

COUNCIL ASSESSMENT REPORT

Panel Reference	2016SYW035
DA Number	DA-84/2016
Local Government Area	Liverpool City Council
Proposed Development	Construction of a mixed use development comprising of a residential flat building containing 134 units and one neighbourhood shop including demolition of existing building and landscaping works
Street Address	21 Atkinson Street, Liverpool (Lot 101 DP 777404)
Applicant	Synergy Development Group Pty Ltd
Owner	Newton Properties Pty Ltd
Date of DA Lodgement	9 February 2016
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	The proposal has a capital investment value of over \$20 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • <i>List all of the relevant environmental planning instruments: s79C(1)(a)(i)</i> <ul style="list-style-type: none"> • State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development. • State Environmental Planning Policy No.55 – Remediation of Land. • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Infrastructure) 2007. • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment. • Liverpool Local Environmental Plan 2008. • <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii)</i> <ul style="list-style-type: none"> • No draft Environmental Planning Instruments apply to the site. • <i>List any relevant development control plan: s79C(1)(a)(iii)</i> <ul style="list-style-type: none"> • Liverpool Development Control Plan 2008. <ul style="list-style-type: none"> - Part 1 – General Controls for all Development. - Part 4 – Development in the Liverpool City Centre. • <i>List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv)</i> <ul style="list-style-type: none"> • No planning agreement relates to the site or proposed development. • <i>List any coastal zone management plan: s79C(1)(a)(v)</i> <ul style="list-style-type: none"> • The subject site is not within any coastal zone management plan.

	<ul style="list-style-type: none"> List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 Consideration of the provisions of the Building Code of Australia.
List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none"> Architectural plans Landscape plan Stormwater drainage plan Survey plan Recommended conditions of consent Clause 4.6 Variation Written Justification to Height Clause 4.6 Variation Written Justification to Building Separation Distance Statement of Environmental Effects SEPP 65 Verification Statement, Design Principles and Compliance Table Detailed Contamination Assessment Report Waste Management Plan Traffic Report Statement of Heritage Impact Council's Heritage Advice Acoustic Report Acid Sulphate Report Geotechnical Report Overhead Power Mains Report Retention Wall Design Report Risk Assessment Report BASIX Certificate Flood Report Design Excellence Panel Comments
Recommendation	Approval, subject to deferred commencement
Report Prepared by	Rodger Roppolo
Report date	19 January 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C 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?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **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)? **No**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

The Sydney South West Planning Panel is the determining authority as the Capital Investment Value of the development is over \$20 million, pursuant to Schedule 4A of the Environmental Planning and Assessment Act 1979.

1.2 The proposal

The application proposes the construction of a mixed use development comprising of a residential flat building containing 134 units and one neighbourhood shop including demolition of existing building and landscaping works.

1.3 The site

The site is identified as Lot 101 DP 777404, 21 Atkinson Street, Liverpool.

1.4 The issues

The main issues are identified as follows:

- Non-compliance with the Apartment Design Guide – building separation distances, building depth and solar access.
- Non-compliance with the Liverpool Local Environmental Plan (LLEP) 2008 - Clause 4.3 Height of Buildings and Clause 7.4 Building Separation in the Liverpool City Centre
- Non-compliance with Liverpool Development Control Plan 2008 (LDCP 2008) – street setback, street frontage height, rail corridor setback and building depth and bulk.

1.5 Exhibition of the proposal

In accordance with the LDCP 2008, the application was notified for a period of 14 days from 3 March to 16 March 2016. One submission was received following the conclusion of the notification period. However, the submission was later withdrawn.

1.6 Conclusion

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act (EP&AA) 1979. Based on the assessment of the application and the consideration of the written requests to vary development standards pursuant to Clause 4.6 of the LLEP 2008, it is recommended that the application be approved by way of deferred commencement.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The subject site is located within the Liverpool City Centre and is identified as 21 Atkinson Street, Liverpool (Lot 101 in DP 777404).

The site has an area of 5412m² with three street frontages. Existing development on site consists of an industrial use comprising of a warehouse/factory building which involves the manufacturing and storage of air conditioning units.

Photographs of the existing site conditions are provided in Figures 1 to 5 below.



Figure 1 – Aerial photograph of the site



Figure 2 – Photograph showing existing development on site.



Figure 3 – Photograph showing existing development on site.

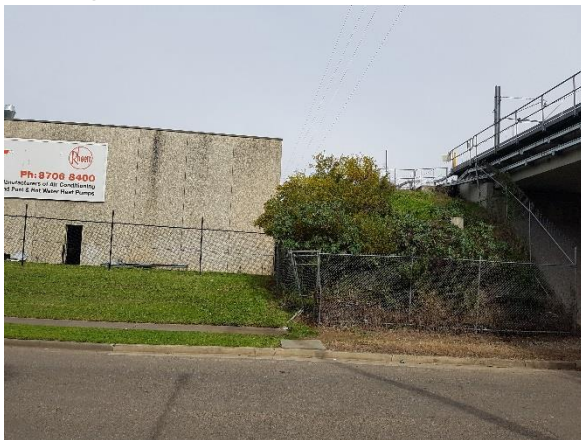


Figure 4 – View of railway corridor reserve.



Figure 5 – Photograph showing existing development on site.

2.2 The locality

The subject site is bounded by public road on its northern, southern and eastern sides. To the west is the south western rail corridor and associated railway reserve. Surrounding the remainder of the lot is Atkinson Street and Shepherd Street. To the north and west of the site across Shepherd Street are high and medium density residential development. To the south are industrial factories and workshops.

An aerial photograph of the locality and photographs of the immediate development is provided below:



Figure 6 – Aerial photograph of the locality



Figure 7 – View of the railway line.



Figure 8 – Looking east down towards Shepherd Street from Atkinson Street.



Figure 9 – Looking north along the Railway corridor reserve.



Figure 10 – View of the Paper Mill development currently under construction, located directly opposite the site.

It is noted that the immediate area is undergoing urban renewal. The locality is zoned R4 High Density Residential. Development consent has been granted to the following sites within the immediate vicinity of the proposed development:

- 20 Shepherd Street – Development Consent No DA-1010/2014 granted approval for the construction of a 9 to 15 storey residential flat building containing 241 apartments. Construction of this development is underway.
- 28 Shepherd Street – Development Consent No. DA-612/2015 granted approval for two residential flat buildings comprising of a six storey building and a nine storey building with a total of 140 apartments.

An extract of the approved developments is provided below:



Figure 11 - Extract of the approved development at 20 and 28 Shepherd Street.

The Shepherd Street precinct which includes Nos. 20-33 Shepherd Street is also subject to a Planning Proposal (Draft Amendment No.65 to the LLEP 2008) and seeks the following:

- Increase the building height from 24m to between 24m to 77m; and
- Increase the FSR from 1.5:1 and 2.5:1 to between 3.3:1 and 3.7:1.

The Gateway Determination to the Planning Proposal was provided from the Department of Planning and Environment on the 9 September 2016.

Extracts of the height limit and FSR proposed under the Planning Proposal is provided below:

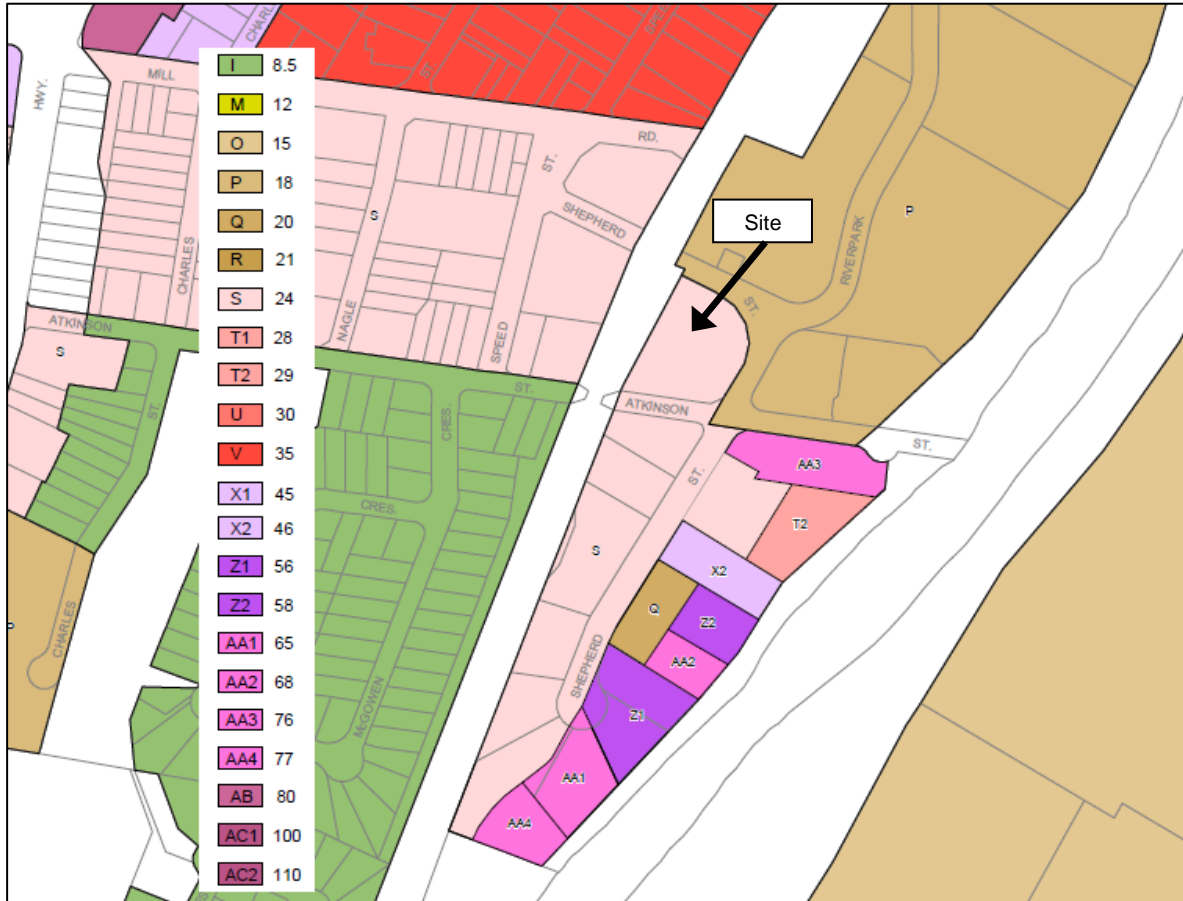


Figure 12 – Extract of the proposed height limit

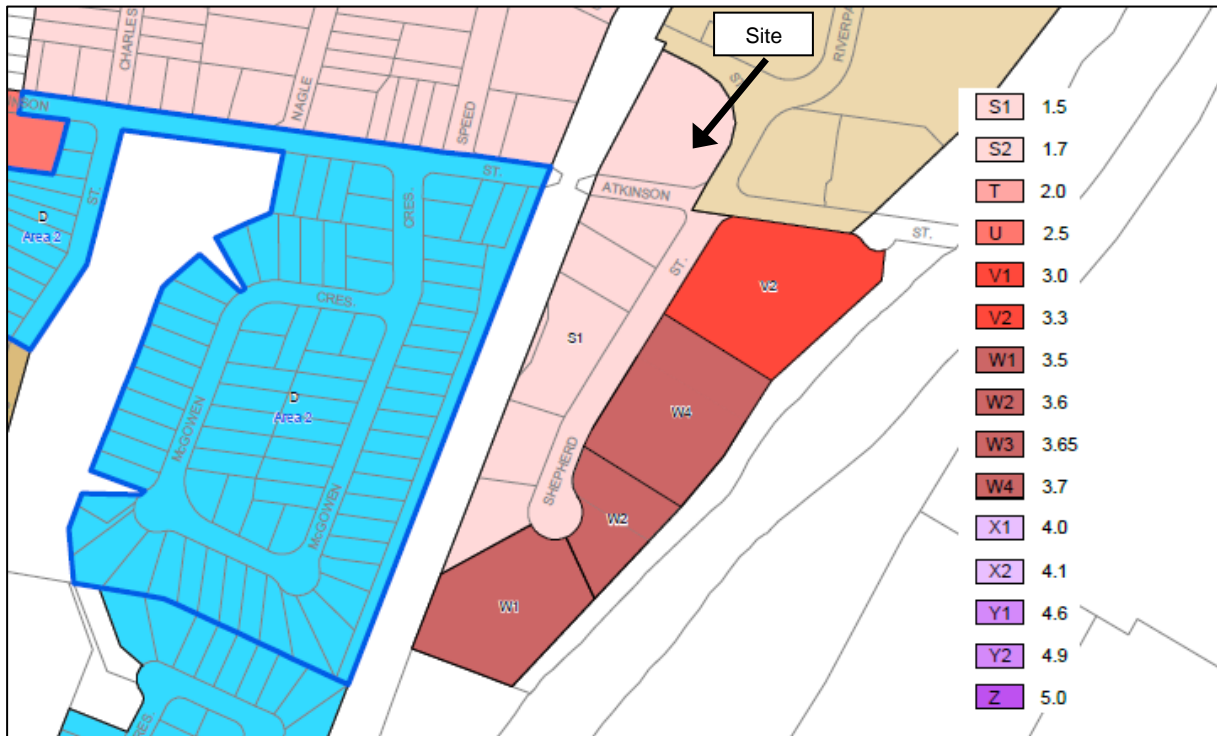


Figure 13 – Extract of the proposed height limit

2.3 Site affectations

The subject site has number of constraints, which are listed below:

Flooding

The site is located on the floodplain of Georges River and is affected by flooding under the 1% Annual Exceedance Probability (AEP) event. The 1% AEP flood level at the proposed site is 9.8m AHD.

A Flood Impact Assessment has been submitted which includes an outline of the proposed flood mitigation measures proposed as part of the development.

Rail Corridor

The site is located adjacent to the rail corridor. The application was referred to Sydney Trains for comment, who have responded in support of the application, subject to deferred commencement conditions.

Heritage

The subject site is located in the vicinity of the following heritage items listed in Schedule 5 of the LLEP 2008:

- Item 104, McGrath Services Centre Building (formerly Challenge Woollen Mills, and Australian Paper Company's Mill) located at the corner of Shepherd and Atkinson Streets, Liverpool.
- Item 105, Railway Viaduct located at Shepherd Street and Mill Road, Main Southern Railway Line, Liverpool.

