

COUNCIL ASSESSMENT REPORT

Panel Reference	2017HCC002
DA Number	DA/11/2017
LGA	Lake Macquarie City Council
Proposed Development	Demolition Works, Commercial Premises and Residential Flat Building
Street Address	5 Edgar Street, Belmont (Lot 10 Sec B DP 585) 7 Edgar Street, Belmont (Lot 11 Sec B DP 585) 9 Edgar Street, Belmont (Lot A DP 400644) 11 Edgar Street, Belmont (Lot B DP 400644) 2 Sharp Street, Belmont (Lot 6 DP 12898) 4 Sharp Street, Belmont (Lot 5 DP 12898) 6 Sharp Street, Belmont (Lot 4 DP 12898) 8 Sharp Street, Belmont (Lot 1 DP 353066) 10 Sharp Street, Belmont (Lot 2 DP 353066) 32 Brooks Parade, Belmont (Lot 3 Sec B DP 585) 36 Brooks Parade, Belmont (Lot 4 Sec B DP 585) 38 Brooks Parade, Belmont (Lot A DP 339105) 40 Brooks Parade, Belmont (Lot B DP 339105) 42 Brooks Parade, Belmont (Lot 8 DP 12898) 44 Brooks Parade, Belmont (Lot 7 DP 12898)
Applicant	Monteath and Powys Pty Ltd
Owner	Allbeach Pty Limited AM, KL and MF Brown BSE Holdings Pty Limited Lakesharp Developments Pty Limited Robert Neil McDonald MD & JE Hughes
Date of lodgement	3 January 2017
Number of Submissions	26 Submissions from 19 Authors
Recommendation	Refusal
Regional Development Criteria (Schedule 4A of the EP&A Act)	The development has a CIV of \$39 million, being above the \$20 million threshold for Regional Development (at time of lodgement).
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Lake Macquarie Local Environmental Plan 2014 • Lake Macquarie Development Control Plan 2014 • State Planning Policy 55 – Remediation of Land • State Environmental Planning Policy 71 - Coastal Protection • State Environmental Planning Policy (Infrastructure) 2007
List all documents submitted with this report for the Panel's consideration	Amended Statement of Environmental Effects (Appendix A) Amended Plans (Appendix B) Clause 4.6 Submission (Appendix C) External Agencies/Authorities Responses (Appendix D) Public Submissions (Appendix E) Apartment Design Guide Assessment (Appendix F) Planning comment on Public Submissions (Appendix G)

Report prepared by	Brian Gibson, Senior Development Planner, Lake Macquarie City Council
Report date	4 October 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**

Conditions

Have draft conditions been provided to the applicant for comment? **No**

Executive Summary

Date Lodged: 3 January 2017

Submission Period: 28 January 2017 to 27 February 2017*

* The development is Nominated Integrated Development in relation to the Water Management Act 2000. Accordingly the application was Advertised Development t under the *EP& A Act 1979*.

7 September 2018 to 26 September 2018#

Re-notification of the amended application

Zoning: B4 Mixed Use Zone (Lake Macquarie Local Environmental Plan 2014)

Approval Bodies: Roads & Maritime Services
NSW Water (Department of Industry)

Referral Agencies: Hunter Water Corporation
Ausgrid
NSW Police

CIV: \$39,000,000

Legislative Clauses:

State Environmental Planning Policy 55 – Remediation of Land

Under Clause 7(1)(c) of the SEPP, a consent authority must not grant consent for development of land identified as contaminated land unless it is satisfied the land can be remediated to be made suitable for the purpose for which development is proposed to be carried out.

A Preliminary Investigation raised no concerns with the development – refer to section 4 of the report .

State Environmental Planning Policy 71 – Coastal Protection

Clause 21(1) *Savings and Transitional Provisions* of the SEPP (Coastal Management) 2018 states it does not apply to a development application lodged but not finally determined prior to commencement of the policy. Therefore, the provisions of SEPP71 continue to apply to the assessment of the development application.

The development site is located within the Coastal Zone under SEPP71. The application is to be assessed having regard to the aims of the SEPP and the matters listed for consideration under Clause 8.

The development is deemed acceptable in terms of the provisions of SEPP 71 – refer to section 4 of the report.

State Environmental Planning Policy (Infrastructure) 2007

Division 5 Electricity Transmission or distribution

Clause 42 *Notification of Electricity Substation Development* requires written notice

from the electricity supply authority with regard to the intention to install a substation.

The matter was referred to Ausgrid who provided a reply dated 16 January 2017 advising no objection to the development subject to conditions being imposed. Refer to section 4 of the report .

Division 17 Roads & Traffic

Clause 101 requires the consent authority not to grant consent to development on land that has a frontage to a classified road unless it has considered the point of access and other traffic performance and safety issues.

Clause 104 requires the consent authority when considering traffic-generating development to consult with the Roads & Maritime Service and to take into consideration any of its requirements.

The RMS provided its conditional approval to the development on 28 March 2018, refer to section 1 of the report.

Lake Macquarie Local Environmental Plan 2014 (LMLEP2014)

Part 1 Preliminary

Clause 1.9A Suspension of covenants, agreements and instruments

An easement applies to the development site to Drain Water (Variable Width) which burdens the land owner and benefits Lake Macquarie City Council.

Council's Assets Management – Drainage advised of no objection to the proposed encroachment by the pedestrian walkway, refer to section 4 of the report.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The height of buildings map provides a maximum height of 22m for the development site. Each of the proposed towers exceed the maximum height for the development site.

The applicant made a clause 4.6 submission seeking to support a variation to the maximum height of buildings permitted for the development site, refer to section 2 of the report.

Clause 4.6 Exceptions to development standards

A clause 4.6 variation has been submitted for the development with regard to the contravention of the maximum height of building development standard under Clause 4.3 of LMLEP2014.

The exceedance of the maximum height of building is not supported, refer to assessment comment under section 2 of the report.

Part 5 Miscellaneous provisions

Clause 5.10

The land is mapped as being within the Sensitive Aboriginal Landscape Area Map. The consent authority is required to consider a heritage report and assess the likely impacts of the development on the sensitive Aboriginal landscape, including consultation with Aboriginal community groups.

The applicant provided a Due Diligence Report which was referred to local Aboriginal community groups, refer to section 4 of the report.

Part 7 Additional local provisions

Clause 7.1 Acid Sulfate soils

The site is mapped as being affected by Class 2 Acid Sulfate Soils. Additionally the development will intercept the water table with construction of the basement car park.

The consent authority must not grant consent unless an acid sulfate soils management plan has been considered. A Preliminary Acid Sulfate Soils Management Plan has been provided. Refer to section 4 of the report for detailed comment.

Clause 7.2 Earthworks

The consent authority must consider before granting consent the implications of the development on the environment/locality in relation to earthworks. An assessment has considered the proposed works as being acceptable subject to the imposition of conditions. Refer to section 4 of the report for detailed comment.

Clause 7.3 Flood planning

The development site is mapped as part of the Flood Planning Area. The consent authority is required to consider the implications of the flooding characteristics on life and property with respect to the development and ensure the development does not adversely affect flooding behaviour. An assessment has considered the proposed works as being acceptable, refer to section 4 of the report.

Clause 7.10 Residential development in certain business zones

The development is for a mixed use development incorporating commercial/retail and a residential flat building. As the proposal is in a B4 zone and contains residential development, the consent authority must not grant consent unless it is satisfied all or part of the building facing the primary street frontage has an active frontage and is used as a commercial premises. An assessment determined the development does not satisfactorily activate the primary streetscapes, refer to section 4 of the report.

Clause 7.21 Essential Services

The consent authority must not grant consent unless it is satisfied the required essential services are available to serve the development. The site has available to it the required essential services and infrastructure.

The development application is not supported due to a significant number of non-compliant or unsatisfactory design outcomes, i.e. exceedance of maximum building height, shortfall in car parking, inadequate deep soil planting and landscaped area, setback encroachments, etc.

PROJECT DESCRIPTION

The Development Application is for a Mixed Use Development (Commercial Premises & Residential Flat Building) including demolition of existing structures. The application was lodged in January 2017; with it being amended in August 2018, (the Statement of Environmental Effects is attached as Appendix A, with the plans attached as Appendix B).

The development site is an amalgamation of 15 lots located at the western periphery of the Belmont Town Centre and is to the east of the Lake foreshore. The development site has frontage to Edgar Street, Sharp Street and Brooks Parade (see Figure 1 for a perspective of the development from the corner of Brooks Parade and Sharp Street). The development site comprises an area of 7,083m².



Figure 1: Development perspective as viewed from the Lake

The development comprises four retail/commercial units (699.88m²) and 140 residential units in the form of four detached towers sitting over a basement car park (148 car parks, 17 accessible parks, 42 bicycle spaces and eight motor cycle parks). The four towers are positioned in the north-east (Block C), north-west (Block B), south-east (Block D) and south-west (Block A) corners of the site.

The tower at the corner of Brooks Parade and Sharp Street (Block A) is eight storeys and measures 28.960m excluding the roof feature at 29.860m and the plant and lift overrun which is 30.06m. Blocks B and C adjoining the canal (Block B fronting Brooks Parade & Block C fronting Edgar Street) are six storeys and each measure 21.660m excluding the lift overruns which are 24.06m. Block D, located at the corner of Edgar Street and Sharp Street is also six storeys and measures 22.26m excluding the plant and lift overrun which is 24.06m. The maximum height permitted under the Height of Building Map of LMLEP2014 is 22m (refer to Figure 5 below), hence elements of all four of the proposed blocks/towers exceed the maximum height limit

amalgamated with land to the north to create a large development site.



Figure 4: Boundary of development site

The site is generally flat (an existing ground level of 0.93m to 1.78m AHD) and is subject to Council's Sea Level Rise and Adaptation Policy. It is also a nominated flood planning area under LMLEP2014.

The surrounding area has undergone significant redevelopment in the last ten years with four large residential / mixed-use developments being constructed. In addition, development of several areas of retail land holdings has occurred resulting in a more attractive and vibrant Belmont town centre.

Lake Macquarie is located to the west of the site across Brooks Parade. Belmont foreshore in this area has been the subject of significant foreshore stabilisation and rehabilitation works over the last eight years, which has promoted this area of Belmont as an attractive place to live and recreate.

The development site has an open stormwater channel traversing from Edgar Street to Brooks Parade. The Town Centre Area Plan identifies this channel as providing pedestrian and visual connectivity between the town centre and the foreshore. Mature fig trees are located along part of the frontage of Edgar Street.

The site consists predominantly of older building stock incorporating single storey dwelling houses and small shops, which are to be demolished to facilitate the development.

Across Sharp Street to the south of the development site (on the corner of Sharp Street and Brooks Parade) is a landmark building, 'Belmont Towers', an eight storey residential flat building constructed in the 1960's. Belmont Towers has a height of RL29m measured to the top of the lift overrun. The height of Belmont Towers excluding the lift overrun is approx. RL 25m. Across Sharp Street to the southeast (corner of Edgar and Sharp) is the six storey mixed use 'Belmont Central Apartments' (2009). Further south along Brooks Parade are two mixed use developments, the 'Deck Apartments' being 6 storeys (2008) and the 'Wharf Apartments' being six storeys with mezzanine (2015).

Table 1 below provides details of relative heights and storeys of existing development in proximity to the site.

Location	No. of Storeys	Building Height (m)	Building Height Max RL (m)
46 Brooks Parade (Belmont Towers)	8	23	24.66 – Main parapet 27.05 – splayed setback parapet
13-17 Edgar Street (Belmont Central)	6	19.8	20.98
58 Brooks Parade (Wharf Apartments)	6 plus mezzanine	22.76	23.78
54-56 Brooks Parade (Deck Apartments)	6	20.28	21.3
24-26 Brooks Parade (Santorini Apartments)	5	16.05	17.39

Table 1: Relative Heights and Storeys of development in proximity

North of the site is Hunter Water Corporation (HWC) owned land, which has a pump station. Further to the north of the HWC on the corner of Brooks Parade and Maude Street is a five storey mixed use development constructed in 2008 known as ‘Santorini’. Completing the block are four lots to the north-east (not including the residue of 5 Edgar Street which is not included as part of the mixed use development) each containing a single storey detached dwelling.

To the south-east of the site across Edgar Street is Belmont Citi Centre, a shopping centre including a Coles Supermarket which has its loading dock area opposite this proposal. To the north-east are single storey detached dwelling houses of older housing stock likely to be redeveloped due to the B2 zoning.

In addition to the westerly Lake aspect, upper levels of the development capture ocean views to the east and southeast across the Belmont Town Centre. The site also has views of residential precincts of Belmont and Belmont North to the north towards a vegetated hillside and ridgeline.

Located in close proximity to the development site are shopping centres, schools, medical facilities, banks, a post office, sporting facilities, library and major public bus routes.

Background

The development site was assembled by a consortium over the past decade to facilitate a significant development. A number of approaches have been made to Council regarding design options/outcomes for the site, though no development application has previously been lodged. These approaches involved pre-lodgement meetings with Council Staff and the SEPP65 Design Review Panel (DRP).

The previous discussions have related to a multi storey development for either a mixed use development or a seniors living development. A consistent aspect through the proposals has been built forms that exceed the height controls under the applicable Development Control Plans at the time, and now more recently LMLEP2014.

