or capable of being strata titled, are to demonstrate compliance with <i>State Environmental Planning Policy – Building Sustainability Index (BASIX)</i>. A complying BASIX report is to be submitted with all development applications containing residential activities.</p>	<p>BASIX provided and considered acceptable.</p>	<p>Complies</p>
<p><b>5.2 Water Conservation</b></p> <p>Residential</p> <p>1) New dwellings, including dwellings within a mixed use building and serviced apartments intended or capable of being strata titled, are to demonstrate compliance with <i>State Environmental Planning</i></p>	<p>BASIX provided and considered acceptable.</p>	<p>Complies</p>

<i>Policy – Building Sustainability Index (BASIX).</i>		
<b>5.3 Reflectivity</b>  2) Visible light reflectivity from building materials used on the facades of new buildings should not exceed 20%.	To be conditioned	Complies
<b>5.4 Wind Mitigation</b>  3) A Wind Effects Report is to be submitted with the DA for all buildings greater than 35m in height.	Wind Effects Report submitted with applicant demonstrating that the proposal is unlikely to result in unacceptable impacts to wind in the city centre.	Complies
<b>5.5 Noise</b>  1) An acoustic report is required for all noise affected locations, as identified in Figure 25. This report is to demonstrate that appropriate noise attenuation and barrier planning is to be implemented.	Despite the site not be identified as a noise affected location, the applicant submitted an acoustic report in support of the DA.	Complies
<b>5.6 Waste</b>  Residential development  3) Provision must be made for the following waste generation in accordance with Table 4 Waste.	Waste Management Plan submitted with DA is considered to satisfactorily address waste management within the buildings.	Complies
<b>6.1 Housing Choice and Mix</b>  1) To achieve a mix of living styles, sizes and layouts within each residential development, comply with the following mix and size: - studio and one bedroom units must not be less than 10% of the total mix of units within each development, - three or more bedroom units must not to be less than 10% of the total mix of units within each development,	The applicant has made significant design changes to the Tower A and Tower B within the proposal to comply with the one-bedroom and three-bedroom percentage requirements within the first 10 storeys of each building (compliant portion of the development in relation to FSR and Building Height)  In order to further achieve the objectives of the 'Housing Choice and Mix' control and address shortfall in the current market for larger apartment types able	Complies

	<p>of accommodating larger/ growing family units within a city centre characterised by lower-socioeconomic families and migrant communities; the applicant has provided 16.3% of the development as 3-bedroom apartments. That equates to 15 additional 3-bedroom units within the development, of which 12 are located on Levels 11 and 12 of the building above the 35m height limit.</p> <p>In order to account for individuals and small family units the applicant has amended the proposal to include 15% 1 bedroom apartments.</p>	
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**6.4 Section 79C(1)(a)(iia) - Any Planning Agreement or any Draft Planning Agreement**

No planning agreement relates to the site or proposed development.

**6.5 Section 79C(1)(a)(iv) – The Regulations**

The Environmental Planning and Assessment Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. If approved appropriate conditions of consent will be imposed requiring compliance with the BCA.

**6.6 Section 79C(1)(a) (v) – Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates**

There are no or there are Coastal Zones applicable to the subject site.

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

**(a) Natural and Built Environment**

***Built Environment***

The proposed development is considered to have an overall positive impact on the surrounding built environment. The applicant has demonstrated that the proposal has been designed to be sympathetic to the adjoining southern properties and the surrounding heritage items.

## Natural Environment

The proposed development is not considered to have a detrimental impact on the existing natural environment. The development proposal is located within a city centre that is well developed.

### (b) Social Impacts and Economic Impacts

The development is considered beneficial from a social aspect as it is likely to provide high quality residential development to the city centre. Further to this, the applicant is attempting to increase housing variety in the locality by providing two additional levels on Tower A of the development as three-bedroom dwellings. There is a shortfall in unit types other than two-bedroom units within the city centre and the development has been significantly amended to address this issue.