2.4 Deposited Plan

The DP 777404 registered on 09 September 1988 and the survey plan identifies the following restrictions/easements relating to the site:

- (C) Easement for underground mains 3m wide;
- (A) Easement for underground mains 1m wide;
- (B) Easement for electricity purposes 3.25m wide;
- (X) Easement for transmission line 20.115m wide
- Strip of land for road widening, variable width subject to easement for transmission line 20.115 wide; and
- Land Excludes Minerals S141 Public Works Act 1912.

An extract of the DP is provided below:

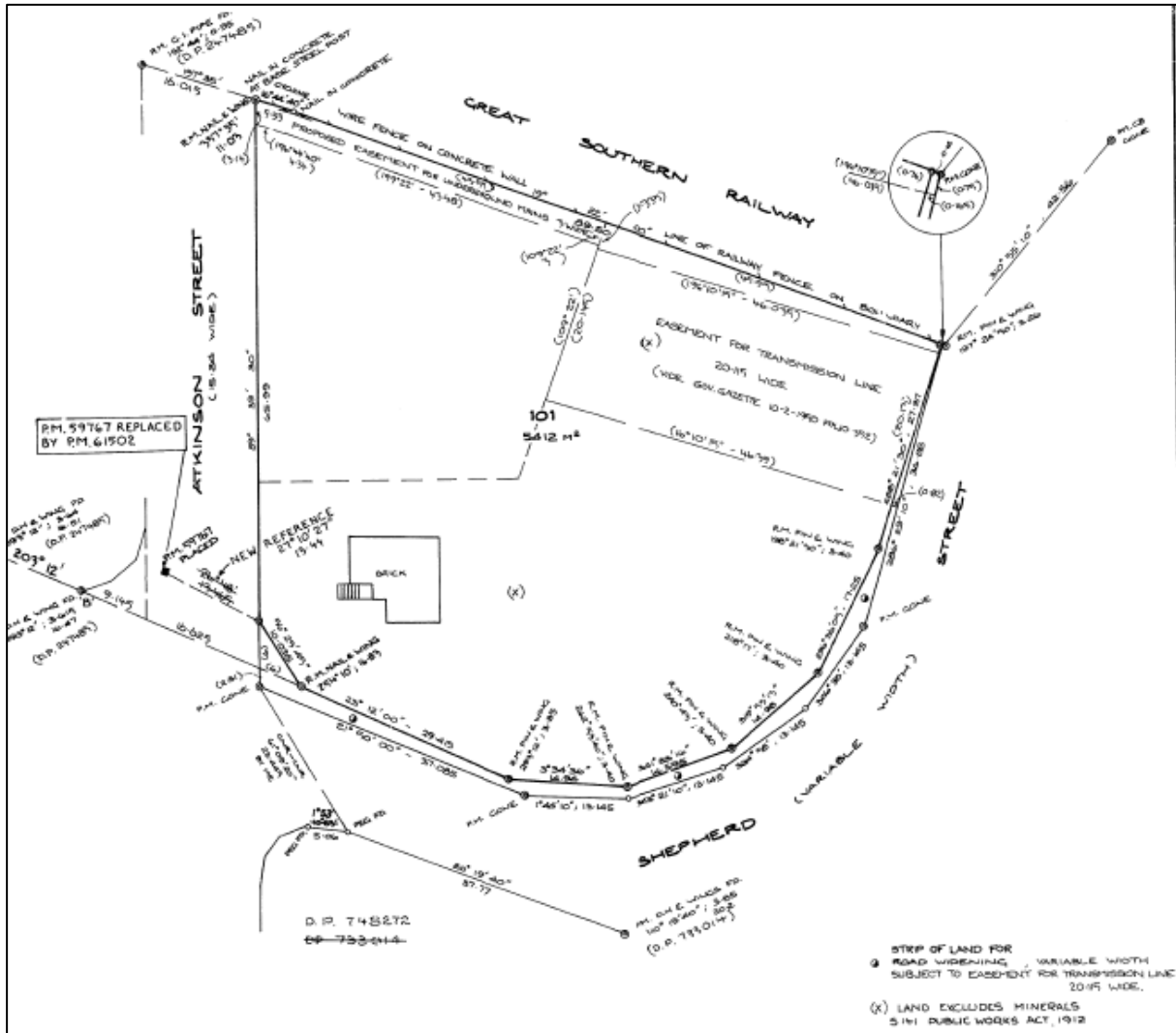


Figure 14: Extract of the DP

The terms of the easements and restrictions that are applicable are generally as follows:

- (C) Easement for underground mains 3m wide: This easement benefits Endeavour Energy. The easement contains 3 high voltage cables which emanate from the Liverpool Zone Substation, then under the railway line and into Atkinson Street.

This aspect has been reviewed by Endeavour Energy who have advised that no excavation for a basement should be allowed in this easement. If excavation work will occur near this easement then the developer will need to ensure that the earth within the easement area is fully supported so that no damage occurs to our existing ducts and cables. Endeavour Energy have provided recommendations in relation to Easement Management and Network Access.

It is noted that the development does not propose excavation works within the easement, however, excavation works will occur adjacent to the easement due to the proposed car parking. It is therefore recommended that conditions are imposed to ensure compliance with Endeavour Energy's recommendations concerning Easement Management and Network Access.

- (A) Easement for underground mains 1m wide and (B) Easement for electricity purposes 3.25m wide: These easements are associated with an existing pad mount substation, which benefits Endeavour Energy. Endeavour Energy have advised that the pad mount substation may be removed and a new substation placed on the site within a different location. This would be subject to a Contestable Works project, managed by Endeavour Energy.
- (X) Easement for transmission line 20.115m wide: A Land Title search has confirmed that this restriction has been extinguished/released.
- Strip of land for road widening, variable width subject to easement for transmission line 20.115 wide: A Land Title search has confirmed that this restriction has been extinguished/released.
- Land Excludes Minerals S141 Public Works Act 1912: The land was resumed under the Public Works Act 1912 as such the acquiring authority was entitled to all minerals within the land resumed other than minerals expressly excepted from the resumption.

3. BACKGROUND

3.1 Issues Identified in Initial Assessment

Following on from a preliminary assessment of the application, Council sought further information and clarification regarding the following items:

- *Building height – In order for Council Officers to consider the variation to the maximum height limit, it was requested that a revised Clause 4.6 variation statement be submitted.*

Comment: A revised Clause 4.6 variation to the Building Height development standard was submitted. Further discussion on this aspect is provided within Section 6.1(f) of this report.

- *Neighbourhood Shops – Reduction in the floor area associated with the neighbourhood shops to ensure compliance with Clause 5.4(7) of the LLEP 2008, which limits the floor area to a maximum of 100m² per site.*

Comment: The development was amended to include only 1 neighbourhood shop with a maximum floor area of 93m².

- *Design Excellence Panel (DEP) – The proposal shall address the comments provided by the DEP.*

Comment: As discussed below in Section 3.2, the application has been amended to address the comments provided by the DEP.

- *Deep Soil Zones – Additional deep soil zones to be provided.*

Comment: Additional deep soil zones were provided through the provision of deep soil planter boxes on the communal open space on Level 3. Deep soil zones were also provided in small pockets along the northern and eastern front setbacks.

- *Wet Weather Awnings – Provision of wet weather awnings to the lobby entrance of Block B and Block A.*

Comment: The proposal has been amended to include wet weather awnings to the lobby entrance of Block B and Block A.

- *Housing Choice Mix – Housing choice mix to be amended to comply with the requirements of the LDCP 2008.*

Comment: The housing choice mix was amended as follows:

	Original Proposal	Amended Proposal
1 bedroom	24 units (18%)	24 units (18%)
2 bedroom	103 units (76%)	96 units (72%)
3 bedroom	7 units (6%)	14 units (10%)

- *Flooding – Submission of an amended Flood Impact Assessment Report with appropriate compensatory excavation volume to confirm that the proposed development will not involve net loss of flood storage below the 1% AEP flood.*

Comment: An amended Flood Impact Assessment Report was submitted and reviewed by Council's Flooding section, who raised no issues with this aspect, subject to conditions.

3.2 Design Excellence Panel

The subject application was considered by the DEP on 15 December 2015 and again on 19 May 2016. The DEP were supportive of the proposal subject to the following amendments which are summarised below. Comments are also provided on how these issues have been resolved. A copy of the DEP minutes are included as Attachment 23.

- *The deep soil area on Level 2 should extend above the easement as far as the boundary. It should be 6 metres wide and 4 metres deep and 25 metres long through to 1 metre above the podium on Level 3 to ensure adequate landscape as a visual buffer and shade protection from western sun in summer.*

Comment: The development has been amended to incorporate deep soil planter boxes within the communal open space area on Level 3 and additional deep soil areas along the street frontages.

- *The application should include a 1:50 detail section and part elevation of the screen to the external facades because the drawings do not show how this is to be resolved. It would be useful to have more detail on the screen concept, and whether this might provide some meaningful graphic with local content.*

Comment: Detailed drawings of the façade screen have been provided.

- *On Levels 1 through 3, the excessively long corridors, both single and double loaded, should have more spatial relief internally to avoid being a gun barrel.*

Comment: Open air balconies have been provided to improve spatial amenity and relieve the long corridor.

- *In block B the lift shaft should be set back to match the location of the lift shaft as shown in Block A. This is to increase the spatial amenity the Lobby and relieve the long corridor.*

Comment: The lobby in Block B has been increased to improve spatial amenity and relieve the long corridor.

- *The Communal open spaces on levels 3 and 7 require a universal accessible toilet*

Comment: Amended plans were submitted which include a toilet within the communal open space of Level 7. However, no toilet was provided within the communal open space on level 3. It is therefore recommended that a condition of consent is imposed to ensure an accessible toilet is provided on the communal open space on Level 3.

- *A gardener's shed is required off the communal open space on Level 3.*

Comment: A condition of consent will be imposed to ensure a gardeners shed is provided on the communal open space on Level 3.

- *More shading for the communal activities is required in Level 3 communal open space.*

Comment: Additional shading has been provided through the provision of a pergola and mature plantings.

- *The apartments opposite the elevators in Block B (either side of the external slot) have an unlabelled room which is potentially habitable. As such these rooms do not meet ADG separation distances and should be deleted.*

Comment: The internal layout of these apartments have been amended to provide a combined storage and study nook, with a highlight window to minimise potential privacy impact.

3.3 Planning Panel Briefing

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

- Concerns were raised in regards to the variation to the maximum height limit of 24m. The Panel recommended that the proposal achieve compliance, unless there are exceptional circumstances where a variation to the building height is justified.
- Concerns were raised in regards to the potential impact of flooding. The Panel advised that this issue is to be fully addressed and indicate how the development complies with Council's Flood Policy, in particular the potential risk to the building, occupants and car parking.
- The Panel requested that the provisions of SEPP 55 in relation to contamination is addressed within the reports, demonstrating that the development site is suitable for the proposed development. This is of particular importance given that the current use of the site an industrial use comprising of a warehouse/factory.

4. DETAILS OF THE PROPOSAL

The application proposes the construction of residential flat building containing a total of 134 residential apartments and one neighbourhood shop; demolition of the existing warehouse building; landscaping, and ancillary site works.

Further details are as follows:

Building Design

- The development provides a perimeter block building form for which, at above podium level there are three separate buildings arranged around a centrally located communal open space area.

- The development provides 134 apartments comprised of:
 - 24 x 1 bedroom units;
 - 96 x 2 bedroom units;
 - 14 x 3 bedroom units;
- The development also provides one neighbourhood shop, two private community rooms and a private male and female gym.

Parking Provisions

- The development provides for a total of 165 car parking spaces comprising of:
 - 148 spaces allocated to the residential units;
 - 13 spaces allocated to visitors;
 - 3 spaces designated as a service bay/car wash bay; and
 - 1 space allocated to neighbourhood shop.
- A total of 11 parking spaces designated for motorcycles;
- Bicycle parking to accommodate 62 bicycles.
- The community rooms and gymnasiums do not generate the need for additional parking, given that they are for exclusive use by the residents only.

A perspective drawing of the proposed development is provided below.



Figure 15 – Perspective drawing of the development viewed from the corner of Shepherd Street and Atkinson Street.

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The following Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development;
- State Environmental Planning Policy No.55 – Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Infrastructure) 2007;

- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment; and
- Liverpool Local Environmental Plan 2008.

Draft Environmental Planning Instruments

- No draft Environmental Planning Instruments apply to the site.

Development Control Plans

- Liverpool Development Control Plan 2008
 - Part 1 – Controls applying to all development
 - Part 4 – Development in Liverpool City Centre

Contributions Plans

- Liverpool Contributions Plan 2007 applies to all development within the Liverpool City Centre, and requires the payment of contributions equal to 2% of the cost of the development pursuant to Section 94A of the EPA & Act.

5.2 Zoning

The site is zoned R4 High Density Residential pursuant to LLEP 2008 as depicted in the figure below.