In a number of meetings with the proponents in 2013 and 2014 both Council officers and the SEPP65 DRP advised the proposed variation to the controls in terms of height had not been adequately justified through a strategic and urban design analysis for the site and surrounding context. At a later meeting an Urban Design Analysis (UDA) was provided, however the SEPP65 DRP advised it was not logical and comprehensive and did not provide a justification that adopts recognised methodology to support any significant variation to Council’s general policy frame work.

At a meeting held with the proponent on 25 September 2014 Council reiterated an UDA is required justifying the significant departure from Council controls. Council advised it did not

support the development as presented on the basis of the UDA provided to date. Council recommended the proponent engage an experienced urban designer with a team of related disciplines to inform the project and UDA.

Following the September 2014 meeting, Council received no further contact from the proponent and was unaware of the preparatory work leading towards lodgement of this application.

The development application was lodged on 3 January 2017, and was advertised through January and February 2017. The application was reported to the Hunter & Central Coast Regional Planning Panel (RPP) on 23 November 2017 for determination by way of refusal in relation to an isolated lot. The RPP resolved to defer determination to allow the applicant to negotiate to either acquire 44 Brooks Parade or to redesign the development, in full compliance with LMLEP2014 and Development Control Plan 2014 (DCP2014).

Council received notice in January 2018 of the inclusion of 44 Brooks Parade in the development. The application was amended on 5 January 2018 with plans incorporating the 15 lots as part of the development. The applicant further amended the application in June 2018 in response to the assessment by Council's SEPP 65 Design Review Panel (SEPP65 DRP) at its March 2018 meeting. The application was further amended in September 2018 with additional information and plans submitted in response to the assessment of Council's SEPP65 DRP at its July 2018 meeting.

The amended application was notified from 7 to 26 September 2018. A full assessment of the application has been undertaken. Having regard to the submissions received and considering the merit of the application the application is recommended for refusal on the following grounds:

- Council's SEPP65 DRP is not satisfied the development achieves the design principles nor complies with the Apartment Design Guide (ADG);
- the development exceeds the maximum building height under clause 4.3 and the related clause 4.6 submission is not supported;
- the development does not provide adequate activation of the streetscape under clause 7.10 of LMLEP2014;
- the development does not satisfy the objectives and controls of DCP2014 having regard to the scenic quality outcomes, sea level rise requirements, infrastructure, car parking, access, non-discriminatory outcomes, building design and operational requirements, landscaping, and the block controls for Belmont.

The proposal is an over development of the site, which is reflected by the individual and cumulative non-compliances to development standards under LMLEP2014 and controls under DCP2014.

The application is reported to the Hunter & Central Coast Regional Planning Panel meeting of 18 October 2018.

Assessment Report

Assessment Report Contents

1. Integrated/Authority Referrals
2. Building Height
3. SEPP65 Design Review Panel Assessment
4. Section 4.15: Matters for Consideration
5. Conclusion
6. Recommendation

1. INTEGRATED/AUTHORITY REFERRALS

1.1 Roads Act 1993

The application and related Traffic Impact Assessment were referred to the RMS under Clause 104 and Schedule 1 of the SEPP (Infrastructure) 2007, as the development fronts a main road and proposed vehicle access for a development containing more than 75 dwellings is within 90m of the main road.

On 28 March 2018 Council received advice from the RMS raising no objections to the development subject to conditions (refer to Appendix D for a copy of the correspondence).

1.2 Water Management Act 2000

The development is defined as Integrated Development under Section 4.46 of the Environmental Planning and Assessment Act 1979 in relation to the Water Management Act 2000. The matter was referred to the NSW Water seeking its General Terms of Approval (GTAs).

The application was referred to NSW Water on 13 January 2017 as it was nominated Integrated Development in relation to Section 90 of the Water Management Act, 2000.

NSW Water (Department of Industry) provided its General Terms of Approval on 14 December 2017. Refer to Appendix D for a copy of the response.

2. BUILDING HEIGHT
Clause 4.3 Development Standard

Under Clause 4.3 of LMLEP2014 and the Height of Building Maps the site has a maximum height of 22m. An excerpt of the map is shown in Figure 5 below.



Figure 5: Height of Building excerpt from the LMLEP2014 Maps

The development exceeds the maximum height limit for each of the towers. The proposed building heights are as follows (Table 2):

1. Building	2. Location of exceedance	3. Variation (m)	4. Variation (%)
5. Block A	6. 27.95m (eight storeys) excepting the roof feature which measures 29m and the plant and lift overrun measuring 29.2m	7. 7.2m	8. 32.7%
9. Block B	10. 20.65m (six storeys) excepting the lift overrun which is 23.2m	11. 1.2m	12. 5.45%
13. Block C	14. 21.4m (six storeys) excepting the lift overrun which is 23m	15. 1m	16. 4.5%
17. Block D	18. 21.1m (six storeys) excepting the plant and lift overrun which is 23.1m	19. 1.1m	20. 5%

Table 2 – Exceedance of Maximum Building Height

Figure 6 below identifies the location of each proposed tower.



Figure 6: Site plan identifying the respective tower blocks

Figure 7A provides an elevation of Blocks A and B relative to the maximum building height.

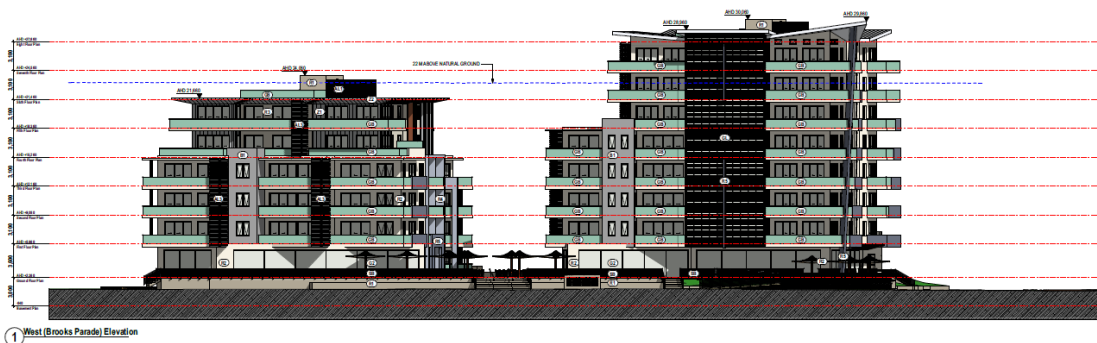


Figure 7A: Proposed building heights in relation to 22m Building Height Limit under the LMLEP2014 for Blocks A and B

Figure 7B provides an elevation of Blocks C and D relative to the maximum building height.

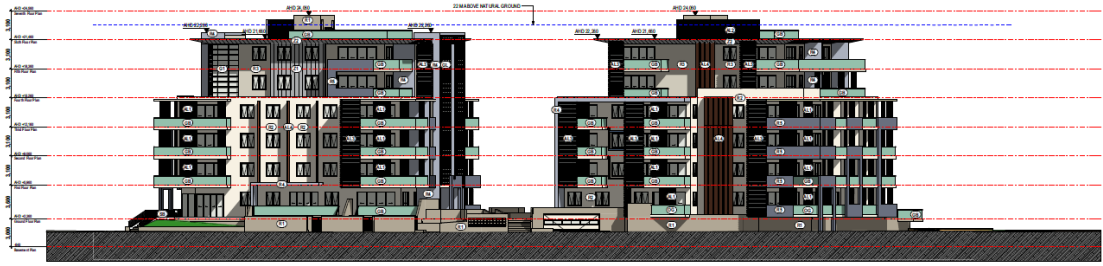


Figure 7B: Proposed building heights in relation to 22m Building Height Limit under the LMLEP2014 for Blocks C and D

Clause 4.3(2) of LMLEP2014 provides that:

“The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.”

Clause 4.3 of LMLEP2014 is a development standard, which is defined in section 1.4 of the *Environmental Planning and Assessment Act 1979* (EPA Act) to mean:

"provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

.....

(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,

.....

As a consequence of the development exceeding the maximum height of building permitted for the site a written submission under clause 4.6 of LMLEP2014 has been lodged by the applicant (refer to Appendix C). Clause 4.6 is facultative in that it permits a consent authority to grant development consent for development even though that development would contravene a development standard. Consequently, the matter is to be assessed in accordance with clause 4.6 of LMLEP2014 and relevant caselaw.

Clause 4.6 Submission

Clause 4.6 is as follows:

- (1) *The objectives of this clause are as follows:*
 - (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.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.*
- (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*
- (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The permissive power in clause 4.6(2) to grant development consent for a development that contravenes the development standard is subject to conditions. Clause 4.6(4) establishes the preconditions to be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.

The first precondition, in clause 4.6(4)(a), is a consent authority must form two positive opinions of satisfaction under clause 4.6(4)(a)(i) and (ii). The formation of the opinions of satisfaction as to the matters in clause 4.6(4)(a) enlivens the power of the consent authority to grant development consent for development that contravenes the development standard.

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is whether the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b)). The written request needs to demonstrate both of these matters.

To assess whether compliance with a development standard is unreasonable or unnecessary the "five part test" in *Wehbe v Pittwater Council* is applied.

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Summary of applicant's comment:

Clause 4.3(1)(b) - consistency with the objectives of the zone and clause 4.3 and the absence of any environmental impacts demonstrates strict compliance with the standards is both unreasonable and unnecessary in this instance.

The height proposed is commensurate with development in the locality. The maximum building height limits contextual consideration of scale, use intensity and dominance, quality of built form and transition in built form.

The proposal is supported by an urban design review which highlights outcomes such as increased employment, access to public transport and services, increased housing diversity, activated vibrant streets, enhanced connectivity and amenity.

The sites relationship to the Belmont Town Centre and immediate locality are key considerations. Therefore the proposal is in keeping with locational attributes, consistent and in keeping with the established character of the area, including the Belmont bump.

The current planning controls present a number of limitations, particularly the height and block controls based on a lack of technical feasibility relating to outcomes of the Belmont Town Centre. The Urban Design Review, its subsequent peer review and Council's 'Review of the Town Centres DCP and Belmont Area plan for 32 Brooks Parade Belmont' support the proposal reflecting the Belmont 'bump'.

The design provides a balance between responding to sea level rise requirements and achieving good levels of daylight and natural ventilation and commercial requirements.

Clause 4.3(1)(b) - the development is a high quality urban form with strong vertical elements which respond to the site constraints. The four free standing building reflect the size and nature of the site. The development promotes an attractive and active street frontage, with large commercial spaces and glazed shopfronts addressing Brooks Parade and Sharp Street.

The development is in proximity to public transport routes.

It is considered the submission provides sufficient environmental planning grounds to justify contravening the development standard.

Notwithstanding the proposed variation, the building envelope will not result in any adverse impacts on the amenity of the locality, with potential impacts on desired future character, overshadowing, views and environment having been considered.

2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.

Summary of applicant's comment

Not applicable as the underlying objective or purpose of the standard is relevant to the development and is achieved as outlined in test 1 above.

3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.

Summary of applicant's comment

The underlying objective or purpose would not be defeated or thwarted if compliance was required as on balance the proposed development provide a better outcome. The additional height is consistent with the future desired character of the Belmont City Centre, does not affect solar access or other design provisions than the current height limit would. The development meets the intent of higher density development, being the outcome of community consultation, which informed the 2030 Strategy and the LMLEP20140

4. The development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable.

Summary of applicant's comment

While the standard has not been abandoned or destroyed, Lake Macquarie City Council has varied standards in the past.

5. The zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary.

Summary of applicant's comment

Not applicable as the zoning is considered appropriate.

To address 'environmental planning' grounds in relation to clause 4.6(3)(b), the grounds relied on in the written request under clause 4.6 must be "environmental planning grounds" by their nature. The adjectival phrase "environmental planning" is not defined, but likely refers to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in section 1.3 of the Act.

Summary of applicant's comment

The assessment under the above five part test and the Statement of Environmental Effects demonstrates the resultant environmental impacts of the proposal will be satisfactory. The development is of similar height to development located in the immediate area, and has a density less than that in other major town centres.

Strict compliance with the development standard for building height in the Lake Macquarie LEP 2014 is unnecessary and unreasonable. The additional height does not create any additional environmental, social or economic impacts than a building at the current LEP height limit.

In regards to the objects of the EPA Act the applicant contends:

- a, b & c: the development is in a major town centre, close to transport, services and employment. It will have positive social and economic outcomes, and does not have any significant environmental issues or will degrade the natural resources.*
- d: the development will create more affordable housing in Belmont.*
- e & f: there are no significant issues relating to the development and site.*
- g: the design has been reviewed by Council's SEPP65 DRP, with changes made. It has no additional impacts than what would otherwise be created by a compliant development in relation to the additional height.*
- h: conditions of consent will require compliance with the BCA/NCC*
- i: Belmont Town Centre is identified for urban renewal and densification under Regional and Local planning documents.*
- j: Planning documents relating to the site have been through community consultation processes.*

In regards to the zone objectives under LMLEP2014 the applicant's comment are summarised:

The proposal is consistent with the objectives, being compatible with existing land uses, providing a mixed use development in proximity to public transport and employment areas.

With regard to the objectives under clause 4.3(b) of LMLEP2014 the applicant comments are summarised as:

The objectives of the clause continue to be met by the additional height as discussed above, being that it does not cause any additional significant impacts in relation to design, solar access, overshadowing, ventilation than a compliant building.