In addition to this, the subject application was referred to the NSW Police, who have reviewed the DA and outlined a number of Crime Prevention Through Environmental Design (CPTED) recommendations to ensure that the site is appropriately protected, safe and discourages anti-social behaviour. These have been incorporated, where appropriate, into a recommended condition of consent.

### Liverpool Contributions Plan 2009

The Liverpool Contributions Plan 2009 provides information on the extent of anticipated new development, the extent of new public services and amenities needed to support the new development and the contributions that the new development must make to fund the public services and amenities.

The development will generate additional demand as follows:

<b>Value of Building</b>		CPI rates reflect new ABS referencing system
\$60,877,644	J16	109.3
<b>Facilities</b>	<b>Amount (\$)</b>	<b>Job No.</b>
Central Library Extensions	\$23,394	GL.10000001870.10112
Whitlam Centre Extensions	\$17,278	GL.10000001869.10110
District Community Facility upgrade (Central area)	\$22,304	GL.10000001870.10099
Woodward and Collimore Parks	\$104,961	GL.10000001869.10105
Georges River Foreshore	\$734,730	GL.10000001869.10105
Bigge Park	\$157,442	GL.10000001869.10105
Pioneer Park	\$157,442	GL.10000001869.10105
Access – car parks, bridge link, bus priority	\$0	GL.10000001868.10108
<b>TOTAL</b>	<b>\$1,217,553</b>	

Accordingly, the payable Section 94 Contribution fee for the development proposed is \$1,217,553.

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

The subject proposal has been designed to accommodate the prominent location of the development site. The proposal has been designed in line with the desired future character of the site and the surrounding locality. The proposed development is of an appropriate bulk and scale and has been designed to accommodate the existing site attributes. Given the above the proposed development is considered suitable for the site.

## **6.9 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:

<b>Internal Department</b>	<b>Status and Comments</b>
Building	No objection, subject to conditions
Natural Environment & Landscaping	No objection, subject to conditions
Environmental Health	Satisfactory subject to deferred conditions of consent
Land Development Engineering	No objection, subject to conditions
Traffic Engineering	No objection, subject to conditions
Landscaping	No objection, subject to conditions
Heritage	No objections, subject to conditions

### **(b) External Referrals**

The following comments have been received from External agencies:

<b>External Department</b>	<b>Status and Comments</b>
Sydney Water	Satisfactory. No conditions imposed.
Endeavour Energy	Satisfactory, No conditions imposed
NSW Police	No objection, subject to conditions
NSW Ambulance	Satisfactory, No conditions imposed

### **(c) Community Consultation**

The development application was on public exhibition from 24 March 2016 to 11 April 2016 in accordance with Liverpool Development Control Plan 2008 (LDCP 2008). During the exhibition period one submission was received in the form of a petition containing 33 signatures, which objected to the development. The concerns raised in the submissions are discussed below;

#### **ISSUE 1: The height of the building in the development exceeds the allowed maximum limit**

**Comment:** Notwithstanding the non-compliance in height the proposal has provided a suitable clause 4.6 variation that has been detailed previously in this report that is considered worthy of support in this instance. As per design advice from the Design Excellence Panel and Council's City Architect the applicant was encouraged to mass the development towards Bigge Street in Tower A and

provide significant landscaped area between the towers in order to reduce overshadowing from the proposal onto the adjoining southern sites. In this regard, the proposed development has provided adequate site design measures to mitigate as many potential impacts associated with overshadowing in the high density residential setting. This additional height on Tower A is not considered likely to increase impacts on the locality and is unlikely to provide impacts beyond that of a height compliant development.