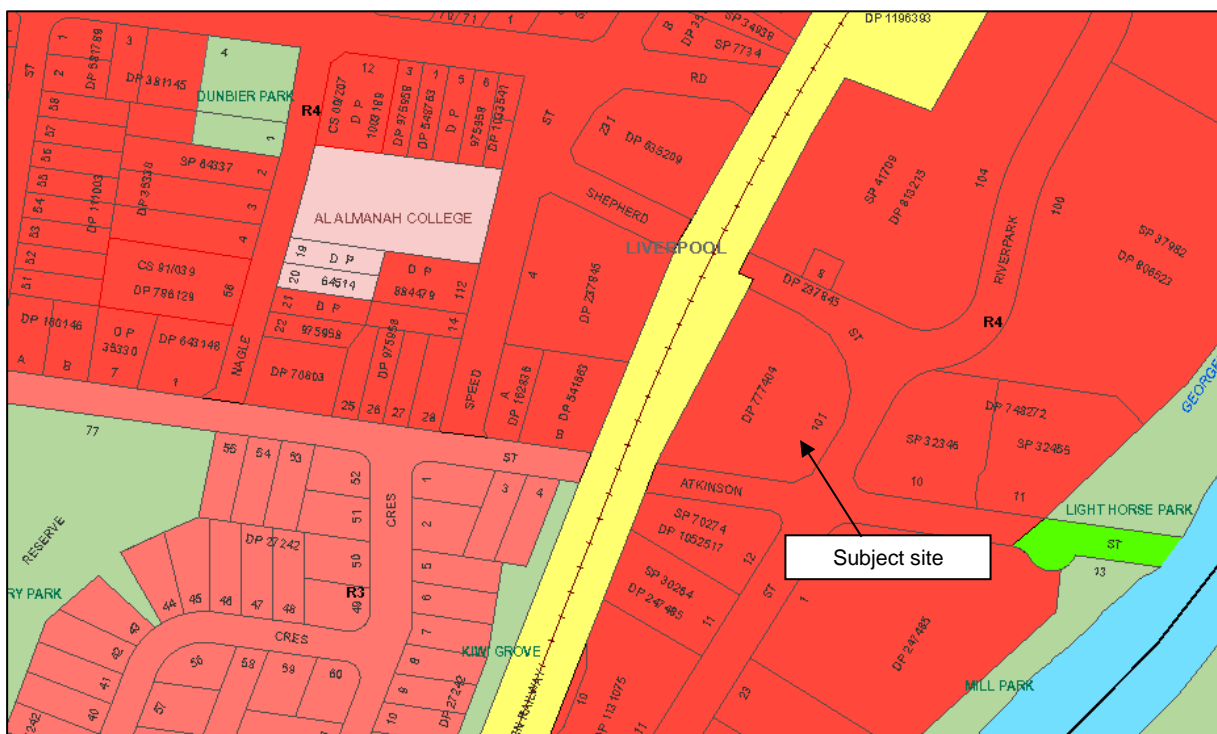


Figure 16 – Extract of the land zoning map.

5.3 Permissibility

The proposed development is defined as a *Residential flat building and a neighbourhood shop*, which are permissible land uses within the R4 High Density Residential zoning.

6. ASSESSMENT

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

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

(a) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

The proposal has been evaluated against the provisions of SEPP 65 which aims to improve the design quality of residential apartment development. SEPP 65 does not contain numerical standards, but requires Council to consider the development against 9 key design quality principles; and against the guidelines of the associated Apartment Design Guidelines (ADG). The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP 65.

Following is a table summarising the nine design quality principles outlined in SEPP 65, and compliance with such.

Design Quality Principle	Comment
Principle One – Context and Neighbourhood Character	
<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p><i>The proposal is for a residential development with one ground floor neighbourhood shop. Located within an emerging district of the Liverpool municipality, the proposed development incorporates active street frontages to three sides and a dynamic façade; positively contributing to the streetscape and accommodating a diverse range of users within the local community.</i></p> <p><i>A conceptual approach was taken to deal with the variety of scaled forms within the site, to ensure a cohesive development. The intention was to transition in scale incrementally in stepped forms from the fine grain contextual street edge to the north to a larger scale on the southern end, responding to approved adjoining developments along the Georges River.</i></p> <p><i>Certain architectural elements are repeated throughout to unify the development as a whole. The dynamic façade along the street frontages creates visual points of interests interacting with pedestrians on the street. This same treatment has been repeated on each building, using different degrees of transparency and scale. Differences in articulation ensure each tower holds its own identity while belonging to the development as a whole.</i></p>
Design Principle 2 – Built form and scale	
<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><i>The bulk of the proposed development generally complies with the controls set out in the LDCP 2008. The bulk is situated within the site, responding to the site-specific conditions such as the railway.</i></p> <p><i>Architectural features such as the feature screen and balcony articulation will create patterns of light and shadow to enhance the facade and reduce the perceived bulk of the building mass.</i></p> <p><i>Building mass is articulated to achieve discrete built forms to reduce the perceived bulk of the development.</i></p> <p><i>Scale of built form reduces along the northern boundary responding to the existing character of</i></p>

Design Quality Principle	Comment
	<p><i>the street and improving solar gain to communal open space within the development. The scale of the buildings increase toward the southern end, to respond to the desired future character of the street and approved adjoining developments, to ensure the subject development is consistent with future context and character of the area.</i></p>
Design Principle 3 – Density	
<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p><i>This application proposes a density of FSR 2.30:1 for this site. The proposed density will benefit the public by enabling the proposed building to better respond to the future character of the street. The yield will allow for a high-quality design outcome and demonstrate investment in the precinct. In this location, a well-designed residential development will attract greater investment to the area. Additionally it will aid in the identification of the building as a local landmark.</i></p>
Design Principle 4 – Sustainability	
<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation</p>	<p><i>The development is designed to respond to the requirements of BASIX and the SEPP 65 Apartment Design Guide.</i></p> <p><i>Apartment layouts are optimally designed for a passive response to solar design principles and cross ventilation as outlined in the Apartment Design Guide.</i></p> <ul style="list-style-type: none"> - <i>All corner and cross through apartments are naturally ventilated.</i> - <i>Outcomes of this development include:</i> - <i>Minimum 60% of apartments are cross-ventilated;</i> - <i>Minimum 66% of apartments have the required solar access in winter;</i> - <i>Collection of roof rainwater for maintenance and irrigation of gardens;</i> - <i>Provision of energy-efficient appliances;</i> - <i>Architectural details incorporating a range of projections and internal blinds for privacy and solar</i>
Design Principle 5 – Landscape	
<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction,</p>	<p><i>Street planting will be provided in accordance with guidelines and specifications of Liverpool City Council and enhanced through additional planting within the site boundary along Atkinson and Shepherd Street.</i></p> <p><i>Residents have been provided with private open space in excess of SEPP 65 requirements.</i></p> <p><i>The communal open space will incorporate alfresco dining and community gardens.</i></p> <p><i>Communal open space has been provided on podium levels 3, 4 and rooftops of Buildings B; providing a mix of active and passive landscape spaces for residents.</i></p>

Design Quality Principle	Comment
<p>equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	
Design Principle 6 – Amenity	
<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p><i>The development provides the following mix of units and sizes:</i></p> <ul style="list-style-type: none"> - 18 % one bedroom apartments - 72 % two bedroom apartments - 10% three bedroom apartments <p><i>10% of the units are designed to the requirements of AS 4299-1995 Adaptable Housing. 20% of units in total are designed to the Universal Design standards, including the 10% requirement for adaptable housing.</i></p> <p><i>Apartments comply with storage requirements within units.</i></p> <p><i>Communal open space will provide passive and active recreational opportunities. Raised garden beds and benches for seating; grassed, paved and planted surfaces; shaded, sunny and feature-lit areas will be provided.</i></p> <p><i>Balcony sizes generally exceed those required by the Apartment Design Guide to ensure quality private open space for residents.</i></p> <p><i>Interior corridors have access to daylight and natural ventilation, with views out of the building to improve both amenity and sustainability.</i></p> <p><i>Building entries and lobbies follow off the street and are articulated in scale and with the use of landscaping.</i></p>
Design Principle 7 – Safety	
<p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p><i>The address to the street has been carefully designed to ensure safe access to and egress from the building by ensuring direct sight lines to the residential lobby from the street.</i></p> <p><i>The thresholds between public, communal and private areas are clearly defined to ensure a sense of ownership between the public and private domains.</i></p> <p><i>Commercial frontages will provide lighting to the area at night, passive surveillance of the street and opportunity for night-time activation.</i></p> <p><i>Apartments and open gallery walkways overlook communal open spaces providing passive surveillance to improve safety; the development</i></p>

Design Quality Principle	Comment
	<p><i>is designed to avoid blind corners and hidden spaces.</i></p> <p><i>Access to each building and individual apartments will be coordinated with a security key system.</i></p> <p><i>Secure parking for residents is located within above ground parking with clear and direct lift access to the apartments. The entrance to the parking area is minimised to maximise street activation and surveillance.</i></p>
Design Principle 8 – Housing Diversity and Social Interaction	
<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><i>The proposed development provides housing choice. The communal open spaces, retail uses and public interface will encourage social interaction amongst residents and the community.</i></p> <p><i>The ground floor address and the interface of buildings have been carefully designed to enhance street activation and frontage.</i></p> <p><i>The proposed development will create opportunities for families in the surrounding suburbs to move into the area when their family needs change.</i></p> <p><i>The provision of 24 one-bedroom apartments in the development will provide for a more affordable entry point into the housing market.</i></p> <p><i>10% of units are designed to be adaptable to the needs of people with disabilities and to facilitate intergenerational changes and changing lifestyles.</i></p> <p><i>Variety in sizing, aspect and outlook within apartment types will result in some price differentiation.</i></p> <p><i>Dedicated residential communal open spaces are provided on various levels to support the communal life of the building. These spaces typically have direct access from the lift lobby.</i></p>
Design Principle 9 – Aesthetics	
<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p><i>The intent of the aesthetics are:</i></p> <ul style="list-style-type: none"> - <i>To further develop and articulate the massing strategy for the site through the application of varying architectural languages</i> - <i>To respond to contextual opportunities and constraints including orientation, internal planning configuration, views to and from the site and to maximize residential amenity</i> - <i>To de-formalise the usual rigid and repetitive façades in multi-unit residential development through articulation and patterning of feature horizontal and vertical components and elements</i> - <i>To use materials and a colour palette that appropriately reflects the desired</i>

Design Quality Principle	Comment
	<p><i>character of the proposed development and to breakdown the mass of the building yet maintain a limited palette for cohesion over the whole</i></p> <p><i>These design responses ensures an appropriate provision for the future desired character of the area as a residential development.</i></p>

Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential apartment development to be designed in accordance with the ADG. The following table provides an assessment of the applicant's against the relevant provisions of the ADG.

Provisions	Comment
2E Building depth	
<p>Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. This will ensure that apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation</p>	<p>Non Compliance The building depths for Levels 3 and above do not comply.</p> <p>However, the variation is considered to be acceptable as discussed below.</p>
2F Building separation	
<p>Minimum separation distances for buildings are: Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms 	<p>Non Compliance No building separation is required to adjoining buildings, as the site is separate by a local road from neighbouring development. The width of the road, together with the street setback requirements is sufficient to satisfy the building separation distances to future development.</p>
<p>Five to eight storeys (approximately 25m):</p> <ul style="list-style-type: none"> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms 	<p>However, sufficient building separation distances have not been provided to the buildings within the development.</p>
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> • 24m between habitable rooms/balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms 	<p>The variation is considered to be acceptable as discussed below.</p>
3A Site analysis	
<p>Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context</p>	<p>Complies A detailed site analysis plan has been provided.</p>
3B Orientation	
<p>Building types and layouts respond to the streetscape and site while optimising solar access within the development.</p>	<p>Complies The building type is appropriate for the streetscape.</p>

Provisions	Comment												
3D Communal and public open space													
<p>Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p> <p>Communal open space is designed to maximise safety</p> <p>Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood</p>	<p>Complies</p> <p>A total 1353m² of communal open space is required. The proposed development provides a total communal open space area of 1463m² comprising of:</p> <ul style="list-style-type: none"> - 1025m² on Level 3; - 118m² on Level 4; and - 320m² on the roof top of Block B. <p>The main communal open space on Level 3 will receive solar access from 12pm to 3pm. The communal open space on Level 4 will receive solar access at 12pm, while the rooftop communal open space will not be overshadowed.</p> <p>The communal open space allows for a range of activities with BBQ facilities, shade structures and open space provided.</p>												
3E Deep soil zones													
<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="204 869 778 1093"> <thead> <tr> <th>Site Area</th> <th>Minimum Dimensions</th> <th>Deep Soil Zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m²</td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m² to 1500m²</td> <td>3m</td> </tr> <tr> <td>Greater than 1500m²</td> <td>6m</td> </tr> <tr> <td>Greater than 1500m² with significant tree cover</td> <td>6m</td> </tr> </tbody> </table>	Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)	Less than 650m ²	-	7%	650m ² to 1500m ²	3m	Greater than 1500m ²	6m	Greater than 1500m ² with significant tree cover	6m	<p>Complies</p> <p>A total of 7.3% of the site has been provided as deep soil zones.</p>
Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)											
Less than 650m ²	-	7%											
650m ² to 1500m ²	3m												
Greater than 1500m ²	6m												
Greater than 1500m ² with significant tree cover	6m												
3F Visual Privacy													
<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="204 1249 778 1473"> <thead> <tr> <th>Building Height</th> <th>Habitable Rooms and Balconies</th> <th>Non Habitable Rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>12m to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table>	Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	Up to 12m (4 storeys)	6m	3m	12m to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Non Compliance</p> <p>Setbacks of 4.1m between the buildings have been provided, which do not comply with the numerical requirements of the design guideline.</p> <p>However, the variation is considered acceptable given that where the setbacks to adjoining buildings do not comply, visual acoustic mitigation measures are provided which include blank walls and highlight windows.</p>
Building Height	Habitable Rooms and Balconies	Non Habitable Rooms											
Up to 12m (4 storeys)	6m	3m											
12m to 25m (5-8 storeys)	9m	4.5m											
Over 25m (9+ storeys)	12m	6m											
3G Pedestrian Access and Entries													
<p>Building entries and pedestrian access connects to and addresses the public domain</p> <p>Access, entries and pathways are accessible and easy to identify</p> <p>Large sites provide pedestrian links for access to streets and connection to destinations</p>	<p>Complies</p> <p>Pedestrian access and entries complies with the objectives of the ADG.</p>												
3H Vehicle Access													
<p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</p>	<p>Complies</p> <p>The vehicle access point is located to achieve safety and minimise conflict.</p>												
3J Bicycle and Car Parking													
<p>For development in the following locations:</p> <ul style="list-style-type: none"> - on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or 	<p>Complies</p> <p>Bicycle and car parking is provide in accordance with the requirements of the LDCP 2008.</p>												