The applicant's arguments in terms of whether the variation is in the public interest are summarised as:

- *The development as proposed is consistent with the zone objectives of clause 4.3,*
- *The development as proposed is consistent with the objectives of the B4 Mixed Use zone.*
- *The proposal is well designed, responding to the context of the site and its surrounds.*
- *It is compliant with the ADG provision in terms of solar access, ventilation, common open space and deep soil planting,*
- *There are sufficient environmental planning grounds to justify contravening the development standard,*
- *Is consistent with approved developments in the area,*
- *The development has no impacts on the public domain, and*
- *Is consistent with the vision outlined in local and regional planning strategies, The objectives of the clause continue to be met by the additional height as discussed above, being that it does not cause any additional significant impacts in relation to design, solar access, overshadowing, ventilation than a compliant building.*

The applicant's contentions in relation to public benefit in maintaining the standard are summarised as:

- The variation raises no matter of significance for State or regional environmental planning.
- The future urban form in this area of Belmont is higher heights and intensification of land uses.
- The departure allows for the orderly and economic use of the site, which achieves the outcomes and objective of the relevant planning controls.

Clause 4.6 Assessment

The applicant's written submission has sought to address the requirements of clause 4.6(3)(a) and (b).

Having regard to clause 4.6(3)(a), the applicant has used the five part test under Webhe as a basis for arguing the development standard is unreasonable or unnecessary in the circumstances of the case. The applicant has predominantly addressed the matter under 'The objectives of the standard are achieved notwithstanding non-compliance with the standard'.

Additionally the applicant presented environmental planning grounds as a basis to justify the departure from the development standard. Reference was made to

objectives of clause 4.3, the zone objectives and the objectives of the EPA Act.

Under clause 4.6(4)(a)(i) it is satisfied the applicant's written submission addresses the matters under clause 4.6(3).

Therefore having regard to clause 4.3(4)(a)(ii), consideration of whether the departure from the development standard is in the public interest in context of the objectives of the development standard and the zone objectives is required.

Having regard to the B4 zone objectives, it is considered the development satisfies the zone objectives.

In terms of the objectives of the development standard under clause 4.3, it is considered the development fails to factually address the objectives. Whilst the applicant has sought to argue 'the height of buildings are appropriate for their location', significant focus has been placed on the height of the Belmont Tower, built in the 1960s, as opposed to the development built over the last decade to a height of six storeys.

In addition, the applicant has referenced the urban design analysis as a basis for supporting the exceedance, arguing the building height and transition provided is appropriate for the location. This urban design analysis has been considered by Council's SEPP65 DRP along with the design and the built context and the desired future character, stating:

The panel does not support the height of the south west tower, which substantially exceeds the control for the site, and which has an impact upon the density of the development.

Further arguments regarding environmental outcomes having regard to the building height have been selective or counter-intuitive. The statement the development has no impact on solar access than would a complying development has not been demonstrated through hourly and vertical diagrams which identify the difference in impacts between the proposal and a complying development. Basing the height on Belmont Towers and disregarding the consistent height of more recent development then enables arguments of future development to use the proposed height as a basis to defeat and undermine the development elsewhere. This variation in itself would purport to be an undermining of the development standard for this area.

As to 'permitting building heights that encourage high quality urban forms' the development has not gained the support from Council's SEPP65 DRP in terms of its urban design and built form/treatment. The development as proposed has environmental impacts, which have not been quantified under the ADG, poor interface and streetscape outcomes through lack of activated frontages as required under DCP2014, inadequate landscaped setbacks and deep soils zones under the ADG and internal and external amenity issues under the ADG. In this regard, the development does not provide for high quality urban form.

Claims the additional height is warranted to ensure the development complies with sea level rise requirements are not supported. The development does not demonstrate compliance with sea level requirements, particularly with regard water ingress to the basement. Irrespective of this, the development proposes two floors above the six floor nominated maximum number of floors specified under DCP 2014.

While Council have supported variations to the maximum height of buildings, this has not demonstrated a clear abandonment of the development standard.

A development of the site of this nature will provide additional housing within the Belmont Town Centre; the application does not propose the development as affordable housing in accordance with state policy controls, which provides clarity to

the statement within the clause 4.6 submission the development will “*create more affordable housing in Belmont*”. The exceedance of the height of buildings maximum is not justified for this purpose.

The significant number of departures proposed within the development to LMLEP 2014, DCP 2014 and the Apartment Design Guide demonstrate the development has not been appropriately considered for the site, given the site constraints and opportunities. Consequently the applicant’s written submission under clause 4.6 is not in the public interest under clause 4.6(4)(a)(ii) and therefore is not supported. No further assessment is required under clause 4.6(5).

3. SEPP65 DESIGN REVIEW PANEL ASSESSMENT

Council’s SEPP65 DRP considered the proposal at its meeting of 8 February 2017. Amended proposals were considered at the meetings of 14 March 2018 and 11 July 2018. Council’s SEPP65 DRP had regard to the ADG in providing the assessment comment below.

The SEPP65 DRP comments relative to the nine design principles and each of the proposals considered are provided in Table 2 below:

<p>Context & Neighbourhood Character</p>	<p>8 February 2017:</p> <p>The site is in an area undergoing change and is located on a highly visible site on the waterfront of eastern shores of Lake Macquarie. This is the fourth proposal that the panel has considered for this site and understands that it involves a boundary adjustment with property to the north east with frontage to Edgar Street. The proposed development also continues to leave an isolated site on the corner of Brooks Parade and Sharp Street. It is understood that a number of offers have been made to purchase this site.</p> <p>The location of the drainage easement on the northern boundary creates an amenity constraint. The inability to purchase the corner block poses another constraint to a desired outcome for site development. Further constraint is the requirement to locate habitable spaces in the order of 1.2 to 1.8 metres above street level, to avoid potential inundation. These have been known constraints for some time and a development needs to respond to them positively. Council has recently adopted specific height controls within the LEP for the site and this policy framework has been adopted in the full knowledge of the nature and form of surrounding development.</p> <p>14 March 2018:</p> <p>The panel noted that the remaining isolated lot on the corner of Brooks Parade and Sharp Street has now been acquired, which is a positive development.</p> <p>The applicant noted that the required levels to address flooding on the site meant that the podium has been raised between 1.2m and 1.8m above natural ground across the site, which essentially eliminates any opportunity to obtain views through the site from a pedestrian’s eye level in Edgar Street, looking westwards towards the Lake. The panel accepted that the primary function of the east-west view corridor through the site would therefore be to provide spatial separation between the towers, and to possibly permit views from above ground level areas of likely future development to the east.</p> <p>11 July 2018</p> <p>The panel’s previous observations in regard to context remain applicable. It was noted that the applicant had opted not to provide contextual photomontages of the development as recommended by the panel.</p>
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Built Form & Scale**8 February 2017**

A development that responds to the context of the site and its constraints would:

- 1) Should provide a minimum of 3 metre landscape setback to the drainage easement.
- 2) Would be setback in accordance with SEPP65 separation distances to the isolated site on the corner of Brooks Parade and Sharp Street.
- 3) Would provide a better interface to the isolated site on the southern boundary by relocating or removing the vehicular access point. The area abutting the corner site should form of a landscape setback.
- 4) Comply with the height controls.
- 5) Garbage facilities would be located wholly within the site and preferably in the basement. Reversing of loading vehicles across a footpath in a new development is problematic.
- 6) Podium level parking would be avoided.

While the panel is of the view that while the current proposal demonstrates better built form relationships than previous schemes, it fails to address a number of previously identified shortcomings and does not provide sufficient justification to depart from key controls.

On a site of this size with three street frontages, the panel would anticipate the design approach would provide for a variety of forms and to provide each building with its own architectural character. The use of continuous balconies is discouraged as this both provides a bulkier form, reduces privacy within apartments, and tends to provide a monotonous façade expression.

If the recommended setbacks are achieved, this would give rise to some more slender buildings which would present as a better built form and would assist in providing different architectural character.

14 March 2018:

Concern has been expressed previously by the panel in respect to the protrusion of the car park podium beyond the footprint of the towers, which occurs around the full perimeter of the development, and the respective awkward spatial relationships this creates with the three street fronts, and with the adjacent canal. The ADG recommends that any basement or semi-basement car parking be restricted to the footprint of the building(s) above. In this instance, although it might be argued that the car park can potentially protrude somewhat above the natural ground level *between* the buildings, its extension beyond the building footprints around the external perimeter continues to raise substantial concerns. These issues relate particularly to the

	<p>relationship of the development with the street, capacity for deep soil landscaping, and overall bulk and scale.</p> <p>The revised design also continues to locate approximately 20 car parking spaces above the podium level, in this iteration shielded from street view by a narrow commercial space. The panel has previously identified above-podium parking as being inappropriate for a range of reasons. The revised layout relies on all vehicles accessing a single vehicle lift to enter and exit via the semi-basement below. Vehicle manoeuvring and queueing issues and the impracticalities of this proposal, as well as the continued location of car parking in a premium location of the site, are considered unsatisfactory.</p> <p>The proposed commercial spaces have a potentially positive contribution in terms of street activation; however, there is a lack of access to back-of-house servicing areas, and close dedicated storage and amenities. This is likely to limit the commercial viability of the spaces. The commercial spaces that lend themselves to use as food outlets should also have access to appropriate through-building risers for cooking exhausts and the like.</p> <p>Although the previous suggestion of a mezzanine alfresco dining area has been taken up on the Brooke/Sharp Street corner, the layout of the proposed area renders the seating very exposed visually and in terms of prevailing winds etc.</p> <p>Inter-block separation distances: The revised proposal has increased separation distances between blocks, but while improved, these separations in a number of instances remain unsatisfactory and non-compliant with ADG minimum separation recommendations. This is exacerbated by multiple locations in which living rooms and their balconies are directly opposing one another. It is noted that the required setback of floors above 4 stories should count the exposed semi-basement as a level, and that separation distances are to be measured from the outer face of the balconies. It is noted that the ADG recommendations are for <i>minimum</i> separation distances, and tower planning should seek to avoid living rooms and their balconies opposing one another directly. In a number of instances, the layout means that central apartments will have no aspect beyond the opposing tower, which is considered unsatisfactory.</p> <p>The stepped floorplates of the towers result in very deep floor plans for the lower levels, which bring with them a range of issues including awkward internal planning and lack of appropriate access of the internal spaces to natural light and ventilation. All lift lobbies and corridors above podium level in each of the four towers lack any access to natural light and ventilation, which has previously been flagged as being unsatisfactory. Corridors are not generous in their widths, and front doors to a number of apartments open immediately onto constricted lift waiting-spaces. Layouts of the apartments around the central cores do not</p>
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appear to have been informed by consideration of views, aspect, cross ventilation or amenity. The provision of more generously proportioned corridors that extend to at least two points of the building façade to allow adequate light and ventilation would also have assisted in rationalizing apartment layout to take advantage of the site's attributes.

Building height strategic planning and urban design analysis: The panel was presented with a rationale for a significant exceeding of the LEP control for the height of the tower on the south-western corner of the site, on the Brooks Parade and Sharp Street corner. This corresponds with approximately two and a half stories above the LEP control. Reliance was placed by the applicant upon the Deicke Richards study of 2007 (which preceded the current controls) that indicated a lower tower to the north and a taller one to the corner opposite the existing Belmont Towers development. The panel did not support any increase in height for the corner building above the LEP control that was not fully offset by the corresponding reduction in the height of one of the adjacent towers, and also considered a two and a half storey exceedance of the control to be excessive even if fully offset as described. If a slender, well designed tower were proposed for the street corner that exceeded the control by a single floor, and one of the other towers was reduced by a floor, this would provide a more interesting skyline and could potentially be supported.

Building form: There remains a predominance of continuous balconies on the tower elements, coupled with extensive glazed balustrades. This has previously been identified as undesirable from both a visual bulk aspect, and in terms of protection from wind and excessive summer sun. While some "wintergarden" glass louvered spaces have been provided that add some visual interest and will provide wind protection, in the limited instances they have been adopted, no consideration appears to have been given to the solar heat loads impacting these spaces. Similarly, what are described as "privacy screen sails" have been provided on the Brooks/Sharp corner tower. These appear to be solely decorative, as they on the southern façade of the building, which has minimal solar load and privacy issues. These sails are also considered to be potentially problematic in terms of their ongoing maintenance and impede external access to the windows for cleaning.

Previous recommendations by the panel have not been taken up for the provision of protection of balconies from excessive summer sun and visual exposure, and from high winds. Corner balconies are especially impacted by the latter. Given the fact that attractive views are obtained facing west, it is essential that adjustable sun control be provided to glass areas and balconies in this location.

11 July 2018

The panel noted the deletion of the above-podium car parking component from the proposal, which was considered a positive step and which removed a highly inefficient and dysfunctional parking arrangement. However, the creation of an isolated unit No.1-01 at podium level was considered less than ideal. It was noted that a previously identified issue – that being the lack of privacy of separation a number of podium level units between both their internal spaces and balconies and the communal open space – remained, and was repeated in the new arrangement.

A key issue raised previously in respect to the visual dominance of the car park podium, and its taking up what could otherwise be deep soil planting areas within the street setbacks, remains of particular concern.

No changes have been made in respect to the range of Built Form and Scale issues identified previously, which included the separation distances between the apartments and their balconies in a number of locations, the orientation of apartments directly facing each other, lack of fixed and adjustable privacy and sun screening, or exposure of commercial outdoor spaces and private balconies to winds.