**ISSUE 2: The FSR in the development exceeds the allowed ratio**

**Comment:** Notwithstanding the non-compliance in FSR the proposal has provided a suitable clause 4.6 variation that has been detailed previously in this report that is considered worthy of support in this instance. As per design advice from the Design Excellence Panel and Council's City Architect the applicant was encouraged to mass the development towards Bigge Street in Tower A and provide significant landscaped area between the towers in order to reduce overshadowing from the proposal onto the adjoining southern sites. The applicant has reduced the FSR non-compliance within the proposal from 11% to 7.8% and provided this area as only three-bedroom apartments in order to reduce associated impacts of the increased density. This non-compliance which is considered acceptable.

**ISSUE 3: Preserving the eucalyptus tree on Lot 25 Bigge Street to the fence of 27-29 Bigge Street and 3 Tindall Avenue**

**Comment:** An arborist report (see Attachment No.8) was submitted with the subject DA in order to determine the significance and retention value of existing vegetation at the site. The report concludes that the removal of this tree is highly unlikely to have detrimental impacts to the natural environmental and would be replaced with other native plant species, as per the submitted Landscape Plan. In addition to this, Council's Design Excellence Panel and City Architect worked with the applicant to ensure significant landscaping and deep soil zones were provided within the development. In this regard, there is adequate grounds to infer that the post development landscaping and vegetation at the subject site will improve the existing situation and that the retention of one tree should not warrant a redesign of the proposed development or preclude its approval.

**ISSUE 4: As local residents we have experienced problems with blockages in waste water pipes on surrounding properties and street over the years**

**Comment:** As part of the assessment of the DA it was referred to Sydney Water for their comments regarding the proposal and its impact on water/ sewer infrastructure in the locality. Accordingly, Sydney Water raised no objection to the development on the basis that the detailed water and wastewater requirements will be imposed on the development at construction certification stage. As part of the Section 73 application process Sydney Water will determine what affect the development will have on existing infrastructure and any upgrade works required to facilitate the proposed RFB's onsite. Thus, it is likely that the development may assist in improving waste water servicing in the area where Sydney Water considers it necessary of the developer.

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

The subject development site is considered to be in the public interest.

## **7. CONCLUSION**

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The Development Application seeks development consent for two Residential Flat Buildings at 17-25 Bigge Street, Liverpool of 10-storeys and 13-storeys in height.
- The proposal is consistent with the objectives of the R4 High Density Residential zone that is applicable to the site under the LLEP 2008. The proposal is also consistent with the objectives of the FSR and Building height development standards despite the numerical non-compliance with these standards. The application is supported by requests to vary this development standard in order to accommodate the form, scale and density proposed.
- The proposal substantially complies with the provisions of the LDCP 2008. There are variations proposed to some development controls, however these are considered acceptable on merit.
- The proposal provides an appropriate response to the site's context and satisfies the SEPP 65 design principles and the requirements of the Apartment Design Guide. The scale and built form is consistent with the desired future character of the area that is envisaged under the LLEP and LDCP.
- The development will be well located in relation to transport, employment, shopping, business and community services, as well as recreation facilities. It will deliver an efficient use of the site with well-designed high amenity apartments.
- The application was referred to a number of external authorities with no objections raised, subject to imposition of conditions.

For these reasons the proposed development is considered to be satisfactory and is recommended for deferred commencement approval subject to the submission of the following additional information to Council's satisfaction:

- Phase 2 Contamination Investigation
- Remedial Action Plan (RAP) (if Phase 2 investigation identifies that remediation is required)

Recommended conditions are contained in Attachment 1, as well as any other conditions relating to land contamination which may be required to ensure that the land is suitable for the proposed development.

## **8. ATTACHMENTS**

- 1) Draft Conditions of consent**
  - 2) Architectural Plans**
  - 3) Clause 4.6 Variation**
  - 4) Design excellence panel report**
  - 5) Submissions lodged with the DA**
  - 6) Statement of Environmental Effects**
  - 7) SEPP 65 Design Verification Statement**
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- 8) **Arborist Report prepared by N.S.W Tree Services**
- 9) **Heritage Impact Statement by Architecture + Planning**