Provisions	Comment												
<p>- on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</p> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street</p> <p>Parking and facilities are provided for other modes of transport</p> <p>Car park design and access is safe and secure</p> <p>Visual and environmental impacts of underground car parking are minimised</p> <p>Visual and environmental impacts of on-grade car parking are minimised</p> <p>Visual and environmental impacts of above ground enclosed car parking are minimised</p>													
4A Solar and Daylight Access													
<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</p>	<p>Non Compliance</p> <p>66% of the apartments will receive a minimum of 2 hours of solar access, which represents a non-compliance of 4% or a shortfall of 5 apartments.</p> <p>However, the variation is considered to be acceptable as discussed below.</p>												
4B Natural Ventilation													
<p>All habitable rooms are naturally ventilated</p> <p>The layout and design of single aspect apartments maximises natural ventilation</p> <p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>Complies</p> <p>Approximately 80% of all units are naturally cross ventilated.</p>												
4C Ceiling Heights													
<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="204 1579 778 1859"> <tr> <td colspan="2">Minimum ceiling height</td> </tr> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed use areas</td> <td>3.3m from ground and first floor to promote future flexibility of use</td> </tr> </table> <p>Ceiling height increases the sense of space in apartments and provides for well proportioned rooms</p> <p>Ceiling heights contribute to the flexibility of building use over the life of the building</p>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed use areas	3.3m from ground and first floor to promote future flexibility of use	<p>Complies</p> <p>4m ceiling heights are provided to the ground floor while all other floors have a ceiling height of 3m.</p>
Minimum ceiling height													
Habitable rooms	2.7m												
Non-habitable	2.4m												
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area												
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope												
If located in mixed use areas	3.3m from ground and first floor to promote future flexibility of use												
4D Apartment Size and Layout													

Provisions	Comment															
<p>Apartments are required to have the following minimum internal areas:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Apartment Type</th> <th style="text-align: left;">Minimum Internal Area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each</p>	Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>Complies Apartment sizes comply with the minimum requirement.</p>					
Apartment Type	Minimum Internal Area															
Studio	35m ²															
1 bedroom	50m ²															
2 bedroom	70m ²															
3 bedroom	90m ²															
<p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>Complies Habitable rooms are provided with windows of sufficient glass areas.</p>															
<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p>	<p>Complies Habitable rooms are generally limited to 2.5m x the ceiling height.</p>															
<p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>Complies Habitable room depth is generally limited to 8m in open plan layouts.</p>															
<p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p>	<p>Complies Bedrooms are of sufficient size.</p>															
<p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p>	<p>Complies Bedrooms have a minimum dimension of 3m.</p>															
<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> - 3.6m for studio and 1 bedroom apartments - 4m for 2 and 3 bedroom apartments 	<p>Complies Sufficient widths are provided to living rooms/dining rooms.</p>															
4E Private Open Space and Balconies																
<p>All apartments are required to have primary balconies as follows:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Dwelling Type</th> <th style="text-align: left;">Minimum Area</th> <th style="text-align: left;">Minimum Depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>1 bedroom</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3 bedroom</td> <td>12m²</td> <td>2.4</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio	4m ²	-	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3 bedroom	12m ²	2.4	<p>Complies The development provides for sufficient balcony size and depths.</p>
Dwelling Type	Minimum Area	Minimum Depth														
Studio	4m ²	-														
1 bedroom	8m ²	2m														
2 bedroom	10m ²	2m														
3 bedroom	12m ²	2.4														
<p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m</p>	<p>Complies More than 15m² of private open space is provided to ground floor units.</p>															
4F Common Circulation and Spaces																
<p>The maximum number of apartments off a circulation core on a single level is eight</p>	<p>Complies The maximum number of units off a circulation core is 8.</p>															
<p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	<p>Not applicable</p>															
4G Storage																
<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Dwelling Type</th> <th style="text-align: left;">Storage Size Volume</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m³</td> </tr> <tr> <td>1 bedroom</td> <td>6m³</td> </tr> <tr> <td>2 bedroom</td> <td>8m³</td> </tr> <tr> <td>3 bedroom</td> <td>10m³</td> </tr> </tbody> </table>	Dwelling Type	Storage Size Volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3 bedroom	10m ³	<p>Complies Sufficient storage space is provided within each unit and within the basement.</p>					
Dwelling Type	Storage Size Volume															
Studio	4m ³															
1 bedroom	6m ³															
2 bedroom	8m ³															
3 bedroom	10m ³															

Provisions	Comment
At least 50% of the required storage is to be located within the apartment.	
4H Acoustic Privacy	
Noise transfer is minimised through the siting of buildings and building layout	Complies The development is in accordance with the objectives.
Noise impacts are mitigated within apartments through layout and acoustic treatments	
4K Apartment Mix	
A range of apartment types and sizes is provided to cater for different household types now and into the future	Complies A range of apartment types are provided and located throughout the building.
The apartment mix is distributed to suitable locations within the building	
4L Ground Floor Apartments	
Street frontage activity is maximised where ground floor apartments are located	Complies The development is in accordance with these objectives.
Design of ground floor apartments delivers amenity and safety for residents	
4M Facades	
Building facades provide visual interest along the street while respecting the character of the local area	Complies The overall design including building façade has been endorsed by the Design Excellence Panel.
Building functions are expressed by the facade	
4N Roof Design	
Roof treatments are integrated into the building design and positively respond to the street	Complies The development is in accordance with these objectives.
Opportunities to use roof space for residential accommodation and open space are maximized.	
Roof design incorporates sustainability features	
4O Landscape Design	
Landscape design is viable and sustainable	Complies The development is in accordance with these objectives.
Landscape design contributes to the streetscape and amenity	
4P Planting on Structures	
Appropriate soil profiles are provided	Complies The development is in accordance with these objectives.
Plant growth is optimised with appropriate selection and maintenance	
Planting on structures contributes to the quality and amenity of communal and public open spaces	
4Q Universal Design	
Universal design features are included in apartment design to promote flexible housing for all community members	Complies The development is in accordance with these objectives.
A variety of apartments with adaptable designs are provided	
Apartment layouts are flexible and accommodate a range of lifestyle needs	
4R Adaptive Reuse	
New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	Not Applicable The DA is for the development of a new building and not the adaptive reuse of an existing building.
Adapted buildings provide residential amenity while not precluding future adaptive reuse	

Provisions	Comment
4S Mixed Use	
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Not Applicable The DA does not proposed a mixed use development.
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	
4T Awnings and Signage	
Awnings are well located and complement and integrate with the building design	Complies Awnings are provided to entries for wet weather protection.
Signage responds to the context and desired streetscape character	Complies Building address signage is integrated into the building design.
4U Energy Efficiency	
Development incorporates passive environmental design	Complies The development is in accordance with these objectives.
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	
Adequate natural ventilation minimises the need for mechanical ventilation	
4V Water Management and Conservation	
Potable water use is minimised	Complies Potable water use is minimised and water efficient devices will be provided in accordance with the requirements of the BASIX certificate.
Urban stormwater is treated on site before being discharged to receiving waters	Complies This aspect has been reviewed by Council's Land Development Engineers who have raised no issues subject to conditions.
Flood management systems are integrated into site design	Complies The development incorporates flood mitigation measures.
4W Waste Management	
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Complies Waste storage facilities are provided and will be maintained by the caretaker.
Domestic waste is minimized by providing safe and convenient source separation and recycling	
4X Building Maintenance	
Building design detail provides protection from weathering	Complies The development is in accordance with these objectives
Systems and access enable ease of maintenance	
Material selection reduces ongoing maintenance costs	

The above assessment has identified a number of variations, namely:

Variation to the Building Depth guideline

The ADG recommends maximum apartment depths of 12-18m from glass line to glass line.

The proposed development provides the following building depths:

- Building A: building depth ranging from approximately 22m to 24m
- Building B: Building depth of approximately 22m; and
- Building C: Building depth ranging from approximately 24m to 27m.

Although the buildings exceed the recommended building depths provided by the ADG, the internal layout of the apartments have been designed to ensure that sufficient solar access and natural ventilation is provided. 66% of the apartments will receive a minimum of 2 hours of solar access and 81% of the apartments are cross ventilated. Additionally, no issues were raised by the DEP in relation to the building depths.

Variation to the building separation guideline

The building separation distances between Building A and Building B, and between Building B and Building C do not meet the recommended guidelines of the ADG, which stipulate:

- Up to four storeys:
 - o 12m between habitable rooms/balconies
- Five to eight storeys
 - o 18m between habitable rooms/balconies

The proposed development provides a building separation of 4.1m between Building A and Building B, and 4.1m between Building B and Building C. Despite the variations, the design has incorporated high sill windows and a careful internal layout to address any potential impacts resulting from a lesser building separation, and to minimise any impact on the privacy of future occupants.

The variation to the building separation guideline is considered to be acceptable as the overall development achieves design excellence. The development also achieves the objectives of the guideline. The objectives include: achieving appropriate building scale that will be in character with the area (once adjoining sites are developed) and provides appropriate mass between buildings; preserves visual and acoustic privacy; provides appropriately sized common open space; and deep soil zones to support stormwater management and tree planting.

Additionally, strict compliance with the building separation distance would result in an undesirable built outcome for the site. Also, given the irregular configuration of the site makes it difficult to achieve compliance.

Variation to the Solar Access Guideline

The design criteria of the ADG stipulates that living rooms and private open spaces of at least 70% of apartments in a building must receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.

The architectural plans indicate that 66% of the apartments will receive 2 hours of solar access, which represents a shortfall of 5 apartments. It is noted that the ADG provides design guidance which stipulates *achieving the design criteria may not be possible on some sites. This includes: where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source.*

The variation is considered to be acceptable based on the above design guidance, given that the site is significantly constrained by a railway corridor along the rear boundary. As such, the development has been designed to ensure that as far as possible, units are located away from the rail corridor in order to achieve better residential amenity.

(b) State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 provides direction for matters to be considered in the assessment of development adjacent to particular types of infrastructure.

In accordance with the requirements of the SEPP (Infrastructure) 2007, as the development is located adjacent to a rail corridor, the application was referred to Sydney Trains for comment.

Sydney Trains have responded in support of the application, subject to deferred commencement.

It is noted that one of the deferred commencement conditions is the requirement for the building to be setback 1.5m from the rear boundary. The development generally achieves compliance with this requirement, except for a small portion of the ground floor, Level 1 and Level 2, which is only setback approximately 1m from the rear boundary. In order to increase the setback minor amendments will be required to the car parking layout and a reduction in the size of garbage storage area.

The potential acoustic and vibration impact of the development from the rail corridor has also been considered in accordance with Clause 87 of the SEPP (Infrastructure) 2007, which stipulates:

- (3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*
- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,*
 - (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

The application was accompanied by an Acoustic Report (refer to Attachment 15), which concluded that the proposed development is capable of complying with the noise criteria, subject to noise mitigation measures such as sound rated glazing.

Conditions are imposed prescribing compliance with the Acoustic Report and the noise criteria within Clause 102 of the SEPP (Infrastructure) 2007, to ensure that the proposed development incorporates noise attenuation to minimise any adverse impact from road noise. This will ensure that an appropriate level of residential amenity is achieved in accordance with the requirements of the SEPP (Infrastructure) 2007.

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

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

The proposal involves a change in the use of the land, from industrial to residential and under the SEPP 55 guidelines is considered a site that could be contaminated.

The application was accompanied by A Preliminary Contamination Assessment (Report 13603) prepared by Geotechnique Pty Ltd. The report concluded that the:

site would be suitable for the proposed residential use subject to sampling (after removal of the site features) and testing to address the potential contamination listed in Section 7 of the report.

The report further stated that:

if contaminants are identified, the site can be made suitable for the proposed residential use following successful remediation and validation. It is considered reasonable for conditional development consent to be issued to require sampling and testing.

A Detailed Contamination Assessment report (refer to Attachment 10) was later commissioned, which included 14 sampling points across the site. The report concluded that the site can be made suitable for the proposed residential land use, subject to implementation

of the following recommendations, after complete demolition and removal and clearance of grass:

- *Excavation and visual assessment of soil in the footprints of site features such as warehouse, concrete car park/driveway, hardstands, and grass covered areas, will be required. The purpose of this is to ascertain the presence or otherwise of 'suspect' materials (identified by unusual staining odour, discolouration or inclusions such as building rubble, asbestos, ash particles, etc.) and fill, which is different to those encountered for this assessment. Assessment by sampling and testing might be required. In the event of contamination, further assessment, remediation and validation will be required.*
- *Soil contaminated with Benzo(a)pyrene was identified at location BH9, BH11 and BH13, as indicated and tabulated on Drawing No 13603/3-AA2. Further assessment is to be implemented to determine the necessity for risk assessment, remediation and/or management.*

The report further recommended that:

- *If suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos sheets/pieces/pipes, as material, etc) and fill, which is difference to those encountered for this assessment, are encountered during any stage of future demolition/site preparation, we recommended that this office is contacted for assessment, and to take all necessary actions.*
- *For any materials to be excavated and removed from the site,, it is recommended that waste classification of the materials is undertaken, in accordance with the "Waste Classification Guidelines Part : Classifying Waste" NSW EPA 2014: NSW EPA resource recovery exemptions and orders under the POEO (Waste) Regulation 2014; or NSW EPA Certification: Virgin Excavated natural material prior to disposal at a facility that can lawfully accept the materials.*
- *Any imported soil (fill) must be assessed by a qualified environmental consultant, prior to importation, to ensure suitability for the proposed use. In addition, the imported fill must not contain asbestos and ash, be free or unusual odour, not be discoloured and not acid sulphate soil or potential acid sulphate soil. The imported fill should either be virgin excavated natural material (VENM) or excavated natural material (ENM).*

Council's Environment and Health section have reviewed the report and agree with the recommendations that the site can be made suitable for the proposed development subject to site remediation works.

Clause 7 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	The Detailed Contamination Assessment identifies 3 locations with soil contamination.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	The submitted assessment concludes the site can be made suitable for residential development subject to recommendations, which have been detailed above.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The need for remediation works will be identified as part of the further assessment required for the 3 locations identified as containing contaminated soil.

Therefore based on the above assessment, the subject site can be made suitable for the proposed development subject to compliance with the recommendations provided within the Detailed Contamination Assessment report. These recommendations have been included as deferred commencement conditions.

(d) State Environmental Planning Policy (BASIX) 2004

The proposal is accompanied by a BASIX Certificate (refer to Attachment 21) which is consistent with the aims and intent of the Policy. It is recommended that appropriate conditions are imposed to ensure compliance with the BASIX commitments.