<p>Density</p>	<p>8 February 2017:</p> <p>In the absence of an FSR control, the density will be determined by the extent of development achievable within the relevant site constraints and controls.</p> <p>Where setback controls and height controls or requirements are breached, this then results in additional floor area that would not have been anticipated by the controls.</p> <p>14 March 2018:</p> <p>The site is an attractive one, but carries with it constraints in respect to flooding, and as advised by the architect, in terms of geo-technical conditions and the related cost of providing full basement parking. When these and other aspects are taken into account, including provision of compliant deep soil areas for landscaping, adequate separation distances and building height, it is inevitable that a satisfactory outcome will involve some reduction of yield from that proposed.</p> <p>11 July 2018</p> <p>The previously identified issues pertaining to density all remain unaddressed.</p> <p>A number of adverse outcomes arise from the large floorplates of the lower, four floors of each tower, and the resulting limited separation between buildings. Apartment layouts in many instances include dark windowless alcoves apparently intended for use as studies, but which in some instances invite use as bedrooms. In any event, these are unpleasant spaces that do not comply with the objectives of the ADG. In some instances, the deep floorplans result in long, convoluted internal corridors. The unit in the south-west block labelled 2-05 (which is repeated on 4 levels with the same Unit number) represents a particularly extreme example of this.</p> <p>It is noted that the applicant indicated to the panel at its March meeting, that geotechnical constraints on the site preclude a second basement level that could have removed the protrusion of the exposed car park from the street setbacks. This imposition is considered by the panel to have serious adverse outcomes. Further, it is understood that the car parking provision in the latest submission is for 161 spaces, whereas Council's controls require 172 spaces. While the panel does not have a strong view in respect to the parking shortfall, this further demonstrates that the geotechnical condition is a constraint of the site, as is tidal inundation and flooding, that collectively have an impact upon the ultimate densities that can reasonably be achieved. Thus, any direct comparison between this and other sites in Lake Macquarie City needs to take individual constraints into account.</p> <p>The panel does not support the height of the south west</p>
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	tower, which substantially exceeds the control for the site, and which has an impact upon the density of the development.
Sustainability	<p>8 February 2017:</p> <p>The proposal includes a substantial area of glazed balustrades and full height windows in both residential and commercial spaces that are afforded minimal if any sun-screening. While some limited exposure of habitable spaces to the west may be justified on the basis of views, substantially more functional sun-shading should be provided to reduce heat loads.</p> <p>No specific inclusions beyond the minimum mandatory requirements of BASIX were nominated.</p> <p>14 March 2018:</p> <p>The subject site is not constrained at all by any overshadowing, and enjoys three street frontages. It is therefore expected that full compliance with solar access as outlined in the ADG will be achieved, as well as full compliance with cross-ventilation percentages. It is noted that the appropriate ADG minimum period for solar access to the living rooms and private open spaces of apartments is three hours – not two. The proposed design falls short in both respects.</p> <p>The lack of sun protection and extensive exposure of glass to unprotected summer sun will necessitate excessive reliance on air conditioning on days when provision of reasonable adjustable external shading would render spaces comfortable without this energy cost.</p> <p>As mentioned above, natural light and ventilation to corridors are considered essential to achieving an acceptable corridor condition.</p> <p>11 July 2018</p> <p>None of the issues raised previously has been addressed in the latest submission.</p>

Landscape

8 February 2017:

The communal open space proposal appears to include excessive areas of hard paving, at the expense of plantings. The panel recommends the scheme be revisited to provide for a softer, more domestic outcome.

It appears that the deep soil requirement is not achieved. The diagram provided to indicate deep soil includes significant areas, which would not qualify under the "deep soil" definition, due to insufficient width. There is a need for substantial areas of consolidated deep soil to allow for successful planting of large scale trees in strategic locations across the site.

The panel recommends that the verges to the concrete drainage channel be considered as a landscape feature and planted and treated accordingly.

The stairs from Brooks Parade should be widened to create a more generous address from the street. They should incorporate two or more short flights with generous landings, integrated with the lift design.

The level difference between Brooks Parade and the podium should have an intermediate landscaped terrace to create a better relationship to the street.

14 March 2018:

For sites over 1500m² the ADG minimum dimension for deep soil planting calculation is 6m. The very limited deep soil planting suggested in the landscape plan does not comply with this dimension, and a relatively narrow skirt of deep soil is provided around sections of the site perimeter. This is unsatisfactory, and limits planting that would otherwise better integrate the development with the streetscape and would provide opportunity for some appropriately scaled planting.

The large podium area is predominantly hard paved, with quite limited areas of raised planter beds, which create a "walled" character in some areas as depicted in the 3D images. Rather than the accessible areas of the podium presenting as open space within a broader landscaped precinct, the reverse occurs where the limited soft landscaping appears perfunctory. The areas of proposed "astro-turf" do not assist in this aspect.

As mentioned above, the dominance of the carpark podium as it extends towards the street fronts greatly restricts the available area of deep soil planting as defined by the ADG. This width is typically only 50% of the minimum dimension for required in calculating deep soil area, and does not permit suitably scaled plantings for the built form.

There appears to be insufficient landscape setback to the canal to permit safe access to the area for landscape maintenance, and indicative planting will struggle to survive

	<p>beneath overhanging structure.</p> <p>As discussed elsewhere, greater screen landscaping is required to create a moderate degree of visual screening to the outdoor dining area on the Brooks/Sharp Street corner. Some wind protection from the south is also desirable.</p> <p>11 July 2018</p> <p>There have been some changes to the landscape plan brought about by the deletion of the above-podium parking block parallel to Sharp Street. None of the changes alleviate the previously raised concerns in respect to the poor provision for landscaping – both in the very limited areas of deep soil available – and in respect to planting on structure. It is noted that for a very large site such as this, the ADG minimum dimension for the calculation of deep soil areas is 6m. Thus virtually no deep soil planting areas are provided, and the capacity for providing appropriately scaled trees that provide a landscaped context to the tall buildings is limited if not exhausted.</p> <p>Rather than the central communal space feeling like an attractive landscaped area, it will feel like a concrete podium with a few limited areas of raised planter beds. The overall feel of the area is of hard paving.</p>
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<p>Amenity</p>	<p>8 February 2017:</p> <p>Internal rooms and deeply recessed alcoves which appear to be intended for use as study spaces do not have access to light and ventilation and are considered to be non-compliant with the ADG. Some of these spaces have capacity to be walled off post-completion and used as bedrooms – which would be very unpleasant spaces.</p> <p>On the northern side of the site, the location of the balconies and outdoor living spaces at a nil setback to the open drainage easement results in poor amenity to those units.</p> <p>All residential lobbies should be provided with access to natural light and ventilation as per the ADG recommendations. As presented, almost all common corridors and lobby spaces are fully enclosed.</p> <p>14 March 2018:</p> <p>A range of significant amenity issues are discussed under headings above, which ought not to arise on a site with very few constraints that limit potential provision of good apartment amenity. These issues go to:</p> <ul style="list-style-type: none"> - Sun control to balconies and glazing - Cross ventilation - Privacy between apartments and balconies - Light and ventilation to corridors - Light and ventilation to deep plan apartments - Convenience of parking (vehicle lift) - The Number of apartments served by a single lift (31, 36, 37, 37): While the number of residences per lift does not exceed the nominated ADG maximum of 40 and is therefore compliant, given the number of residences served and the desirability for a capacity for dealing with lift servicing, a second lift in each tower would provide residents with greater amenity. <p>Amenity summary: While some of the matters can be addressed by the addition of appropriate additions to the design (e.g. adjustable sun shading, more extensive solid balustrades) the majority require reconsideration of building siting and apartment planning.</p> <p>11 July 2018</p> <p>The issues raised previously remain of concern.</p>
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<p>Safety</p>	<p>8 February 2017:</p> <p>The location of the unloading/loading facility comprises pedestrian safety with vehicles reversing over public footway. Mailboxes located in an unsecured location at the street will potentially provide opportunities for mail theft; their location should be reconsidered to a secured area.</p> <p>14 March 2018:</p> <p>As raised previously, mail theft and associated identity theft is a growing concern for authorities. Isolated letter boxes should be relocated within secure areas.</p> <p>11 July 2018</p> <p>The loading dock has been redesigned, and subject to Council engineering comment, appears to have resolved the greatest concerns previously expressed by the panel.</p> <p>Mailbox locations are not indicated on the plans provided, but may have been addressed in the revisions.</p>
<p>Housing Diversity & Social Interaction</p>	<p>8 February 2017:</p> <p>No internal area is provided for communal use to residents. It is suggested that in accordance with the ADG, space with an external aspect and that is reasonably accessible, should be provided for communal use. One option for this would be to convert the retail/commercial space on Sharp Street for this purpose.</p> <p>14 March 2018:</p> <p>A communal space shared by all four towers has been provided at podium level. This is a positive inclusion, but should be supplemented by provision of spaces for occasional informal resident interaction – such as some fixed seating and more generous spaces for lift lobbies.</p> <p>11 July 2018</p> <p>Podium level lift lobbies are quite deep in two instances (Block C in particular, which is also convoluted, and Block A to a lesser extent). There is no indication that the suggestion in respect to seating or the provision in any block for an area that encourages easy resident casual social interaction.</p>

<p>Aesthetics</p>	<p>8 February 2017:</p> <p>The overall expression of architectural and landscape form does not provide a development that is fitting for this important site as outlined above under Built Form and Landscaping.</p> <p>The taller tower in the south west corner of the site does not mark the street corner because of the remaining isolated site, and no exceedance of the height control is warranted.</p> <p>14 March 2018:</p> <p>The issues raised previously in respect to architectural and landscape form have not at this stage been adequately addressed. The south-east (Sharp/Edgar Streets) tower is the better resolved aesthetically at its upper levels, due to inclusion of balcony screening and non-continuous balconies at these higher levels. However, it shares the overall problem in regard to its relationship with the street being compromised by the lack of setback for deep soil landscaping.</p> <p>Landscaping in general for the site is insufficient in scale and extent to adequately assist in providing an attractive contextual setting for the development. The above podium car parking further adds to the visual bulk.</p> <p>The lower levels of all four towers appear excessively bulky due to their larger floor plate. This is exacerbated by extensive glass balustrading on facades that have continuous balconies.</p> <p>The panel considered the corner-marking aesthetic device for the south-western tower to be overly assertive and somewhat clumsy in its execution. It is also impractical due to the very limited visual screening as well as the lack of appropriate weather and sun protection that the balconies are afforded.</p> <p>The use of small, fixed “sails” to the external façade is impractical and appears somewhat tokenistic visually.</p> <p>As mentioned under headings above, the height of this tower was considered excessive, and it is desirable to introduce some variety to the four buildings’ heights.</p> <p>11 July 2018</p> <p>The aesthetics of the proposal are essentially unaltered, and remain of concern as previously outlined.</p>
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Recommendation:

8 February 2017:

There remain a number of shortcomings in the subject application, which have previously been identified in reviews of earlier proposals for the site considered by the Panel. These issues, as identified under the headings above, are significant and go to the inherent planning and design approach for the site. The identified non-compliances and design issues are therefore not readily addressed by simple modifications to the design.

The Panel is therefore unable to support the proposal, nor suggest readily implemented amendments to the design, or Conditions of Consent that might address the concerns identified.

14 March 2018:

The panel is unable to support the proposal in current form for the reasons outlined in detail under the headings above.

11 July 2018

The panel noted the applicant's advice via Council that its previous advice was considered by the applicant to have deemed the proposal to be an overdevelopment, and therefore the applicant would not address the panel's endorsed recommendations.

None the less, the applicant's removal of the inefficient and unsightly car parking block above the podium was seen by the panel as one incremental improvement to the proposal.

However, the proposal remains largely unaltered, and the opinions and concerns expressed previously by the panel for all areas other than the podium-top car parking remain. The panel is therefore unable to support the proposal.

Note

8 February 2017:

The applicant has not demonstrated how the isolated site can either be integrated with or developed by itself. This exercise needs to have regard to how the sites would be developed individually or together in accordance with the controls as required the planning principles for isolated sites.

The documentation lodged with the application is deficient in respect to the following:

- Sun eye diagrams to accompany the solar access statistics (DA51-A) to demonstrate compliance sun penetration requirements under the ADG.
- A series of cross site sections and detailed sections to indicate the relationship between the elements of the development, public domain and adjoining properties. These sections should show level relationships as well as indications of proposed character.
- Contextual photo montages should be provided that illustrate the proposals (in colour) within the existing context.
- Diagrams that demonstrate compliance with cross flow ventilation requirements of the ADG.
- Details of storage provided within apartments and at basement level

14 March 2018:

While some of the documentation previously identified as being required has been addressed, there remain a number of shortcomings in the documents provided – particularly given the scale of the development.

There is a lack of adequate documentation of the visual context of the site, both in terms of photo-montages from street level of the development in its context, and in regard to sections and street elevations. The 3D images of the development provided in the planning documents utilize basic “Sketch-up” block forms in Google format, and the viewing points are from a considerable height above ground. The monochrome architectural 3D images are not representative of the landscaping proposed, and lack any contextual imagery.

Sectional diagrams should include clear identification of boundary locations. Setbacks should be dimensioned and more extensive information provided in terms of minimum separation distances between buildings within the site.

11 July 2018

The panel remains of the view that the standard of documentation for such a significant proposal is below standard. One minor example of the lack of attention to the documentation is illustrated by the repetition of Unit numbering for Block A across four floors. Of particular concern is the lack of realistic contextual photomontages, and the unrealistic representation of all landscaping in 3D illustrations provided.

Table 2: SEPP65 DRP Comments

Council officers have undertaken a specific assessment against the ADG highlighting numerous concerns with the development proposal. It is acknowledged the ADG is a guide to good apartment design, however the failings of this development against an assessment of the ADG demonstrates the development does not provide innovation, quality design nor respond appropriately to the area, landscape setting and surrounding built form. Appendix F contains a detailed assessment of the development against the ADG.

4. Section 4.15: Matters for Consideration

An assessment in relation to Section 4.15 of the Environmental Planning & Assessment Act 1979 is as follows:

4.15(1)(a)(i) the provisions of any Environmental Planning Instrument (EPI)

State Environmental Planning Policy 55 – Remediation of Land

The 15 lots comprising the development site consist of existing dwelling houses and commercial premises.

A search of Council's records identified no historic land uses or notices in relation to the land being considered contaminated.

In accordance with Clause 7(2) of the SEPP, a preliminary investigation of the site is required to determine the extent of site contamination in relation to the service station.

A preliminary investigation was provided through a Geotechnical report by Regional Geotechnical Solutions (reference RGS01385.1-AB). The investigations concluded the site is appropriate for the development with regards to contamination resulting from past or current land use.

Soil to be excavated from the site is considered VENM and requires disposal to a site approved to receive fill material. Any acid sulfate soils will be treated in accordance with the Acid Sulfate Soils Management Plan to enable disposal of these soils.

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development

Clause 28(2) requires the consent authority to consider:

- (a) The advice from a design review panel,
- (b) The design quality of the development when evaluated in accordance with the design quality principles, and
- (c) The apartment design guide (ADG).

Appendix F contains a detail assessment of the development against the ADG. The detailed assessment against the ADG highlights significant deficiencies of the proposal including internal and external failures. This matter is addressed in detail in section 3 of this report and Appendix F.

State Environmental Planning Policy 71 – Coastal Protection

Note: SEPP (Coastal Management) 2008 came into effect on 3 April 2018. Clause 21(1) *Savings and Transitional Provisions* of the SEPP (Coastal Management) 2018 states it does not apply to a development application lodged but not finally determined prior to commencement of the policy. The development application was lodged on 2 January 2017.

The development site is located within the SEPP71 Coastal Zone as shown in Figure 8:

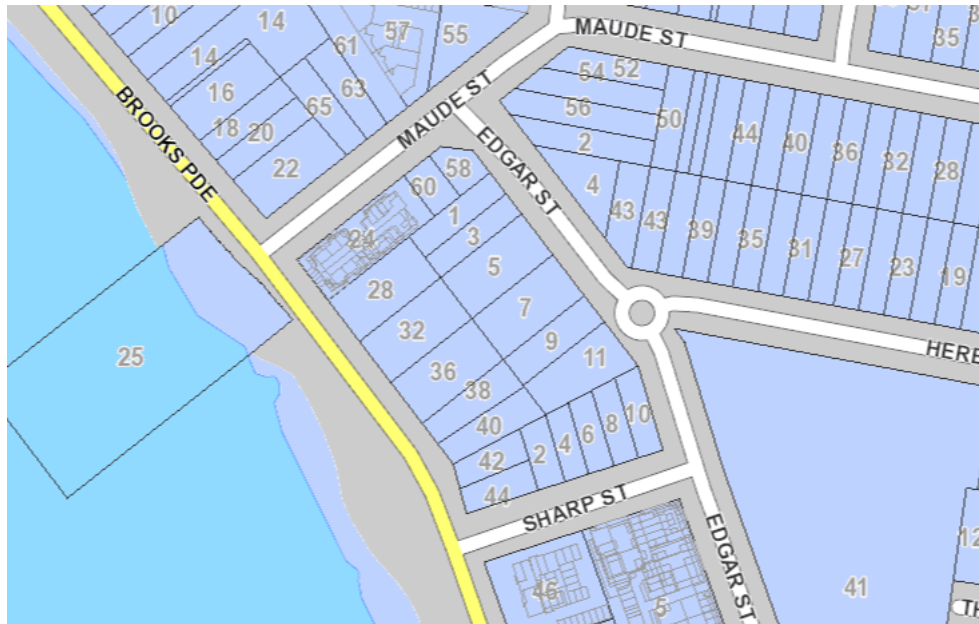


Figure 8: Land mapped under SEPP 71 Coastal Policy

The application is to be assessed having regard to the aims of the SEPP and the matters for consideration as listed under Clause 8.

The development site is an area previously developed for low density housing. The site is adjoined on the northern, eastern and southern sides by low and high density forms of residential development as well as commercial/retail development. To the west is Brooks Parade and the Belmont foreshore being a formalised public space.

As the development has no direct boundary with the lake foreshore and the public space, it has negligible impacts. This includes consideration of coastal processes, ecology, and the integrity/resilience of the environment. Further a Due Diligence report has addressed Aboriginal heritage, raising no concerns with the development.

Additionally the development has been assessed with regard to water quality through a stormwater management plan, a soil and water management plan and the GTAs issued by NSW Water.

In terms of public access, open space and amenity, the development is not considered to have any detrimental impact. The detached building forms and the separation from the Belmont foreshore by Brooks Parade minimises impacts from wind tunnelling, allows view retention (though limited by the podium level), maintains public access and amenity (whilst an impact is expected from overshadowing, the separation of the buildings will provide a broken shadow over the Belmont foreshore during the morning hours).

Note, the shadows cast by the additional building height will have a limited impact on sea grasses and the like noting the shadows will have receded from the water by approximately 10am.

State Environmental Planning Policy (Infrastructure) 2007

Ausgrid

Ausgrid provided a response (attached as Appendix D) under Clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007. Should any development consent be granted, it is appropriate to include the above matters as a condition of consent.

State Environmental Planning Policy (State & Regional Development) 2011

The development qualifies as Regional Development, based on the proposal having a capital investment value of more than \$20 million (Clause 3 of Schedule 4A under Environmental Planning & Assessment Act, 1979). Consequently the Hunter & Central Coast RPP exercises the consent functions of Lake Macquarie City Council.

Lake Macquarie Local Environmental Plan 2014

Part 1 Preliminary

Clause 1.9A Suspension of covenants, agreements and instruments

An Easement to Drain Water (Variable Width) applies to Lots 3, 10 & 11 Section B Deposited Plan 585. The easement is registered in Deposited Plan 645060, burdening the land owner and benefiting Lake Macquarie City Council (see Figure 9 below).

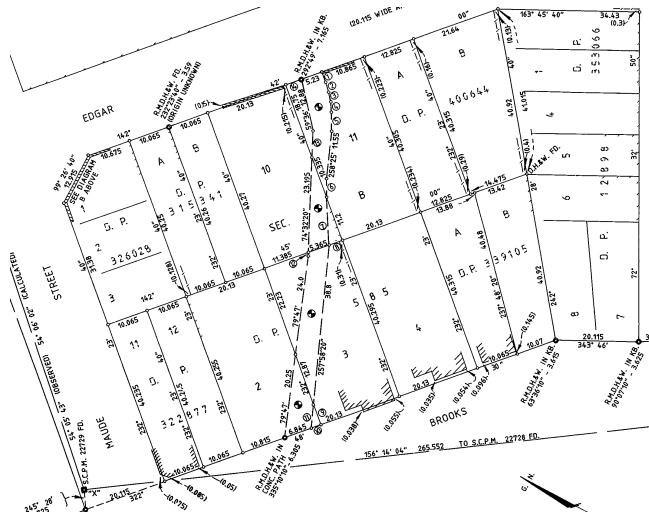


Figure 9: Easement to Drain Water Variable Width (DP 645060)

The development has been designed with no encroachments of the easement excepting the pedestrian walkway

Sub-clause (1) provides that any agreement, covenant or other similar instrument that restricts the carrying out of the development does not apply to the extent necessary to serve the purpose of enabling development. Sub-clause (2)(a) however states that sub-clause (1) does not apply to a covenant imposed by Council which is the case with regard to Deposited Plan 645060.

Council's Assets Management – Drainage raised no objection to the proposed encroachment by the pedestrian walkway.

Part 2 Permitted or prohibited development

Clause 2.3 Zone Objectives and Land Use Table

Zoning

The land is zoned B4 – Mixed Use as per Figure 10 below.

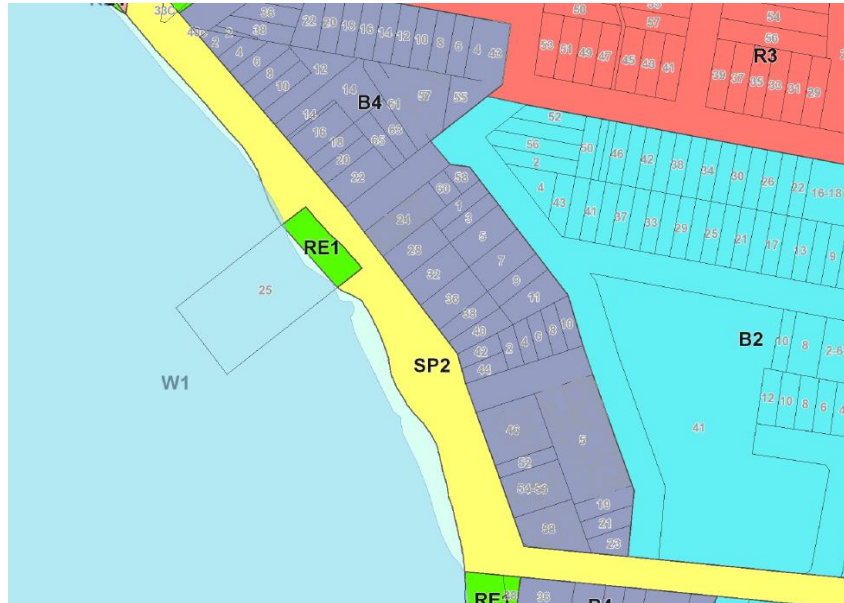


Figure 10: Land zoning map under LMLEP2014

Zone Objectives

The following zone objectives apply:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To enable development that complements and enhances the core retail function and trading performance of Zone B2 Local Centre and Zone B3 Commercial Core.

Permissibility

The development is for demolition of existing structures and erection of Commercial Premises and a Residential Flat Building. These land uses and related works are permissible within the B4 zone subject to development consent.

Part 4 Principal development standards

Clause 4.3 Height of Buildings

Refer to comment above under Section 2 Building Height of this report.

A clause 4.6 variation has been submitted to support the proposal and is contained in Appendix C.

Clause 4.6 Exceptions to development standards

A clause 4.6 variation (refer to Appendix C) has been submitted for the development with regard the contravention of the maximum height of building development standard referred to in clause 4.3 of LMLEP2014.

As stated in Section 2 Building Height of this report, the clause 4.6 submission to address the maximum building height exceedance is not accepted, and hence the proposal is not supported.

Part 5 Miscellaneous provisions

Clause 5.6 Architectural roof features

The development does not propose any architectural roof feature to address the lift overruns. Refer to clause 4.3 above for additional comment.

Clause 5.10

The land is mapped as part of the Sensitive Aboriginal Landscape Area Map as shown in Figure 11 below.



Figure 11: Sensitive Aboriginal Landscape under LMLEP2014

The applicant provided a Due Diligence Report which was referred to local Aboriginal communities for 28 days as per sub-clause (8)(b).

Council's Heritage Officer advised:

"The report does not identify any Aboriginal objects or areas of potential archaeological deposit within proximity to the proposed development, with the area found to fit the definition of disturbed land as defined by OEH.

The report has been reviewed and deemed adequate for the purposes of assessing Aboriginal Heritage in relation to the development. The application was referred to the Aboriginal Community Groups, with no comments specific to the development being received at the close of the 28 day period."

No objection is raised regarding protection of potential Aboriginal relics or meeting legislative requirements.

Part 7 Additional local provisions

Clause 7.1 Acid Sulfate soils

The site is mapped as being affected by Class 2 acid sulfate soils. Additionally the development will be intercepting the water table in order to construct the basement car park.

A geotechnical assessment of the development site identified the water table was encountered at 0.6m to 1.3m, and the sands overlying the site are naturally slightly acidic however the acid is not sulfuric in nature. The alluvial clays underlying the sands at depths of between about 2.4m and 4.5m are potential acid sulfate soils (PASS). Bulk excavations are anticipated to depths of the order of 3m and will disturb more than 1000 tonnes of soil.

A preliminary Acid Sulfate Soils Management Plan has been prepared (Appendix C to the Geotechnical report by Regional Geotechnical Solutions, reference RGS01385.1-

AC), no objection is raised in relation to acid sulfate soils.

Clause 7.2 Earthworks

The development site is generally flat even though it has a varying natural ground level of 0.8m to 1.2m AHD, which is consistent with the character of the locality.

Earthworks are required to construct the development, in particular the basement car park. The depth of excavation is approximately 1 to 3m in relation to varying Natural Ground Level (NGL).

The area to be excavated is bound by the drainage channel to the north, Edgar Street to the east, Sharp Street to the south, and Brooks Parade to the west. Therefore, other than infrastructure/assets, the development will have minimal impact on adjoining properties though a dilapidation condition could be imposed, considering public infrastructure/assets as well as private assets and infrastructure.