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

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

When a consent authority determines a development application planning principles are to be applied (Clause 7(2)). Accordingly, a table summarising the matters for consideration in determining development application (Clause 8 and Clause 9), and compliance with such is provided below.

Clause 8 General Principles	Comment
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	The proposal provides soil and erosion control measures.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The proposal provides a stormwater management system that will connect to the existing system. A Stormwater concept plan also outlines proposed sediment and erosion control measures.
d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments),	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning),	The proposal includes a Stormwater Concept plan. There is no evidence that with imposition of mitigation measures, the proposed development would affect the diversity of the catchment.
(f) whether there are any feasible alternatives to the development or other proposal concerned.	The site is located in an area nominated for residential development and the proposal provides an opportunity to address past potentially contaminating land use practices.

Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The application was accompanied by a Preliminary Acid Sulfate Soil Assessment Report which concluded that that the soils likely to be disturbed during proposed works are unlikely to be acid sulfate or

	potentially acid sulfate. Therefore, the proposed excavation works may be carried out without an Acid Sulfate Soils Management Plan.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The site contains flood affected land. This aspect has been reviewed by Council's Floodplain Engineers who have raised no issues subject to conditions.
(4) Industrial discharges	The past industrial use may have contributed to discharges to the Georges River. However, as the use is changing to a residential use, the discharge of industrial waste into the Georges River will not occur.
(5) Land degradation	An erosion and sediment control plan aims to manage salinity and minimise erosion and sediment loss.
(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	A Stormwater Concept Plan proposes connection to existing services.
(10) Urban development areas	The site is not identified as being located within the South West Growth Centre within the Metropolitan Strategy. The site is not identified as being an Urban Release Area under LLEP 2008.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	A drainage plan proposes stormwater connection to existing services.
(13) Wetlands	Not applicable.

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

(f) Liverpool Local Environmental Plan 2008

(i) Permissibility

The proposed development is defined as a *residential flat building and neighbourhood shop* which are defined as follows:

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

neighbourhood shop means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

The proposed development satisfies the definition of a *residential flat building* as it is a building which contains more than 3 dwellings.

Unit BG.04 located on the ground floor will be utilised as a neighbourhood shop. The future use and fitout of this tenancy will be subject to a separate DA.

(ii) Objectives of the zone

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

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

The proposed development would meet and satisfy the above stated objectives. Specifically, the buildings will provide a total of 134 units (with a mix of, 1, 2, 3 bedroom units and a number of adaptable units).

Additionally, Unit BG.04 will be utilised as neighbourhood shop which will provide facilities to meet the day to day needs of residents.

(iii) Principal Development Standards

The LLEP 2008 contains a number of principal development standards which are relevant to the proposal. Assessment of the application against the relative standards is provided below.

Clause	Provision	Comment
Clause 2.7 Demolition Requires Development Consent	The demolition of a building or work may be carried out only with development consent.	Complies Consent is sought for the demolition of existing buildings.
Clause 4.3 Height of Buildings	Maximum height of 24m	Non Compliance The development exceeds the maximum building height. The building heights are as follows: <ul style="list-style-type: none"> - Building A: 26.3m to the main roof and 27.7m to the lift overrun; - Building B: 25.98m to the main roof, 28.8m to the communal open space lobby, and 30.2m to the lift overrun; - Building C: 28.2m to the main roof line and 29.6m to the lift overrun. A Clause 4.6 variation has been submitted requesting a variation to the development standard. Further discussion is provided below.
Clause 4.4 Floor Space Ratio	Maximum FSR of 2.5:1 which equates to a maximum GFA of 13,530m ²	Complies The development provides an FSR of 2.3:1, which equates to a GFA of 12,495m ² .
Clause 4.5 Calculation of Floor Space Ratio and Site Area	Provisions relating to the calculation of FSR	Complies The FSR has been calculated in accordance with Clause 4.5.
Clause 4.6 Exceptions to Development Standards	Provisions relating to variations to development standards.	A Clause 4.6 variations statement has been submitted to address the non-compliances associated with Clause 4.3 Height of Buildings and Clause 7.4 Building Separation in the Liverpool City Centre.
Clause 5.4(7) Neighbourhood Shops	If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 100m ² .	Complies One neighbourhood shop is proposed, with a floor area of 93m ² .

<p>Clause 7.4 Building Separation in Liverpool City Centre</p>	<p>Development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least:</p> <ul style="list-style-type: none"> - 9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished) - 12 metres for parts of buildings between 25 metres and 35 metres above ground level (finished) 	<p>Non Compliance</p> <p>The development does not provide the required building separation distance of 9m for parts of the building between 12m and 25m in height.</p> <p>The development provides the following building separation distances:</p> <ul style="list-style-type: none"> - Building A and Building B: 4.1m - Building B and Building C: 4.1m; and - Building A and Building C: 26.5m <p>A Clause 4.6 variation has been submitted requesting a variation to the development standard. Further discussion is provided below.</p>
<p>Clause 7.7 Acid Sulfate Soils</p>	<p>Provisions relating to Acid Sulfate Soils</p>	<p>Complies</p> <p>The site is identified as potentially containing Class 5 ASS. The application was accompanied by a Preliminary Acid Sulfate Soil Assessment Report (refer to Attachment 16) which concluded that that the soils likely to be disturbed during proposed works are unlikely to be acid sulfate or potentially acid sulfate. Therefore, the proposed excavation works can be carried out without an Acid Sulfate Soils Management Plan.</p>
<p>Clause 7.8 Flood Planning</p>	<p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> (a) is compatible with the flood hazard of the land, and (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and (c) incorporates appropriate measures to manage risk to life from flood, and (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and (f) is consistent with any relevant floodplain risk management plan adopted by the Council in accordance with 	<p>Complies</p> <p>The application was accompanied by a Flood Report (refer to Attachment 22). The report has been reviewed by Council's Flooding Section, who have raised no issues subject to the imposition of flood related development conditions.</p> <p>The following are comments in relation to Clause 7.8:</p> <ul style="list-style-type: none"> (a) The proposed development is compatible with the flood hazard of the land. (b) The site is located outside the main flood flow areas and is located within a flood storage area. The flood impact assessment undertaken by S&G Consultants Pty Limited confirmed that the proposed development will not involve any loss of flood storage volume below the 1% Annual Exceedance Probability (AEP) flood. Therefore, the development will not adversely affect the flood behaviour in the vicinity and will not adversely impact other adjacent developments or properties. (c) The floor levels of the proposed buildings will not be lower than the 1% AEP flood plus half a metre freeboard and hence the building floors are not subject to flooding up to the 1% AEP flood event. The structures will be constructed with flood compatible building components below the 1% AEP flood plus half a metre freeboard. The applicant will also be required to develop and maintain a comprehensive flood emergency

	the Floodplain Development Manual.	<p>management plan at the site as per conditions of consent. The flood emergency management plan will identify all potential risks and formulate measures for the protection of the people and the business. The plan will clearly demonstrate how evacuation of the site will be undertaken prior to floodwaters cutting off the access road. Therefore, the proposed development has incorporated appropriate measures to manage risk to life from flood.</p> <p>(d) The site is located outside the riparian corridor of the Georges River. The site is located within a flood storage area and therefore, the development will not cause change to flow depth, flow distribution and velocities. Hence the development will not induce erosion, siltation or instability of river bank or watercourse and will not cause destruction of riparian vegetation</p> <p>(e) As per conditions of consent, the proposed development will be designed to minimise potential flood related damages in terms of building strength and stability, building floor levels and material selection. Flood safety and evacuation have also been considered as important design principles. Thus the proposed development offers a sustainable approach to the social and economic costs of the local and general community</p> <p>(f) The site is located within the Georges River catchment. The proposed development is consistent with Liverpool Council's Georges River floodplain risk management plan, which was prepared in accordance with the Floodplain Development Manual.</p>
Clause 7.14 Minimum Building Street Frontage	A minimum building street frontage of 24m is applicable.	Complies The street frontage exceeds 24m.
Clause 7.17 Airspace Operations	Provisions to protect airspace around airports	Complies An airport obstacle height limit of 135m applies to the site. The development is well below the obstacle height limit and will therefore not intrude into the air space.

Discussion on Variation under Clause 4.6 of LLEP 2008 Development Standards

As identified in the compliance table above, the proposal is generally compliant with the majority of provisions prescribed the LLEP 2008 with the exception of the following:

Variation to Clause 4.3 Height of Buildings

Clause 4.3(2) of the LLEP 2008 identifies a maximum height of 24m for the site.

The development proposes the following height:

- Building A:
 - o 26.3m to the roof, representing a numerical variation of 2.3m or 9.5%;
 - o 27.7m to the lift overrun, representing a numerical variation of 3.7m or 15.4%
- Building B:
 - o 25.9m to the roof, representing a numerical variation of 1.9m or 7.9%;

- 28.8 to the to the roof of the communal open space lobby, representing a numerical variation of 4.8 or 20%;
- 30.2m to the lift overrun, representing a numerical variation of 6.2m or 25.8%;
- Building C:
 - 28.2m to the roof, representing a numerical variation of 4.2m or 17.5 %;
 - 29.6m to the lift overrun, representing a numerical variation of 5.6m or 23.3%

The extract of the variation is provided below:

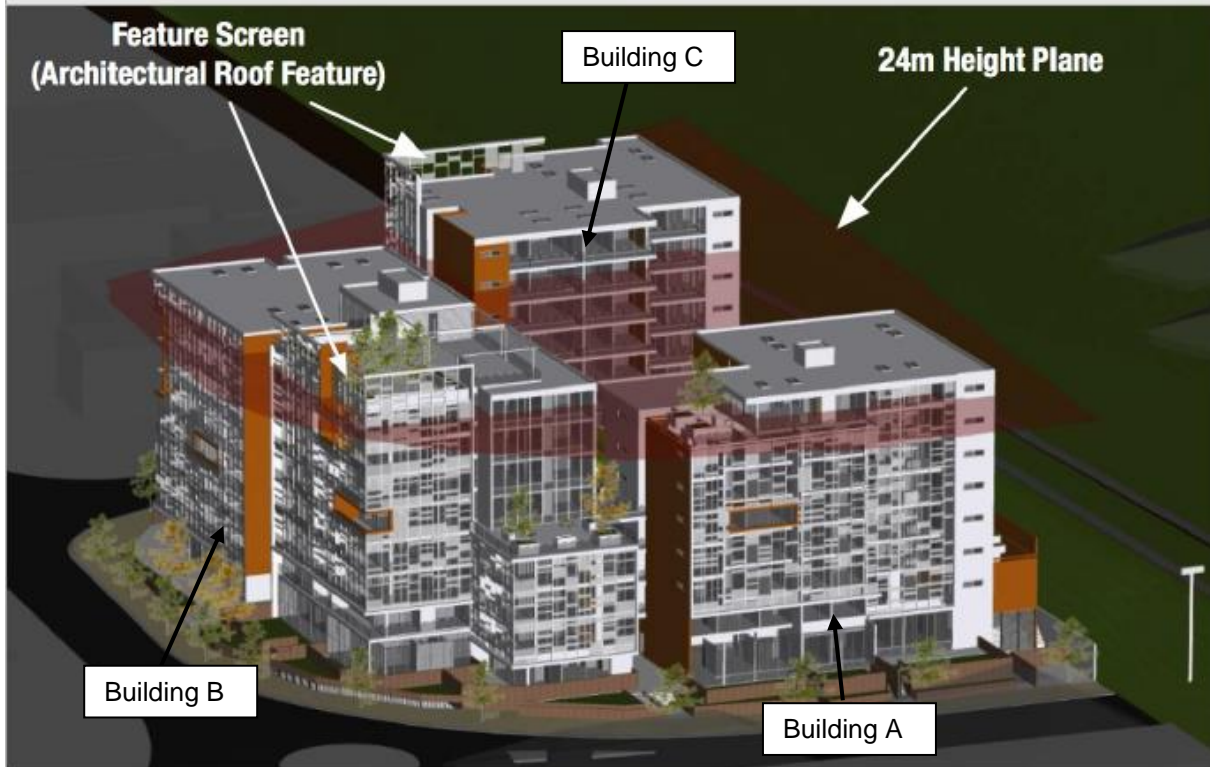


Figure 1: Extent of height non-compliance (extract from report prepared by Haskew Planning)

The applicant has provided justification for the departure to the development standard summarised as follows (this request is attached as Attachment 6):

Reason 1:

Strict Application of the height of buildings development standard hinders the attainment of the floor space ratio bonuses which are applicable to the Liverpool City Centre.

The proposed development provides a FSR of 2.3:1, being 0.2:1 less than the maximum permissible. In percentage terms, the development provides 1035sqm or 7.6% less GFA than the floor space ratio control under clause 4.4(2B) permits. Nevertheless, the proposal still benefits from an FSR bonus of 0.8:1 compared with the height of buildings map baseline standard of 1.5:1.

The floor space ratio bonuses which are available under clause 4.4(2B) have been applied to promote development in the Liverpool Strategic Centre. However at the same time, objective (f) of clause 4.4 continues to apply to all development within the Liverpool City Centre. That objective specifies:

(f) to facilitate design excellence in the Liverpool city centre by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.

Generous space for the articulation and modulation of design requires space to be provided around buildings. If floor space ratio bonuses are allowed, but no increase in height of buildings is permitted, then the outcome is the reverse of that which is required under objective (f). As such, it is argued that it is unreasonable to encourage development within the Liverpool City Centre by providing floor space ratios; and require generous space around those larger buildings; and to then not facilitate a concomitant bonus in the height of buildings development standard is unreasonable.

As such, compliance with the height of buildings development standard is unreasonable in the circumstances of the case.

Further, the relationship between clause 4.4(2B) and clause 4.3 is at odds with the methodology adopted under clause 7.5(6) of LLEP 2008. Whilst the subject application does not rely on the additional bonuses afforded through the design competition process under that clause, it is instructive and relevant to note that clause 7.5(6) specifically acknowledges the close relationship between FSR and height of buildings by providing bonuses to both development standards concurrently.