With regard intercepting the water table and its potential impact on water cycle processes and quality, the development has been considered by NSW Water for water management approvals under Section 90 of the Water Management Act, 2000. Additionally the development has been assessed from an erosion prevention and sediment control perspective with conditions recommended.

The development has also been considered in relation to Aboriginal heritage, with a Due Diligence report having been referred to Aboriginal community groups.

Clause 7.3 Flood planning

The site is designated as a Flood Control Lot – High Hazard. Development of the site is required to meet the following flood planning criteria:

1. All residential and commercial floors/rooms constructed to a minimum flood planning level of 2.82m AHD;
2. All unsealed electrical installations associated with the development, e.g. pumps, motors, power points, switches, etc. placed at or above 2.82m AHD;
3. The coping entrance to the basement car park constructed to preclude entry of floodwater at levels up to 2.82m AHD;
4. Basement car park addition requirement to implement a failsafe means of evacuation and a pump out system to remove floodwater.

The development proposes a minimum finished floor level (FFL) of 2.36m AHD for the podium level and commercial units, a minimum FFL 2.86m AHD for residential units and -0.64m AHD for the basement car park. The entry level of the basement car park is not nominated nor measures proposed to address floodwater ingress, that is 2.82m AHD.

Clause 7.7 Development on sensitive Aboriginal landscape areas

This matter is addressed under clause 5.10(8) of LMLEP2014.

Clause 7.10 Residential development in certain business zones

The development site is zoned B4 Mixed Use and involves a residential flat building, therefore the provisions of clause 7.10 must be considered.

The objectives of the clause are to:

- (a) ensure the commercial viability of centres is maintained and enhanced by discouraging stand alone residential development in certain business zones,

- (b) provide for appropriate residential and tourist and visitor accommodation opportunities in a commercial environment,
- (c) ensure development is compatible with any townscape and urban design principles adopted in a development control plan.

Under subclause 6 of the clause, development consent must not be granted to development for the purposes of a residential flat building on land in Zone B4 Mixed Use, unless it is part of a mixed use development in which all or part of the ground floor of the building facing the primary street has an active street frontage and the consent authority is satisfied that it is to be used for the purposes of commercial premises or a health services facility.

Under this clause 'active street frontage' is defined as:

active street frontage means a street frontage that enables direct visual and physical contact between the street and the interior of the building.

Note. Clearly defined entrances, windows and shop fronts are elements of a building facade that contribute to an active street frontage.

Figure 17 below under section 10.2 of DCP2014 provides an excerpt from the Belmont Town Centre Structure Plan regarding the desired active frontages.

The development consists of a podium recessed behind landscaping along the frontage of Brooks Parade, Edgar Street and Sharp Street. Above the podium four towers are positioned at the north-east, north-west, south –west and south-east corners which provide emphasis to the corners of the development site.

Figure 12 details the location and orientation of commercial floor space relative to each street front.



Figure 12: Proposed Commercial Premises

Proposed commercial premises floor space

The elevations of the development to each street frontage are as follows:

Brooks Parade – activation of the frontage occurs for the length of the Brooks Parade elevation through use of glazed commercial premises and outdoor dining areas. The break between blocks A and B is the entry statement for the development, whilst at the corner of Brooks Parade and Sharp Street is a deck area to be used for outdoor dining which wraps around the corner into Sharp Street.

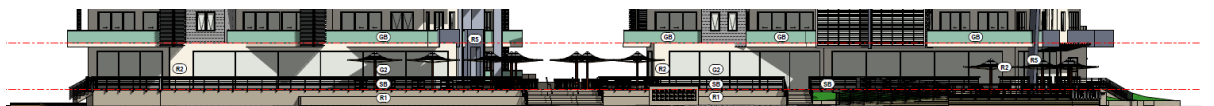


Figure 13: Brooks Parade elevation

Sharp Street – activation of the frontage occurs along Sharp Street however the elevation contains a loading dock and a break in the building which is used by the residents as part of the communal open space.

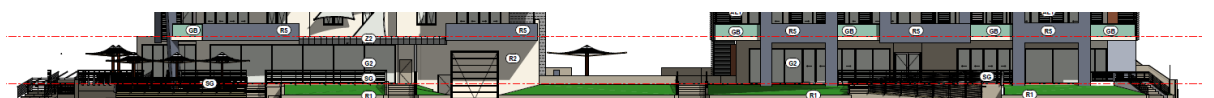


Figure 14: Sharp Street elevation

Edgar Street – activation occurs at the corner of Sharp Street and Edgar Street (Block D), however the remaining frontage incorporates residential units and balconies. The frontage of Block C has no activation to Edgar Street, consisting of residential units.

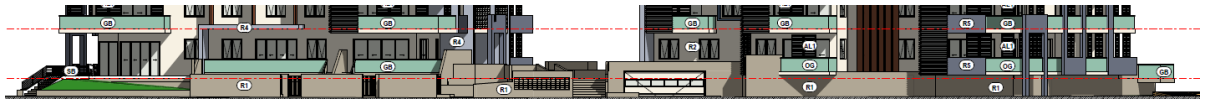


Figure 15: Edgar Street elevation

In assessing the development, consideration of the existing and desired future character is required. Figure 10 above identifies the zoning for the development site, being B4 Mixed Use, as is the land to the north and south. Land to the east is zoned B2 Local Centre. Under the hierarchy of commercial zones, the B2 zone has a core retail function and trading performance whilst the B4 zone is to provide a mixture of compatible land uses that support the operation of the B2 zone.

The existing built environment is mixed in terms of achieving the objectives and intent of the zones. Whilst residential development exists to the north-east and south-west, recent development to the south east, east and north-west contain commercial frontages to the respective street frontages. It is expected redevelopment of surrounding land within the B2 and B4 zone will provide increased activation of the streetscape.

The design of the development activates the streetscape having regard to Brooks Parade, Sharp Street and the corner of Edgar Street albeit with the limitation created by the street interface with the podium wall. The development does however lack activation along Edgar Street due to the residential units.

The provisions of clause 7.10(6) is 'all or part of the ground floor of the building facing the primary street has an active street frontage'. Having regard to the Belmont Town Centre Structure Plan (Figure 17) Edgar Street is identified as a major active frontage, with Sharp Street and Brooks Parade as active frontages.

The development is not considered to satisfy the objectives of clause 7.10 in assessing the proposal against subclause (6).

Clause 7.21 Essential Services

The site has available to it the required essential services and infrastructure to accommodate the development subject to addressing the requirements of the authorities, this includes endorsement by the Hunter Water Corporation at the time of lodgement of the development application.

4.15(1)(a)(ii) the provisions of any draft EPI

The following draft environmental planning instruments are relevant to this development:

SEPP 44 – Koala Habitat

Amendments to SEPP 44 – Koala Habitat were exhibited from 18 November 2017 – 3 March 2018. The proposed amendments relate to updating definitions of koala habitat, the list of tree species and applicable Council areas as well as the development assessment process. Based on the development site characteristics, the amendments do not have any implications for the proposal.

Draft Environment SEPP

The draft SEPP Environment was exhibited from 31 October 2017 – 31 January 2017. The proposed new SEPP relates to the protection and management of the natural environment, with a particular focus on water catchments, urban bushland and

Waterways.

With regard to water catchments, Lake Macquarie City Council is not included in Sydney Water Drinking Catchment and therefore the draft provisions do not apply.

The development site is mapped as part of the 'Urban Bushland Land Application Map' under the draft SEPP (note, Lake Macquarie City Council is currently an area to which SEPP 19 applies). The site does not meet the provisions for 'land zoned or reserved for public open space' under SEPP 19 nor does it meet the new 'public bushland' term under the draft SEPP.

For Waterways, the provisions of the draft SEPP mainly apply to Sydney Harbour and Canal Estates. These provisions have no implications for the proposal based on what it is or do not apply to the Lake Macquarie City Council area.

Draft Remediation of Land SEPP

The draft SEPP Remediation of Land was exhibited from 31 January 2018 – 13 April 2018. The proposed new land remediation SEPP will provide a state-wide planning framework for the remediation of land, maintain the objectives and reinforce those aspects of the existing framework, require planning authorities to consider potential for land to be contaminated when determining development applications, clearly list the remediation works that require development consent and introduce certification and operational requirements for remediation works that can be undertaken without development consent.

A draft instrument is not available for review and therefore the development cannot be assessed against its provisions.

4.15(1)(a)(iii) the provisions of any Development Control Plan (DCP)

Development Control Plan 2014

The following sections of DCP2014 are relevant to this proposal.

Part 4 - Development in Business Zones

Part 1 – Introduction

Section 1.15 – Development Notification Requirements

At the time of lodgement the development was Nominated Integrated Development in relation to the Water Management Act 2000. Accordingly the application was Advertised Development. The advertisement dates were:

28 January 2017 to 27 February 2017

An amended application was renotified for the following period:

7 September 2018 to 26 September 2018

1.5 – B4 Local Centres

This matter is addressed under Part 10.2 Belmont Town Centre Area Plan of DCP2014.

Part 4 – Development in Business Zones

Section 2 – Context & Setting

2.1 - Site Analysis

An adequate Site Analysis Plan has been submitted.

2.2 - Scenic Values

An Urban Design Assessment (refer to Appendix B) was provided in lieu of a visual impact assessment required by the Scenic Management Guidelines (SMG) and DCP2014. The Urban Design Assessment does not incorporate photomontages of the development in the context of broader views; however, the photomontages below in Figure16 show distant streetscape views.



LOOKING SOUTH FROM BROOKS PARADE



LOOKING NORTH FROM WATER FRONT



LOOKING NORTH FROM BROOKS PARADE



LOOKING NORTH WEST FROM COLES CARPARK



LOOKING NORTH WEST FROM EDGAR STREET

Figure 16 – Perspectives of the development

Under the SMG the landscape setting of Belmont Bay is described as a wide curving bay 3km wide between Cardiff Point and Marks Point. The foreshore is parkland for the most part and the terrain is generally flat. The suburban and commercial hub of Belmont lies at the centre of the bay. Views across the water are appreciated for their higher degree of naturalness and forested hillsides.

The SMG identifies Scenic Management Zone 5 (Lake surround, high settlement) as being applicable to the site. This Zone has a desired future character of encouraging development appropriate for town centres. This includes compact, higher density development with a mix of retail, business and residential uses, active street frontages, and a pleasant atmosphere for pedestrians and attractive streets. The character of buildings and the surrounding landscape should reflect the lakeside location and the popularity of these areas as social and recreational destinations. Physical and visual connections to the Lake are important and should be preserved and enhanced.

The site is prominently located along Brooks Parade within Belmont Town Centre and being a large site and multi-storied will have visual impacts.

In considering potential visual impacts of the development, regard must be given to its consistency with the planning controls. It therefore must be noted the development:

- exceeds the maximum building height for each of the towers,
- does not comply with setbacks
- does not comply with landscape requirements,
- has a shortfall in car parking and
- fails to successfully integrate the development at street level.

The buildings, particularly Block A, are a significant increase in density and built form above the existing context, and do not meet the desired future character in terms of a compliant development.

The visual impacts of the development regarding the:

- setting in terms of views from the Lake,

- relationship with the foreshore park;
 - relationship to the commercial streetscape, and
 - transition to adjoining development,
- are of concern.

In addition to the above, Council's SEPP65 DRP does not support the urban design outcomes and the development's integration with the locality.

2.3 - Geotechnical

This matter is addressed under clause 7.2 of LEP 2014.

2.4 - Cut and Fill

This matter is addressed under clause 7.2 of LEP 2014.

2.5 - Mine Subsidence

The site is not located within a proclaimed Mine Subsidence District.

2.6 - Contaminated Land

The site is not known to be contaminated; further detail is provided earlier in this report.

2.7 - Acid Sulfate Soils

This matter is addressed under clause 7.1 of LMLEP2014.

2.8 - Stormwater Management

A stormwater management plan has been submitted. Council's Development Engineer has raised no issue with the stormwater aspect of the development.

2.9 – Catchment Flood Management

This matter is addressed under Clause 7.3 of LMLEP2014.

2.10 – Lake Flooding and Tidal Inundation (Incorporating Sea Level Rise)

The development proposes a minimum Finished Floor Level (FFL) of 2.36m AHD for the podium level and commercial units, a minimum FFL 2.86m AHD for residential units and -0.64m AHD for the basement car park. The entry level of the basement car park is not nominated nor measures proposed to address flood waters ingress, i.e. minimum 2.82m AHD.

The site is subject to predicted sea level rise under Lake Macquarie Waterway Flood Study and Risk Management Plan 2012. DCP2014 sets out controls which the development must comply with:

- Implement measures to mitigate adverse effects,
- Designed and sited to reduce risk,
- Not be in areas predicted to be permanently inundated during the asset life (100 years), and
- Comply with floor height requirements.

The development was assessed/reviewed by Council's Sea Level Rise Panel, which recommended the development be constructed as per submitted plans unless otherwise specified by Council's Senior Sustainability Officer- Natural Disaster (refer to clause 7.3 of LMLEP2014 for details).

The above matters would be required as conditions of consent, however the implications of design amendments to achieve compliance are not known, i.e. minimum level of 2.82m AHD for the driveway entry to the basement carpark.