The close relationship between FSR and height is also acknowledged by objective (a) of clause 4.3:

(a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,

The way in which clause 4.3 interacts with clause 4.4(2B) is that it directs the same building height for the subject site regardless of whether the applicable FSR is 1.5:1 as per the LLEP 2008 Map or 2.5:1 as per the Liverpool City Centre FSR bonuses. This is an operation which is contrary to objective (a) above which expressly aims to establish height limits in which "floor space can be achieved". Strict application of the height of buildings development standard will thwart the first objective of the standard and is therefore unreasonable in the circumstances of the case.

Council have suggested by letter of 4 November 2016 that the FSR development standard is a "theoretical maximum and as such it may not always be possible to achieve due to other controls" which need to be complied with. This approach is incorrect for two reasons. First it is a requirement of the Apartment Design Guide (a statutory document by dint of clause 28(c) of SEPP 65 - Design Quality of Residential Apartment Buildings), that:

The controls must be carefully tested to ensure they are co-ordinated and that the desired built form outcome is achievable. They should ensure the desired density and massing can be accommodated within the building height and setback controls.

A suggestion that FSR may not be achieved on a large and generously proportioned site such as the subject is in fact a recognition that the controls are not co-ordinated, this being exactly the reason as to why strict compliance is unreasonable.

Secondly, Council's suggestion that FSR may not be achievable because of the presence of other controls is incorrect because it directly contradicts a fundamental purpose of the controls being imposed – certainty to the community and landowners. Council's attention is drawn to its Business Paper of 5 May 2008, in which Council considered Draft LEP 2008 subsequent to its public exhibition. Page 55 of that report states:

LLEP 2008 prescribes residential floor space ratios consistent with the Department of Planning aims for 'implementing strategic planning objectives and providing certainty to the community and land owners about the acceptable bulk and scale of development' (emphasis added)

In summary:

- *Clause 4.4(2B) aims to promote development within the Liverpool City Centre by providing FSR bonuses;*
- *Objective (f) of clause 4.4 aims to promote generous space around buildings*
- *The relationship between clause 4.3 and clause 4.4(2B) is inconsistent with height and FSR bonuses available under clause 7.5(6)*
- *Strict application of the static height of buildings control where floor space ratio is dynamic under clause 4.4(2B) leads to an outcome which is directly contrary to the first objective of the height of buildings standard.*
- *SEPP 65 requires that FSR and height of buildings controls are to be carefully tested to ensure they are coordinated;*
- *A primary purpose of FSR controls is to provide certainty to the community and land owners. Encouraging development by offering dynamic floor space ratio bonuses but then preventing the attainment of those bonuses by virtue of static height controls is the antithesis of certainty*

In these circumstances, it is unreasonable to apply primacy to the height of buildings development standard over the floor space ratio bonuses available under clause 4.4(2B)

Reason 2:

The proposed development remains consistent with the objectives of the R4 zone and does not derogate from the objectives of Clause 4.3 Height of Buildings.

With regard to the zone objectives it is fair to say that the proposed development remains consistent with the first, second and fourth listed and that the third and fifth listed are not relevant to the subject application. Pursuant to the Guide, for the Request for Variation to be supported, it is necessary that this be the case. However consistency with the zone objectives alone does not establish a particularly compelling reason for variation to the standard. A development which complied with the height of buildings development standard would equally satisfy the zone objectives.

Of significantly greater import is that the proposed development does not offend the objectives of the height of buildings development standard and further, that in the circumstances of the subject application a development which complied with the standard would offend the first objective of the standard. Referencing each of the objectives of the standard we note:

(a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,

The proposed development provides GFA at 7% less than the maximum applicable FSR. Strict application of the height of buildings standard would result in an outcome in which floor space cannot be achieved. That outcome would be exactly opposite to that which is directed by the objective. We note in this regard that the design does not propose communal open space or building separation which vastly exceed LEP or ADG requirements. On the contrary, building separation requirements are also not met. The cause of the height non-compliance rests squarely with the fact that the development relies on FSR bonuses available under clause 4.4(B2) of LLEP 2008.

Given that the proposed development is consistent with objective (a) of the standard and that a development which complied with the standard would offend that objective, strict compliance

with the standard is considered to be unreasonable and unnecessary in the circumstances of the case.

(b) to permit building heights that encourage high quality urban form,

The proposed development delivers a high standard of urban design. The proposed height exceedance, necessary to deliver lower site coverage, greater landscaped area and generous podium level communal open space.

(c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,

The proposed height non-compliance results in negligible difference in terms of exposure to the sky and access to sunlight compared with a development which hypothetically complied with the height of buildings development standard.

(d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

The subject site is situated in close proximity to the approved Paper Mill Development. We acknowledge and understand that the 48m approved building height on that site was predicated on heritage incentives. No assertion is made that the subject site should accommodate the same proposed building height. Rather, our observation is that the Paper Mill will be a new building within the immediate visual and contextual catchment of the subject site. Objective (4) of the standard seeks to achieve a transitioning in building height. The circumstances in which the subject site finds itself, is that there is an approved 48m high building adjoining to the south east.

The development plans show massing diagrams of adjoining buildings, including the Paper Mill as well as other adjoining buildings. These diagrams demonstrate the attainment of a transition of building height. Indeed it is specifically for the purposes of delivering a better transitioning with the paper mill that perceived building height has been purposefully increased through the use of feature screens at the parapet edge. The proposed development is squarely consistent with the objective of transitioning building heights. This is an outcome which the objective of the standard requires and is a relevant objective irrespective of heritage controls.

Having regard to the above, the proposed development is consistent with all relevant zone objectives and is also squarely aligned with all of the objectives with the development standard of height.

Reason 3:

The proposed building height exceedance is satisfactory having regard to the Planning Principles established within PDE Investments No 8 Pty Ltd v Manly Council [2004] NSWLEC 355

PDE investments is a Planning Principle decision which deals with tensions which exist between FSR and building envelopes. Whilst there is no explicit building envelope control for the subject site, setback and height of building controls operate in concert to produce essentially a building envelope control.

The Planning Principle is detailed at paragraph 48 of the judgment.

48 The question of whether a building envelope can be filled when the FSR control would produce a smaller building is one that arises from time to time in Court proceedings. The following planning principles are therefore of assistance:

i. FSR and building envelope controls should work together and both controls and/or their objectives should be met.

- ii. A building envelope is determined by compliance with controls such as setback, landscaped area and height. Its purpose is to provide an envelope within which development may occur but not one which the development should necessarily fill.
- iii. Where maximum FSR results in a building that is smaller than the building envelope, it produces a building of lesser bulk and allows for articulation of the building through setbacks of the envelope and variation in building heights.
- iv. The fact that the building envelope is larger than the FSR is not a reason to exceed the FSR. If it were, the FSR control would be unnecessary.

With regard to the subject application, it has been established that the FSR and building envelope controls do not work together. This is a natural consequence of FSR bonuses being applied without concomitant height bonuses. The fact that the two controls do not work together means that one should take primacy over the other. In the case of LLEP 2008, the first Objective of clause 4.3 clearly establishes that FSR should take primacy because the objective of the height of buildings control is to establish a height limit in which floor space can be achieved. In the case of the subject application, consideration of principles (ii) to (iv) above also support the conclusion that FSR should take primacy. Just as a large building envelope does not justify exceedance of the FSR control, an inadequate building envelope does not justify curtailment of the FSR control.

For the above reasons strict compliance with the height of buildings development standard is considered to be unreasonable and unnecessary in the circumstances of the case.

Reason 4:

The height of the proposed development is acceptable when assessed against the planning principles for height and bulk and set out within Veloshin v Randwick Council [2007] NSWLEC428

Paragraph 32 of the Senior Commissioner's judgment sets out the Planning Principles in relation to height and bulk:

Planning principle: assessment of height and bulk

· The appropriateness of a proposal's height and bulk is most usefully assessed against planning controls related to these attributes, such as maximum height, floor space ratio, site coverage and setbacks. The questions to be asked are:

Are the impacts consistent with impacts that may be reasonably expected under the controls? (For complying proposals this question relates to whether the massing has been distributed so as to reduce impacts, rather than to increase them. For non-complying proposals the question cannot be answered unless the difference between the impacts of a complying and a non-complying development is quantified.)

Comment: The subject site is surrounded by public road and the railway line. This is a rare site attribute which has the effect of producing a significantly larger building separation distance than would typically be available for traditional midblock sites. As a consequence of this site characteristic, the distribution of massing produces less apparent height and bulk on adjoining land than would be the case if only SEPP 65 building separation between buildings were provided. As mentioned above, the proposed height has been purposefully distributed to achieve a better scale relationship with The Paper Mill development than would be the case for a development which complied with the standard. So significant is this design outcome, that the design actively increases height to Atkinson Street and Shepherd Street through the use of architectural feature screen.

How does the proposal's height and bulk relate to the height and bulk desired under the relevant controls?

Comment: The height of parts of the development excluding roof top communal open space lobby and lift overruns marginally exceeds the controls, the FSR is marginally under the

controls. Communal open space. Relative to the wording of the Principle, height is a lineal vertical measure. Bulk is a volumetric measure which is most closely aligned with FSR. The fact that the proposal is below the statutory FSR is therefore significant to the assessment of the proposed height. As will be discussed below, the communal open space lobby and lift overruns are substantially obscured from ground level public view by the primary roof line.

· Where the planning controls are aimed at preserving the existing character of an area, additional questions to be asked are:

Does the area have a predominant existing character and are the planning controls likely to maintain it? Does the proposal fit into the existing character of the area?

Comment: In the case of the subject site, the planning controls are not aimed at preserving existing character.

· Where the planning controls are aimed at creating a new character, the existing character is of less relevance. The controls then indicate the nature of the new character desired. The question to be asked is:

Is the proposal consistent with the bulk and character intended by the planning controls?

Comment: The bulk and character intended by the planning controls is influenced by FSR and SEPP 65. Specifically, this principle does not expressly reference height, other than that it is a contributing factor to character. In the case of the subject site, the bulk and character intended by the planning controls must be filtered through the lens of the approved Paper Mill development. The heritage incentives which support that departure from the otherwise applicable planning controls are understood and not disputed. However the bulk and character of that development is immediately referable to the subject site. It is desirable and indeed critically important, that the bulk and character of the proposed development should relate to the bulk and character of its immediately contextual neighbours. The proposed development achieves this. Indeed additional height, above that which is required to be addressed by the clause 4.6 Request for Variation is specifically proposed in the form of architectural roof features in order to achieve that outcome.

· Where there is an absence of planning controls related to bulk and character, the assessment of a proposal should be based on whether the planning intent for the area appears to be the preservation of the existing character or the creation of a new one.

In cases where even this question cannot be answered, reliance on subjective opinion cannot be avoided. The question then is:

Does the proposal look appropriate in its context? Note: the above questions are not exhaustive; other questions may also be asked.

Comment: Not applicable. However it is our opinion that the proposed development is appropriate in its context. The height of the proposed development is considered to be satisfactory having regard to the Planning Principles set out in Veloshin. As such, strict compliance with the standard is unreasonable and unnecessary in the circumstances of the case.

Reason 5:

The provision of communal open space lobby leads to access roof top communal open space leads to a higher level of amenity than would be the case for a development which did not provide a communal open space lobby

The largest extent of proposed non-compliance is in respect of the roof top communal open space lobby situated at the centre of Block "B". This element of the design could be readily

removed. Roof top communal open space could be accessed via unroofed stairs supported by a disabled access stair climber chair lift. Alternatively, the roof top communal open space could be relocated to Building "A" such that the extent of non-compliance would be reduced. However both alternatives are far less desirable than what is proposed. The first alternative would produce a significantly inferior level of amenity for users of the roof top open space. The second alternative would increase the apparent height of the building because the communal open space lobby would not be located behind the architectural feature screen. As mentioned, the feature screen is a desirable component of the design because it adds to perceived building height and thereby delivers a better contextual relationship with the Paper Mill development.

Accordingly, the proposed development delivers a better design outcome than would alternative arrangements which either removed or reduced the extent of non-compliance.

Reason 6:

The proposed lift overruns, irrespective of the use of architectural feature screens, would only be visible from the public domain when viewed from a considerable distance.

The positioning of the lift overruns, centrally to the roof plan ensures that the main parapet line obscures the additional height created by the lift overrun. Accordingly, the lift overrun does not introduce a significant visual impact despite the fact that it exacerbates the numerical extent of non-compliance. For this reason, strict compliance with the standard is considered to be unreasonable and unnecessary in the circumstances of the case.

The applicant has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard. These can be summarised as follows:

- The subject site is very large and generously proportioned. It is an island site which is separated from all other adjoining properties by public road and the railway corridor. These specific site attributes facilitate a much larger separation distance from adjoining buildings and properties than would otherwise be the case for a midblock situation were separation governed only by setback controls under the DCP and separation controls under the ADG. This large separation from other development means that the visual impacts of additional height are reduced. As such, minor exceedance of the height of buildings development standard can be entertained on this site, without resulting in unreasonable impact on the amenity of adjoining properties.
- The relationship of the subject site to the railway line requires a site planning response which minimises direct interface with the railway line. An alternative massing arrangement could be provided which redistributes that part of the floor space situated above the 24m height plane, to a location adjacent to the western boundary. However despite delivering numerical compliance, this would represent a vastly inferior design outcome in the specific circumstances and characteristics of the subject site. Aside from eroding the quality of podium level open space, such an alternative design would significantly increase the number of dwellings having direct interface with the railway line.
- The subject site is situated in close proximity to the Paper Mill development. The approved development on that site contemplates a doubling of the permissible height limit. This has been supported by Council on the basis of heritage conservation incentives. Such incentives do not apply to the subject site, and nor are they posited as a reason for variation to the development standard. Rather, it is merely the physical presence of the future adjoining Paper Mill development, not the reasons for its height, which necessitates a responsive design outcome for the subject site. The submitted plans provide considerable detail in relation to the massing of adjoining buildings, including but not limited to the Paper Mill. The design intent is both clear and highly appropriate. That is, the design seeks to achieve a transitioning of building height. Such transitioning is a specific objective of clause 4.3. The relationship of the Paper Mill is a unique site attribute which warrants a design outcome different to that which is expressed by the height of buildings development

standard. On very few if any other sites would substantial floor space ratio bonus be available and the site also adjoin an approved development which so significantly exceeds the height of buildings development standard.