2.11 – Natural Water Systems

The drainage channel contained within the development site is not designated as a natural water system. The channel provides for stormwater drainage.

2.12 - 2.13

Sections 2.12 to 2.13 have been considered and are not relevant to this development.

2.14 - Preservation of Trees and Vegetation

All existing vegetation is to be removed by the development as a consequence of the basement carpark and podium. The site has no registered or otherwise significant trees that require further consideration.

The existing site consists of a mix of native and exotic species, none of which warrants restrictions on development (this does not include trees located on Council's road reserve).

2.15 - European Heritage

The site is not mapped as nor is in the vicinity of a Heritage Item under LMLEP2014. The site does not contain any existing structures that warrant further consideration.

2.16 - Aboriginal Heritage

This matter is addressed under clause 5.10 of LMLEP2014.

2.17 - Natural Heritage

The site does not contain nor is in the vicinity of any natural heritage items under LMLEP2014.

2.18 - Social Impact

The development has been assessed against the ADG, the B4 zone objectives under LMLEP2014 and, the controls in the Belmont Town Centre Area Plan (Part 10.2 of DCP2014). The development fails to achieve a number design outcomes as identified in sections 3 and 4 of this report, which raise social impact concerns having regard to the quality of life for internal and external residents.

Additionally a Social Impact Assessment and an access report were submitted with the application. The development is deemed compliant in terms of accessibility subject to conditions.

2.19 - Economic Impact

The development is generally consistent with the zone objectives and the Belmont Town Centre Area Plan (Part 10.2 of DCP2014) excepting issues relating to 'complementing and enhancing the core retail function and trading performance' of the B2 zone having regard to activation of the street frontage (refer to comment under clause 7.10 of LMLEP2014 and the Belmont Town Centre Area Plan under Part 10.2 of DCP2014).

The development provides economic benefits to the City and more particularly Belmont through jobs created at the construction phase. Post construction the development will provide an increase in commercial floor space within the Belmont Town Centre, along with residents occupying the 140 units further strengthening the dynamism of commercial activity in the centre.

2.20 - Lot Amalgamation

The development amalgamates 15 lots, which is consistent with the block controls under Belmont Town Centre Area Plan (refer to Part 10.2 of DCP2014), consequently, no lots are isolated by the development.

2.21 - Utility Infrastructure

This matter is addressed under clause 7.21 of LMLEP2014 in relation to servicing the development.

The amended plans do not detail site infrastructure such as kiosks and fire hydrants (previous versions of the plans provided related infrastructure at the Edgar Street frontage). Provision of required infrastructure is an afterthought and likely has an impact on the streetscape outcome.

2.22 - Sites where a Concept Plan is required

This matter is addressed under Part 10.2 Belmont Town Centre Area Plan of DCP2014.

Section 3 – Streetscape and Public Space

3.1 - Pedestrian Lanes and 3.2 - Pedestrian Links through Buildings

This Belmont Structure Plan provides further information regarding pedestrian access within the Centre. Section 10.2 (Belmont Town Centre Area Plan) of DCP2014, addresses these matters.

3.3 - Footpath Dining

Footpath dining is not proposed under this application. Due to level changes and the extensive area available at the podium level it is unlikely footpath dining will be sought in the future.

3.4 - Streetscape Improvements

No streetscape improvements are shown on the landscape plan for all three street frontages. The site is within the Belmont Streetscape Master Plan precinct and should detail streetscape improvements as per the Plan.

Additional detail is provided under Part 10.2 (Belmont Town Centre Area Plan) of DCP2014.

3.5 - Non-Discriminatory Access

Equitable access is provided to the pedestrian path along the drainage channel, and via access ramps in Brooks Parade, Edgar Street and Sharp Street.

An Access Report provided with the application demonstrates general compliance with various Australian Standards, the Liveable Housing Guidelines and DCP2014. As per the recommendations of the report, conditions apply with regard to the circulation of shared zones for accessible parking spaces and equitable access between the podium and canal walkway.

3.6 - Lighting

Lighting of the entries and adjoining footpath areas is required. The development is required to compliance with DCP2014 and Australian Standards.

Section 4 - Active Street Frontage

This matter is addressed under Part 10.2 (Belmont Town Centre Area Plan) of DCP2014.

Section 5 – Access and Parking

5.1 - Traffic and Vehicle Access

A traffic impact statement was submitted with the application for a development consisting of 140 residential units, 700m² of commercial gross floor area, and 165 car parking spaces. The development fronts Brooks Parade, being a classified road under the control of the RMS.

The development qualifies as traffic-generating development under clause 104 and Schedule 1 of the SEPP (Infrastructure) 2007. RMS raised no objection to the development.

There is in principle no objection to direct access off Edgar Street/Herbert Street roundabout as a fourth leg, however as the development proposes controlled access via a remote control door this will likely cause impacts on the operation of the roundabout. Design changes or clarification is required to remove likely conflicts with the local road network.

Waste collection and deliveries for the commercial units is proposed via a loading dock in Sharp Street. Forward entry and exit movements are enabled via a turning table platform, however limitations apply to the vehicle size.

5.2 - Design of Parking and Service Areas

The development requires compliance with AS 2890.

5.3 - Bike Parking and Facilities

The development provides 42 bicycle parking spaces, all contained in the secure residents section of the basement car park. This is compliant with the total minimum bicycle parking spaces required. Bicycle parking is not provided at the podium or any other location accessible by customers, visitors and employees.

Facilities, such as change rooms, showers, and lockers, are not nominated within the commercial units.

5.4 - Motor Bike Parking

The development provides four motor bike parking spaces within the visitor/commercial section of the basement car park, with an additional four within the secure residents section. The total number of motor bike parking spaces is compliant, see Table 3 below.

5.5 - Car Parking Rates

The development provides a total of 165 car parking spaces, incorporating 121 residential parking spaces (15 as accessible parking spaces) and 44 visitor spaces (2 as accessible parking spaces). The application does not directly nominate parking spaces for the commercial units, proposing to have the commercial and visitor parking as co-use parking.

The table below provides a breakdown of the required parking under DCP2014 in comparison to the provided parking:

	No. Units/Area	Rate	Required	Provided
1 Bed Unit	24	0.5 per Unit	12	
2 Bed Unit	76	0.75 per Unit	57	
3 Bed Unit	40	1.0 per Unit	40	
Subtotal			109	121* *106 parking spaces and 15 accessible parking spaces
Commercial	700m ²	1 per 25m ²	28	
Visitor (Units)	140	0.25 per Unit	35	
Subtotal			63	44# # no designation between commercial and visitor spaces (includes 2 accessible parking spaces)
Accessible spaces				15 accessible parking spaces provided for adaptable residential units 2 accessible parking spaces provided for commercial / visitor parking Note, these parking spaces have been included in above calculations
Motor Cycle		1 per 20	7	4 residential units 4 commercial / visitor parking

Table 3 – Car parking table

The development requires a total of 172 car parking spaces. The development provides 165 (inclusive of 17 accessible parking spaces) and 8 motor cycle spaces. The split is 121 car parking spaces for residents and 44 as co-use car parking spaces for visitors and commercial units.

The development does not meet the total minimum (172) required under DCP2014, with a shortfall of seven parking spaces as allocated to the commercial and visitor parking. The commercial units require 28 car parking spaces and the visitors parking requires 35, a combined total of 63, therefore with 44 car parking spaces provided a shortfall of 19 spaces exists (the residential units have an excess 12 parking spaces above the minimum).

The shortfall in total car parking, and in relation to the commercial units and visitor car parking spaces is not supported. The shortfall in parking demonstrates in part an over development of the site.

Section 6 – Development Design

This section has been addressed in Part 10.2 – Belmont Town Centre Area Plan under DCP2014 and SEPP65 Design Review Panel comment under section 3 of this report.

Section 7 – Landscape

This section has been addressed in Part 10.2 – Belmont Town Centre Area Plan under DCP2014 and SEPP65 Design Review Panel comment under section 3 of this report.

Section 8 – Operational Requirements

Waste

A Site Waste Minimisation and Management Plan for the demolition, construction and operational phases has been provided.

The intended use does not warrant consideration of liquid trade waste or chemical storage.

A car wash bay in the basement car park is required, to be connected to Hunter Water Corporation sewer.

Erosion and Sediment Control

A soil and water management plan has been provided with the application. An assessment found the information provided is adequate.

Air Quality

The development is for commercial premises and a residential flat building. The intended uses are not expected to create air quality issues.

Kitchen exhaust detail has not been provided.

Noise and Vibration

A Noise Impact Assessment, dated June 2018, as prepared by Spectrum Acoustics provided an assessment of project noise levels for the residential units. The report as relating to the amended application predominantly reviewed the loading dock and turning platform.

To determine the potential for sleep disturbance from the use of the loading dock during the night time period the consultant has applied a sleep disturbance criteria of 52 dB(A). However, for this project, and in accordance with the NSW EPA's Noise Policy for Industry 2017 (NPI), the prevailing rating background noise level (RBL) plus 5 dB should be applied. This is likely to indicate an exceedance of the criteria.

Therefore the noise levels for use of the loading dock area and turning platform are considered non-compliant with the NPI for noise impacts at the most affected residential receivers during day, evening and night time periods.

Having regard to potential conflicts between the commercial units and residential units, as the specific land uses of the commercial spaces is unknown, it is not possible to assess at this time. Approval is being sought for the units to be approved as 'commercial premises', the definition of commercial premises under LMLEP2014 includes business premises, office premises and retail premises. Where a proposal involves a restaurant or the like, further assessment can be carried at the time of the assessment of the individual application for first use of premises, i.e. pub, small bar, entertainment facility, registered club, food and drink premises with capacity for more

than 50 seats.

Further, the assessment evaluated potential noise impact to residents and commercial occupants within the development, who will be potentially affected by road traffic noise and noise/vibration generated by mechanical plant and equipment. The selection of various mechanical plant and equipment at this stage has not been determined.

A Construction Site Noise Management Plan has not been provided.

Part 9.13 – Residential Flat Buildings

13.1 – Site Requirements

The amalgamated site has an area greater than 800m² (with an area of 7,083m²). The site has direct frontage to a public road (Brooks Parade, Sharp Street and Edgar Street) and a minimum width of 20 metres (each road frontage is greater than 50m).

13.2 – Housing Mix

The controls state a maximum number of studio apartments of 15%, one-bedroom apartments a maximum of 30%, for two-bedroom apartments a minimum of 40% and three-bedroom apartments a minimum of 15%.

The development provides 140 Units with the following mix of dwelling types:

- One bedroom apartments - 24 being 17%
- Two bedroom apartments - 76 being 54%
- Three bedroom apartments - 40 being 29%

This mix of apartments is considered appropriate.

13.13 – Adaptable Dwellings

The development incorporates 140 units; therefore, a minimum of 14 adaptable units is required. The development identifies 35 units as having potential for use as an adaptable unit. A minimum of 14 units are required as adaptable units, having a compliant path of travel, appropriate dimensions to facilitate wheel chair access and essential features listed in AS 4299.

A compliant number of accessible parking spaces (minimum 14) are provided in the residential section of the basement car park.

Part 10.2 – Belmont Town Centre

Active Street Frontage

Brooks Parade is designated as an Active Frontage, as is Sharp Street. The corner of Sharp Street and Edgar Street and along Edgar Street to the channel are shown as Major Active frontage in Figure 17.

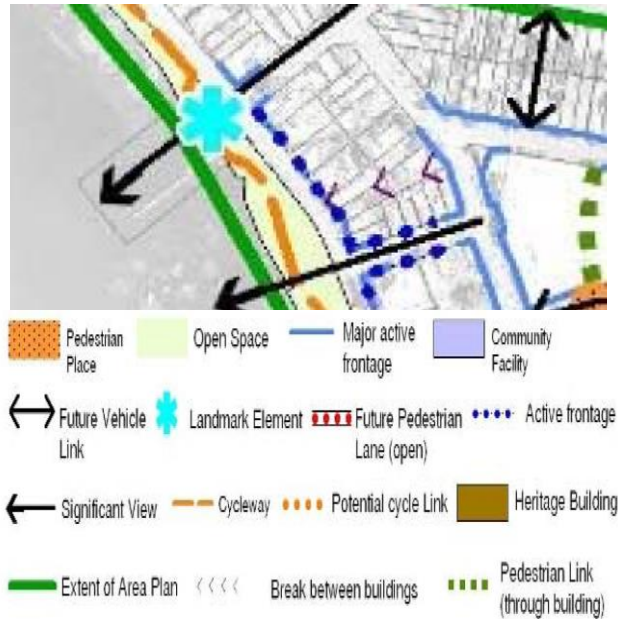


Figure 17: Excerpt from Belmont Centre Structure Plan

This matter is addressed under clause 7.10 of LMLEP2014.

Height

The recommended maximum number of storeys is six above a podium, as detailed in Figure 18 below.

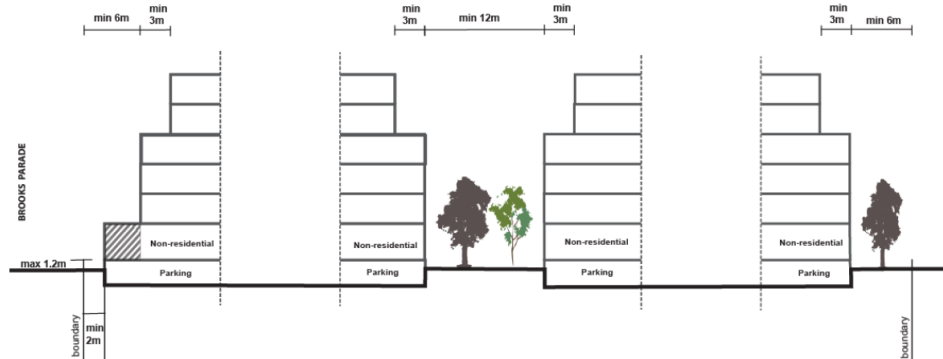


Figure 18: Excerpt from Belmont Centre Structure Plan

The development proposes four towers above a podium, three of which are six storeys and the fourth being eight storeys. Each of these towers exceed the permitted maximum height.

The development has compliant floor to ceiling heights under the ADG.

Section 2 of this report provides an assessment of the height exceedance under a clause 4.6 submission. Section 3 of this report provides comment in relation to SEPP65 and the ADG in context of building height.

The development fails to comply with this section of DCP 2014.

Block controls

The Block Controls for the development site under the Belmont Town Centre Area

Plan are identified below in Figure 19.



Figure 19: Block Controls from Belmont Town Centre Plan

The proposed built form is consistent with the four tower forms and location, and includes the central east-west break through the site.

As identified above three of the four towers (north-east, north-west and south-east) are compliant with the number of storeys, however the tower on the corner of Brooks Parade and Sharp Street tower is eight storeys exceeding the nominated maximum by two storeys.

The stepping forward of the commercial units/space at the first storey is limited, with the built form largely in line with the residential level above.

Outlook to the Lake

The objectives/controls seek to maintain significant views, provide breaks between buildings located between Edgar Street and the Lake, and have buildings setback a minimum of 6m from the stormwater channel for deep soil planting.

The development is generally in line with the block controls and therefore supports maintaining significant views and breaks between buildings, accepting the proposed podium will cause limitations at street level.

The development provides a landscaped setback (variable from 1m to 4m) from the stormwater channel; it is considered this landscape setback does not achieve sufficient deep soil area.

Building Design

Building frontages comply with the maximum 30m frontage width, though balconies for Tower A to Brooks Parade and Tower D to Sharp Street cause the width to exceed

30m.

Balconies encroach front setbacks, up to 80% with a minimum 3m setback. Balconies encroach the 6m building setback, though achieve a minimum of 3m setback with one exception (unit 1.02 in Block C).

The development complies with front/side and rear setbacks having regard to:

Front Setbacks requires commercial units to be setback 6m with an encroachment to 3m allowed for a maximum 50% of the frontage, residential units to be setback 6m.

The development achieves the 6m setback for the commercial units excepting those contained in Block D which have a 5m setback. Overall, these setbacks comply with the maximum 50% of the development; however, in terms of frontage for Block D, it does not comply.

Side Setbacks achieve the minimum 3m (northern boundary)

Rear Setbacks 6m is required. The site does not have a typical rear boundary.

The podium level is not to exceed 1.2m unless otherwise required by sea level rise requirements. The podium level sits around 1.2m height (FFL is 2.36m AHD, the NGL is 1 to 1.6m).

Building Exteriors

The building exteriors are predominantly finished in non-reflective muted-tones and neutral colours. A colour/material board has been provided. Figure 16 provides a perspective of the development and its proposed detail.

Planting on Private Land

The development is required to provide landscaping to at least 20% of the site, with at least one advanced clear-trunked broad canopy tree for every 50m² of landscape area.

40% of the site is provided as a communal/landscaped area (2828m²) in the form of an open terrace.

13% of the site is claimed as deep soil zone, though with the minimum 6m dimension required under the ADG, the deep soil area equates to 5% of the site area; significantly less than that required.

The deep soil planting includes a small area north of the canal, and sections in Edgar Street and Sharp Street. The podium planting is dominated by hardstand, astro turf and planting in pots giving the communal spaces the ambience of a public space rather than private open space.

The inadequate deep soil zone and therefore limited scope to accommodate canopy trees translates to an inability to screen and soften the development as per the requirements of Council's SMG. This has further direct impacts on the scenic quality of the locality, including distant views and the foreground (particularly the Lake foreshore and streetscape). The excessive hardstand areas and the impacts from constant overshadowing as at 21 June will further limit the quality of the landscaping and hence the amenity of the internal spaces, the streetscape interface and relationship with the adjoining Lake foreshore and commercial streetscape. This also impacts at the human scale considering the extent of wall surfaces and poor integration/transition for pedestrians.

Consequently, the development is not supported based on the landscape outcomes.

4.15(1)(a)(iiia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into

There is no planning agreement that has been entered into under section 93F, and no draft planning agreement that a developer has offered to enter into under section 93F of the Act that relates to this development.

4.15(1)(a)(iv) any matters prescribed by the regulations

There are no matters prescribed by the regulations relative to this development modification.

4.15(1)(b) the likely impacts of the development

Refer to assessment under DCP2014.

4.15(1)(c) the suitability of the site for development

Does the proposal fit the locality?

Refer to comment under DCP2014.

Are the site attributes conducive to development?

Refer to comment under DCP2014.

4.15(1)(d) any submissions made in accordance with this Act or the Regulations?

Public submissions:

The application is advertised development, being nominated integrated development under section 90 of the Water Management Act, 2000, and was advertised and notified to adjoining properties from 28 January 2017 to 27 February 2017.

The amended application was notified to the same properties, as originally notified, from 7 September 2018 to 26 September 2018.

From the advertisement and notification of the application Council received 26 submissions from 19 authors. Copies of the submissions are attached as Appendix E.

The main issues are summarised as:

- 1) Compliance with planning controls (LMLEP2014 and DCP2014);
- 2) Building height;
- 3) Loss of views;
- 4) Visual impact;
- 5) Loss of existing vegetation;
- 6) Adequacy of car parking for commercial/retail units;
- 7) Impact of loading dock on Sharp Street streetscape and amenity of neighbouring properties;
- 8) Viability of the development;
- 9) Access to basement car park;
- 10) Acid sulfate soils;

- 11) Affordable housing;
- 12) Construction impacts & public safety; and
- 13) Impacts associated with increased traffic movement in the local streets.

One submission in support of the development was received.

Appendix G provides planning comment as a response to the issues raised.

Submissions from public authorities:

A copy of submissions received is attached as Appendix D.

Roads and Maritime

RMS raised no objection to the development.

Ausgrid

Ausgrid raised no objection to the development in their response dated 10 February 2017 subject to the proponent consulting further with regard to the development needs in relation to existing infrastructure and network capacity.

Hunter Water

The development application was lodged with plans stamped by Hunter Water Corporation (HWC), dated 16 December 2016. The stamp identified the development can be serviced by reticulated water and sewer.

Due to the proximity of the development to a wastewater pump station the application was referred to HWC for comment. Council received email correspondence from HWC dated 8 March 2017 advising its primary concern with the development are potential odour issues due to the proximity to the wastewater pump station.

The applicant submitted an Odour Impact Assessment report. The report has been referred to HWC though a response has not been received by the date of submission of the report.

NSW Police

No response has been received to Council's referral dated 16 January 2017.

NSW Water

NSW Water raised no objection to the development.

4.15(1)(e) the public interest

The development has been assessed against state and local environmental planning instruments, and the development control plan and related guidelines for the local government area of Lake Macquarie City Council. The assessment identified the development fails to achieve compliance on a number of critical matters, whereby public amenity and the environment will be detrimentally impacted as a consequence:

SEPP65 –Design Quality for Residential Apartment Development

Council's SEPP65 DRP has determined the development fails to satisfy the design quality principles and the provisions of the ADG.

Lake Macquarie Local Environmental Plan 2014

Clause 4.3 Height of buildings

Each of the proposed towers exceed the maximum 22m height of building limit for the

development site.

Clause 4.6 Exceptions to development standards

The clause 4.6 submission for a variation to the 22m maximum building height under clause 4.3 of LMLEP2014 is not supported.

Clause 7.10 Residential development in certain business zones

The development does not satisfactorily activate the primary streetscapes of the site.

Development Control Plan 2014

Part 4 - Development in Business Zones

2.2 - Scenic Values

The development will have unacceptable visual impacts considering the height exceedance, non-compliance with LMLEP2014, DCP2014 and ADG, the unsatisfactory urban design and landscape outcomes, and the poor streetscape interface and lack of activation.

2.10 – Lake Flooding and Tidal Inundation (Incorporating Sea Level Rise)

The entry to the basement car park does not achieve a minimum level of 2.82m AHD and therefore contrary to Council's Sea Level Rise policy.

2.18 - Social Impact

The development fails to achieve a number of design outcomes which raise social impact concerns, i.e. equitable access, compliance with AS2890.1, quality of communal open space, etc.

2.21 - Utility Infrastructure

The amended plans fail to detail site infrastructure requirements such as kiosks and fire hydrants.

3.4 - Streetscape Improvements

The development is not in compliance with the Belmont Streetscape Master Plan.

3.5 - Non-Discriminatory Access

The development does not provide equitable access and compliance with standards have regard to non-discriminatory access.

5.1 - Traffic and Vehicle Access

The secure access to the basement carpark has potential to impact operations of the local road network and is not supported.

5.3 - Bike Parking and Facilities

The development provides no designated bike parking for the commercial units and visitors, or any facilities.

5.5 - Car Parking Rates

The development has a shortfall in the total number of car parking spaces, in relation commercial and visitor parking.

Section 8 – Operational Requirements

A car wash bay has not been provided for residents.

Detail for kitchen exhausts has not been provided.

The Noise Impact Assessment is not in accordance with NPI.

Part 10.2 – Belmont Town Centre

The development does not achieve the required outcomes in terms of active frontage, maximum number of storeys, setbacks, deep soil zones, suitable landscaped areas, setbacks, adequately address the required Major Active Frontage requirements for Edgar Street.

Block A exceeds the maximum number of storeys above the podium.

It should be noted LMLEP2014 has not adopted clause 4.4 Floor Space Ratio of the standard instrument as a means of determining density. Therefore greater weight should be given to compliance with development standards and planning controls as the means of determining the appropriate density of a development. Consequently, as the development has been identified to be non-compliant in a number of areas of its design, it is apparent it is an over development of the site.

It is also evident the development fails to achieve the objects of the Environmental Planning and Assessment Act, 1979, notably:

- to promote the orderly and economic use and development of land,
- to promote good design and amenity of the built environment.

5. Conclusion

An assessment has been undertaken of the development application being for the demolition of existing structures and the erection of a Commercial Premises and Residential Flat Building (Mixed Use Development) over an amalgamated development site consisting of 15 lots.

The assessment identified a significant number of non-compliant or unresolved design issues in context of achieving appropriate built scale, form and amenity, as well as good streetscape outcomes.

The non-compliant outcomes are also an indication of an over development of the site, when considered independently and cumulatively.

The clause 4.6 submission has not demonstrated compliance with the development standard is unreasonable or unnecessary in the circumstances. It has failed to demonstrate non-compliance with the development standard provides a better outcome for and from the development in terms of the community, environment and planning controls.

The development is therefore deemed to fail the objects of the Environmental Planning and Assessment Act, particularly the orderly and economic use and development of land, promoting good design and amenity of the built environment. The development also does not comply with the development standard under clause 4.3 of LMLEP2014

Accordingly, Lake Macquarie City Council is unable to support the development and recommend the Hunter and Central Coast Regional Planning Panel determines development application DA/11/2017 by way of refusal.

6. Recommendation

In considering the amended development application as presented, an assessment under section 4.15 of the Environmental Planning and Assessment Act, 1979, determined the application cannot be supported. The assessment identified the proposal to be an over development of the site as a consequence of the significant number of non-compliances with development standards and planning controls, and is not in the public interest.

Accordingly, Lake Macquarie City Council as the assessment authority recommends development application DA/11/2017 be refused for the following reasons:

- (i) non-compliance with SEPP 65 Design Review Panel recommendations in relation to the Apartment Design Guide (s4.15(1)(a)(i));
- (ii) the building height exceeds the maximum height for the site as provided by the Height of Buildings Map under clause 4.3 of LMLEP2014 and the submission under clause 4.6 of LMLEP2014 with regard to development standard under clause 4.3 is not supported (s4.15(1)(a)(i));
- (iii) the application fails to adequately address clause 7.10 (Residential development in certain business zones) LMLEP2014 (s4.15(1)(a)(i));
- (iv) non-compliance with DCP2014; in particular Parts 4, 9.13 and 10.2 (s4.15(1)(a)(iii));
- (v) the development is likely to have adverse impacts on the built environment (s4.15(1)(b));
- (vi) the adverse social impacts of the development (s4.15(1)(b));
- (vii) the site is not suitable for the development as proposed (s4.15(1)(c)); and
- (viii) the application is not in the public interest (s4.15(1)(d) & S4.15(1)(e)).

Endorsement

The staff responsible for the preparation of the report, recommendation or advice to any person with delegated authority to deal with the application has no pecuniary interest to disclose in respect of the application.

The staff responsible authorised to determine the application have no pecuniary interest to disclose in respect of the application. The report is enclosed and the recommendation therein adopted.



Brian Gibson
Senior Development Planner
Lake Macquarie City Council

I have reviewed this report and concur with the recommendation.



Elizabeth J Lambert
Chief Development Planner
Lake Macquarie City Council