- *Strict compliance with the standard would tend to hinder the attainment of Objectives 5(a)(i) and 5(a)(ii) of the Environmental Planning and Assessment Act 1979, which relate to proper management of development as well as the orderly and economic development of land. Strict compliance with the standard, in circumstances where, based on the particular design and the particular relationship to surrounding development, the proposed non-compliance does not result in any unreasonable environmental planning impacts, would constitute a disorderly and uneconomic development outcome. This is particularly the case in circumstances where the proposed development benefits from FSR bonuses which have been specifically applied to encourage development within the Liverpool CBD, but without concomitant variation to the static height of buildings development standard, either the bonuses could not be achieved or a vastly inferior design outcome would be forced.*

Given the circumstances of the case, the provision of a strict numerical compliance would be unreasonable on the basis that the proposed development achieves compliance with the objectives of the standard, and is compatible with the anticipated scale of new development within this section of the Liverpool City Centre.

Variation to Clause 7.4 Building Separation in Liverpool City Centre

Clause 7.4 stipulates that:

- (1) *The objective of this clause is to ensure minimum sufficient separation of buildings for reasons of visual appearance, privacy and solar access.*
- (2) *Development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least:*
 - (a) *9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished) on land in Zone R4 High Density Residential, and*
 - (b) *12 metres for parts of buildings between 25 metres and 35 metres above ground level (finished) on land in Zone R4 High Density Residential, and*
 - (c) *18 metres for parts of buildings above 35 metres on land in Zone R4 High Density Residential and*
 - (d) *12 metres for parts of buildings between 25 metres and 45 metres above ground level (finished) on land in Zone B3 Commercial Core or B4 Mixed Use, and*
 - (e) *28 metres for parts of buildings 45 metres or more above ground level (finished) on land in Zone B3 Commercial Core or B4 Mixed Use.*

In accordance with Clause 7.4(2)(a), a 9m separation distance is required between the buildings. The development provides the following non-compliant building separation distances:

- Building A and Building B:
 - o A minimum building separation distance of 4.1m is provided, representing a numerical variation of 4.9m or 54.4%.
- Building B and Building C:
 - o A minimum building separation distance of 4.1m is provided, representing a numerical variation of 4.9m or 54.4%.

An extract of the site plan, showing the building separation distances is provided below:



Figure 18: Extract of the site plan demonstrating the non-compliant building separation distances.

The applicant has demonstrated within their Clause 4.6 variation that strict compliance with the standard is considered to be unreasonable or unnecessary in the circumstances of the case, which can be summarised as follows: This request is attached as Attachment 7.

- *The extent of non-compliance is modest in terms of both the degree of encroachment into the prescribed separation distance, as well as the length of the encroaching portion of the proposed buildings.*
- *To the extent that the objective of the building separation requirement is to preserve satisfactory privacy, it is relevant that the encroaching sections of each building do not provide any windows facing directly onto the living areas of the adjoining buildings.*
- *The proposed building separation encroachments do not result in any additional overshadowing to adjoining development and particularly to the balconies of the adjoining development. To the extent that the objective of the standard is to ensure sufficient solar access, strict compliance with the standard is considered to be unreasonable and unnecessary in the circumstances of the case.*

- *The subject site is an irregular shape with large street frontages to both Atkinson and Shepherd Street. This has made it challenging to design the proposed development so as to minimise potential impacts upon adjoining properties, the streetscapes and the surrounding environment, whilst complying with all development standards, in particular the minimum building separation requirements. Each building has been located and designed so as to minimise any potential impacts upon the aesthetic of the development when viewed from adjoining properties and the streetscape as well as minimising potential impacts upon the privacy and solar access of each dwelling proposed.*

Given the circumstances of the case, strict numerical compliance would be unreasonable on the basis that the proposed development achieves compliance with the objectives of the standard, and the building separation proposed between Building A and B and between Building B and C would not compromise the amenity of neighbouring apartments or of proposed towers, due to satisfactory distance separation from eastern neighbours that face Atkinson Street. In additional, no concerns were raised by the Design Excellence Panel.

(iv) Other Relevant LLEP 2008 Clauses

In addition to the above development standards, the application has also been considered in regards to other relevant standards of the LLEP 2008. The key clauses applicable to the application are discussed in further detail below. The proposal demonstrates full compliance with the LLEP 2008 standards and is satisfactory.

- **Clause 5.10 Heritage Conservation**

The development site is not identified as a heritage place pursuant to Schedule 5 of the LLEP 2008 or as having archaeological potential. However, it is located in the vicinity of the following heritage items listed in Schedule 5 of the Liverpool Local Environmental Plan 2008:

- Item 104, McGrath Services Centre Building (formerly Challenge Woollen Mills, and Australian Paper Company's Mill) located at the corner of Shepherd and Atkinson Streets, Liverpool.
- Item 105, Railway Viaduct located at Shepherd Street and Mill Road, Main Southern Railway Line, Liverpool.



Figure 19– Extract of the Heritage Map

The application was accompanied by a Statement of Heritage Impact (SHI). The SHI was reviewed by Council’s Heritage Officer who considered that the impact of the proposed development will dramatically alter the visual setting and context of the surroundings. The impact of this imposition can be limited provided appropriate mitigation measures are undertaken. The purpose of such measures is to introduce elements into the design which interpret key elements of the context. These elements will mitigate the visual impact and intrusion through developing relationships with the established and valued setting and character of the heritage listed Mill building. Council’s Heritage Officer recommended that the following mitigation measures be incorporated within the development in order address the impact of the proposed development:

- *The ground floor built forms on Atkinson Street are oriented towards the street alignment in order to address the traditional setbacks and orientations of industrial buildings.*
- *Detail drawings of the ground floor elevation and plan of the Atkinson Street and Shepherd Street are prepared to indicate a masonry framed and clad structure with large glazed openings reflecting the Mill design principles.*
- *An interpretation strategy is developed in conjunction with the Liverpool Historical Society (LHS) to provide material which illustrates the local historical significance of the Mill and associated industrial enterprises from the vicinity.*
- *The orange feature colour is replaced with a wall clad in recycled brick to interpret the scale and impact of the traditional industrial buildings in the vicinity.*
- *The perimeter boundary walls presented to Atkinson and Shepherd Street is detailed in industrial off-form concrete with interpretive markings to reflect the industrial heritage of the local industries, in conjunction with the LHS.*

However, the recommendations as provided by Council's Heritage Officer are considered to be extensive and inappropriate for the proposed development. The reasons are as follows:

- The traditional setbacks and orientation of the industrial buildings within the Shepherd Street precinct are varied in nature. For example the industrial building located to the south of the site does not align with the street and similarly the industrial buildings towards the end of the cul-de-sac are also inconsistent with the street. Additionally, the redevelopment of the area will be guided by the setback controls of the LDCP 2008. As such, aligning the building with the street is not warranted.
- The development incorporates a street edge wall in order to provide a strong contrast between the open character of the low scaled heritage item and the proposed development. Incorporation of the mitigation measures will reduce the contrast provided by the street edge wall.
- The proposed development is compatible in design, height and scale of the approved Heritage Paper Mill development

Given the above, it is not recommended that the recommendations as provided by Council's Heritage Officer are incorporated into the proposed development.

- **Clause 7.1 Objectives for Development in Liverpool City Centre**

Clause 7.1 of the LLEP 2008, stipulates the objectives that must be satisfied by any redevelopment in the city centre. The proposed development is generally consistent with the relevant objectives as follows:

(a) to preserve the existing street layout and reinforce the street character through consistent building alignments,

Comment: The development provides a perimeter block building form and a strongly defined podium element which reinforces the existing street layout.

(b) to allow sunlight to reach buildings and areas of high pedestrian activity,

Comment: the proposed development will allow sunlight to reach buildings and the pedestrian areas.

(c) to reduce the potential for pedestrian and traffic conflicts on the Hume Highway,

Comment: Not relevant.

(d) to improve the quality of public spaces in the city centre,

Comment: The development provides a high quality presentation to the public domain.

(e) to reinforce Liverpool railway station and interchange as a major passenger transport facility, including by the visual enhancement of the surrounding environment and the development of a public plaza at the station entry,

Comment: Not relevant.

(f) to enhance the natural river foreshore and places of heritage significance,

Comment: The proposed development will not impact upon the natural river foreshore or places of heritage significance.

(g) to provide direct, convenient and safe pedestrian links between the city centre (west of the rail line) and the Georges River foreshore.

Comment: The proposed development will not impact upon the provision of pedestrian links between the city centre and the Georges River foreshore.

- **Clause 7.5 Design Excellence in Liverpool City Centre**

Clause 7.5 of the LLEP 2008 prescribes that development consent must not be granted to development within the Liverpool City Centre, unless the consent authority considers that the development exhibits design excellence. The objective of this clause is to deliver the highest standard of architectural and urban design within the city centre. The Clause sets out the matters that must be considered by Council.

The matters set out in the Clause have been carefully considered in consultation with the expert independent DEP. Consequently, the application has been through amendments to improve the design quality in line with provisions of the LLEP 2008 and the comments provided by the DEP.

In conclusion, the overall development satisfies the LLEP 2008 design excellence provisions and demonstrates satisfactory design quality.

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

There are no draft Environmental Planning Instruments applies to the site.

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

The application has been assessed against the controls of the LDCP 2008, particularly Part 1 *General Controls for all Development*, and Part 4 *Development in Liverpool City Centre*.

The table below provides an assessment of the proposal against the relevant controls of the LDCP 2008.

LDCP 2008 Part 1: General Controls for All Development

Development Control	Provision	Comment
Section 2. Tree Preservation	Controls relating to the preservation of trees	Not Applicable The site does not contain any significant vegetation.
Section 3. Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	Complies The landscape plan has been reviewed by Council's Landscape Officer, who has raised no issues with the design.
Section 4 Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	Not Applicable The development site is not identified as containing any native flora and fauna.
Section 5. Bush Fire Risk	Controls relating to development on bushfire prone land	Not Applicable The development site is not identified as being bushfire prone land.
Section 6. Water Cycle Management	Stormwater runoff shall be connected to Council's drainage system by gravity means. A stormwater drainage concept plan is to be submitted.	Complies The stormwater drainage plan has been reviewed by Council's Land Development Engineers, who have raised no issues subject to conditions.

Development Control	Provision	Comment
Section 7. Development Near a Watercourse	If any works are proposed near a water course, the Water Management Act 2000 may apply, and you may be required to seek controlled activity approval from the NSW Office of Water.	Not Applicable The development site is not within close proximity to a water course.
Section 8. Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	Complies Conditions of consent will be imposed to ensure that erosion and sediment controls measures are implemented during the construction of the development.
Section 9. Flooding Risk	Provisions relating to development on flood prone land.	Complies The development site is affected by flooding. This aspect has been reviewed by Council's Floodplain Engineers, who have raised no issues subject to conditions.
Section 10. Contaminated Land Risk	Provisions relating to development on contaminated land.	Complies As discussed within Section 6.1(c) of this report, the site is suitable for development, subject to deferred commencement.
Section 11. Salinity Risk	Provisions relating to development on saline land.	Not Applicable The development site is identified as containing a low salinity potential. Therefore, a salinity management response plan is not required.
Section 12. Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	Complies The application was accompanied by a Preliminary Acid Sulfate Soil Assessment Report which concluded that that the soils likely to be disturbed during proposed works are unlikely to be acid sulfate or potentially acid sulfate. Therefore, the proposed excavation works may be carried out without an Acid Sulfate Soils Management Plan.
Section 13. Weeds	Provisions relating to sites containing noxious weeds.	Not Applicable The site is not identified as containing noxious weeds.
Section 14. Demolition of Existing Development	Provisions relating to demolition works	Complies Conditions of consent will be imposed to ensure demolition works are carried out in accordance with relevant Australian Standards.
Section 15. On Site Sewage Disposal	Provisions relating to OSMS.	Not Applicable OSMS is not proposed.
Section 16. Aboriginal Archaeology	An initial investigation must be carried out to determine if the proposed development or activity occurs on land potentially containing an item of aboriginal archaeology.	Not Applicable The site is not identified as having archaeological potential in accordance with the Liverpool Archaeological Zoning and Management Plan 1996, prepared by Casey and Lowe.
Section 17. Heritage and Archaeological Sites	Provisions relating to heritage sites.	Complies This aspect has been discussed in detail within Section 6.1(f) of this report.
Section 18. Notification of Applications	Provisions relating to the notification of applications.	Complies The application was notified in accordance with the LDCP 2008.
Section 19. Used Clothing Bins	Provisions relating to used clothing bins.	Not Applicable The DA does not propose used clothing bins.
	Residential Development Car Parking Requirements:	Complies

Development Control	Provision	Comment
Section 20. Car Parking and Access	<ul style="list-style-type: none"> - 1 space per two studio apartments - 1 space per one bedroom or two bedroom apartments - 1.5 spaces per three or more bedroom units - 1 space per 10 units or part thereof, for visitors - 1 space per 40 units for service vehicle (including removalist vans (and car washing bays, up to a maximum of 4 spaces per building). 	<p>The following parking is required:</p> <ul style="list-style-type: none"> - 24 x 1 bedroom units requires 24 spaces - 96 x 2 bedroom units requires 96 spaces - 10 x 3 bedroom units requires 15 spaces <p>A total of 135 spaces is required for the residential units</p> <ul style="list-style-type: none"> - 134 residential units requires 13 visitor spaces - 3 carwash/service bays are required. <p>The following parking is provided:</p> <ul style="list-style-type: none"> - 148 spaces for residential units - 13 spaces for visitors; and - 3 carwash/service bays <p>It is noted that there is a surplus of 13 residential parking spaces.</p>
	<p>Commercial Parking in the CBD:</p> <ul style="list-style-type: none"> - 1 space per 100m² <p>Sufficient service and delivery vehicle parking adequate to provide for the needs of the development.</p>	<p>A total of 93m² of commercial space is provided. This equates to a requirement of 1 space.</p> <p>1 space has been allocated to the neighbourhood shop.</p>
	<p>Provision is to be made for motorcycle parking at the rate of 1 motorcycle space per 20 car spaces</p>	<p>Complies</p> <p>A minimum of 151 parking spaces is required. As such 8 motorcycle spaces are required.</p> <p>A total of 11 motorcycle spaces have been provided, representing a surplus of 2 motorcycle parking spaces.</p>
	<p>Provide 2% of the total demand generated by a development, for parking spaces accessible, designed and appropriately signposted for use by persons with disabilities.</p>	<p>Complies</p> <p>A total 4 spaces of the 162 parking spaces shall be accessible spaces.</p> <p>A total of 14 accessible spaces have been provided.</p>
	<p>1 bicycle space per 200m² of gross floor area.</p> <p>15% of this requirement is to be accessible to visitors</p>	<p>Complies</p> <p>A total GFA of 12863m² is provided, therefore 62 bicycle spaces (including 10 accessible to visitors) shall be provided.</p> <p>A total of 62 bicycle spaces are provided which are all accessible to visitors.</p>
Section 21. Subdivision of Land and Buildings	<p>Provisions relating to the subdivision of land.</p>	<p>Not Applicable</p> <p>The DA does not propose the subdivision of land.</p>
Section 22. and Section 23 Water Conservation and Energy Conservation	<p>New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).</p>	<p>Complies</p> <p>Conditions of consent will be imposed to ensure compliance with the BASIX commitments.</p>
Section 25. Waste Disposal and Re-use Facilities	<p>Provisions relating to waste management during construction and on-going waste.</p>	<p>Complies</p> <p>During Construction:</p> <p>A waste management plan has been submitted. Conditions of consent will be imposed to ensure that compliance with the WMP is achieved during construction.</p>

Development Control	Provision	Comment
		<p>On-going Waste Management: Residents will dispose their garbage in the waste chute located in a designated room on each level of each building.</p> <p>Sufficient bins have been provided in accordance with Council's waste management plan. Each room will contain separate bins for garbage and recyclables. The building manager will be responsible for the emptying of the recycling bins to the main garbage rooms within the basement.</p> <p>The main garage rooms are of sufficient size to accommodate a compactor, bins and bulky storage in accordance with Council's Waste Management Policy.</p> <p>Bins will be wheeled to the front for collection.</p>
Section 26 Outdoor Advertising and Signage	Provisions relating to signage.	Not Applicable The DA does not propose any signage.
Section 27. Social Impact Assessment	A comprehensive social impact assessment shall be submitted for residential flat buildings greater than 100 units.	The application was accompanied by a comprehensive social impact assessment. The assessment was reviewed by Council's Community Planning section and was considered to be satisfactory.

LDCP 2008 Part 4: Liverpool City Centre

Development Control	Provision	Comment
Section 2 Controls for Building Form		
Building Form	Street building alignment and street setbacks applicable to the site is a 4-4.5m landscaped setback to the street frontage of Shepherd Street.	Non Compliance The development generally provides a landscaped setback of 4m. However, some encroachments into the setback occur due to the curvature of the site.
	It is noted that the LDCP does not prescribe a setback for the Atkinson Street frontage.	The variation is considered to be acceptable for the reasons outlined below.
	Minor projections into front building lines and setbacks for sun shading devices, entry awnings and cornices are permissible.	Complies Projections into the building setbacks are provided for balconies.
Street Frontage Height	A street frontage height (SFH) of 15m-20m (5 to 6 storeys) is required for all street frontages	Non-compliance A street frontage height is not provided. The variation is considered acceptable, as discussed within Section 6.3 of this report.
Building Depth and Bulk	Maximum floor plate size of 500m ² (GFA) and building depth of 18m (excluding balconies) is required above 25m in height.	Non-compliance The proposed development slightly exceeds these requirements. However, the variation is considered to be acceptable for the reasons outlined below.
	Buildings with a rear or side boundary to the rail corridor are to be setback a minimum of 12m with a landscaped area.	Non Compliance A variation is proposed to the setback. The variation is considered acceptable, as discussed below in further detail.

Development Control	Provision	Comment
Site Cover and Deep Soil Zones	Maximum site cover of 50%	Non-compliance Approximately 5000m ² of ground cover is proposed which equates to 92%. The variation is considered acceptable for the reasons discussed below.
	The deep soil zone shall comprise no less than 15% of the total site area. It is to be provided preferably in one continuous block but otherwise with no dimension (width or length) less than 6m.	Non Compliance Approximately 7% of the site area is considered to be deep soil zones. However, the variation is considered to be acceptable as compliance is achieved with Apartment Design Guide, which stipulates that a minimum deep soil zone of 7%.
Landscape Design	Landscaped areas are to be irrigated with recycled water.	Complies This aspect has been reviewed by Council's Landscape Officer and the DEP who have raised no issues with the landscaping design subject to recommendations.
	Landscape species are to be selected in accordance with Council's schedule of Preferred Landscape Species.	
	Remnant vegetation must be maintained throughout the site wherever practicable.	
	A long-term landscape concept plan must be provided for all landscaped areas, in particular the deep soil landscape zone. The plan must outline how landscaped areas are to be maintained for the life of the development.	
	Any new public spaces are to be designed so that at least 50% of the open space provided has a minimum of 3 hours of sunlight between 10am and 3pm on 21st June (Winter Solstice).	
Planting on Structures	Areas with planting on structures are to be irrigated with recycled water.	Complies The landscape plan has been reviewed by Council's Landscape Officer, who has raised no issues in regards to this aspect, subject to conditions.
	Design for optimum conditions for plant growth by: <ul style="list-style-type: none"> - providing soil depth, soil volume and soil area appropriate to the size of the plants to be established, - providing appropriate soil conditions and irrigation methods, and - Providing appropriate drainage. - Design planters to support the appropriate soil depth and plant selection by ensuring planter proportions accommodate the largest volume of soil possible and soil depths to ensure tree growth, and providing square or rectangular planting areas rather than narrow linear areas. 	
	Increase minimum soil depths in accordance with:	

Development Control	Provision	Comment
	<ul style="list-style-type: none"> - the mix of plants in a planter for example where trees are planted in association with shrubs, groundcovers and grass, - the level of landscape management, particularly the frequency of irrigation, - anchorage requirements of large and medium trees, and soil type and quality. <p>Provide sufficient soil depth and area to allow for plant establishment and growth. The following minimum standards are recommended:</p> <ul style="list-style-type: none"> - Large trees (over 8m high) minimum soil depth 1.3m, minimum soil volume 150m³ - Medium trees (2 – 8m high), minimum soil depth 1m, minimum soil volume 35m³ - Small trees (up to 2m high), minimum soil depth 0.8m, minimum soil volume 9m³ - Shrubs and ground cover, minimum soil depth 0.5m, no minimum soil volume. 	
Amenity		
Pedestrian Permeability	Provisions relating to through site links.	Not Applicable
Front Fences	Controls relating to front fences	Complies The development will be providing a strong street edge in the form of fencing. This is to provide a contrast between the open character of the low scaled heritage item and the very tall proposals in the vicinity.
Safety and Security	Address 'Safer-by-Design' principles to the design of public and private domain, and in all developments (including the NSW Police 'Safer by Design' crime prevention through environmental design (CPTED) principles).	Complies The proposed development is considered to be satisfactory in relation to the safer by design principles.
	Ensure that the building design allows for passive surveillance of public and communal spaces, access ways, entries and driveways.	Complies The design of the development allows for passive surveillance of access ways and driveways.
	Avoid creating blind corners and dark alcoves that provide concealment opportunities in pathways, stairwells, hallways and car parks.	Complies The development does not create any blind corners or dark alcoves.
	Maximise the number of residential 'front door' entries at ground level.	Complies Front entrances are provided to the street frontages for Building A, B and C.
	Provide entrances which are in visually prominent positions and	Complies

Development Control	Provision	Comment
	which are easily identifiable, with visible numbering.	The front entrance is orientated to the street and are easily identifiable.
Awnings	Wet weather protection to be provided to all entrances	Complies Wet weather protection is provided to the entrances.
Vehicle Footpath Crossings	No additional vehicle entry points will be permitted into the parking or service areas of development along those streets identified within the LDCP2008.	Complies Only one vehicle entry point is proposed from the end of Atkinson Street.
	In all other areas, one vehicle access point only (including the access for service vehicles and parking for non-residential uses within mixed use developments) will be generally permitted.	Not Applicable The site is not of a high pedestrian priority route.
	Where practicable, vehicle access is to be from lanes and minor streets rather than primary street fronts or streets with high pedestrian priority routes identified in Figure 18 (marked yellow).	N/A The site does not adjoin a laneway or a minor street.
	Where practicable, adjoining buildings are to share or amalgamate vehicle access points. Internal on-site signal equipment is to be used to allow shared access. Where appropriate, new buildings should provide vehicle access points so that they are capable of shared access at a later date.	N/A The site is isolated.
	Vehicle access ramps parallel to the street frontage will not be permitted.	N/A The development does not provide for a parallel access ramp.
	Ensure vehicle entry points are integrated into building design.	Complies The driveway entry is integrated into the building design.
	Vehicle entries are to have high quality finishes to walls and ceilings as well as high standard detailing. No service ducts or pipes are to be visible from the street.	Complies The vehicle entry will use the same materials as per the rest of the building.
Pedestrian Overpasses and Underpasses	Provisions relating to overpasses and underpasses.	Not Applicable No pedestrian overpasses and underpasses are proposed.
Building Exteriors	Balconies and terraces should be provided, particularly where buildings overlook public spaces. Gardens on the top of setback areas of buildings are encouraged.	Complies The proposed development will provide balconies and terraces, with a small portion overlooking the communal open space.
	Adjoining buildings (particularly heritage buildings) are to be considered in the design of new buildings in terms of: <ul style="list-style-type: none"> - appropriate alignment and street frontage heights, - setbacks above street frontage heights, - appropriate materials and finishes selection, 	Complies No adjoining buildings as the property is surrounded entirely by Atkinson and Shepherd Streets and the rail corridor to the west. The proposed development and each building however has been designed so as to be in keeping with the existing surrounding development and future development likely in the immediate surrounds.

Development Control	Provision	Comment
	<ul style="list-style-type: none"> - facade proportions including horizontal or vertical emphasis, and - the provision of enclosed corners at street intersections. 	
	<p>Articulate façades so that they address the street and add visual interest. Buildings are to be articulated to differentiate between the base (street frontage height), middle and top in design.</p>	<p>Complies The proposed development will have articulated facades.</p>
	<p>Limit sections of opaque or blank walls greater than 4m in length along the ground floor to a maximum of 30% of the building frontage.</p>	<p>Complies The building frontage does not contain any blank walls.</p>
	<p>Highly reflective finishes and curtain wall glazing are not permitted above ground floor level.</p>	<p>Complies Highly reflective materials will not be used.</p>
	<p>A materials sample board and schedule is required to be submitted with applications for development over \$1million or for that part of any development built to the street edge.</p>	<p>Complies A colour schedule as well as 3D modelling has been provided which gives a clear indication of the colour and types of materials that will be used.</p>
	<p>Roof top structures, such as air conditioning, lift motor rooms, and the like are to be incorporated into the architectural design of the building.</p>	<p>Complies Roof top structures are incorporated within the internal design of the development and will not be visible from public view.</p>
Corner Treatments	<p>Buildings identified in Figures 20 and 21 are to address corner sites through architectural emphasis and use of distinguishing architectural features and materials to adjacent buildings, and an additional storey may be permitted onto the specified street frontage height range (refer to Figure 20 and Figure 6 Street Frontage Heights) below,</p>	<p>Not Applicable The site is not identified in Figures 20 and 21.</p>
	<p>Notwithstanding the above, new corner buildings opposite or adjacent to Heritage Items are to respond to the Heritage Items in terms of height, scale and proportion.</p>	<p>Complies This aspect has been reviewed by Council's Heritage Officer who has raised no issues, subject to conditions.</p>
	<p>Notwithstanding the above, new corner buildings opposite or adjacent to public open space are to comply with the sun access controls as set out in <i>Liverpool LEP 2008</i>.</p>	<p>Not Applicable The site is not adjacent to public open space.</p>
Public Artworks	<p>Provisions relating to public artwork</p>	<p>Public artwork is not proposed. Councils considers a holistic approach to public artwork is more suitable than adhoc public artworks for each development. Council is currently considering amendments to this DCP control.</p>
Traffic And Access		

Development Control	Provision	Comment
Pedestrian Access and Mobility	Main building entry points should be clearly visible from primary street frontages and enhanced as appropriate with awnings, building signage or high quality architectural features that improve clarity of building address and contribute to visitor and occupant amenity.	Complies The main entry points to the building are visible from the street frontages and enhanced with awnings.
	The design of facilities (including car parking requirements) for disabled persons must comply with the relevant Australian Standards.	Complies The design of the car parking facilities is in accordance with Australian Standards. The application has been reviewed by Councils Traffic and Transport Section who have responded in support, subject to conditions.
	The development must provide at least one main pedestrian entrance with convenient barrier free access in all developments to at least the ground floor.	Complies Barrier free access is provided to the ground floor.
	The development must provide accessible internal access, linking to public streets and building entry points.	Complies Sufficient accessible internal access is provided to the street and building entry points. The accessible unit is located on the ground floor.
	Pedestrian access ways, entry paths and lobbies must use durable materials commensurate with the standard of the adjoining public domain (street) with appropriate slip resistant materials, tactile surfaces and contrasting colours.	Complies Durable materials will be used which include but limited to concrete footpath, paving and tiles.
Vehicular Driveways and Manoeuvring Areas	<p>Driveways should be:</p> <ul style="list-style-type: none"> - provided from lanes and secondary streets rather than the primary street, wherever practical, - located taking into account any services within the road reserve, such as power poles, drainage inlet pits and existing street trees, - located a minimum of 10m from the perpendicular of any intersection of any two roads, and - Located to minimise noise and amenity impacts on adjacent residential development. 	<p>Complies</p> <p>The driveway is located on the eastern end of Atkinson Street, which is considered not to be the primary frontage. The location of the driveway is unlikely to impact upon future residential development, and is the most logical location for the driveway.</p> <p>It is noted that the location of the driveway is may conflict with the existing electrical pillar box. However, comments were received by Endeavour Energy who raised no issues with this aspect.</p>
	Vehicle access is to be integrated into the building design so as to be visually recessive.	Complies The vehicle access is visually recessive as it is setback behind the building façade.
	All vehicles must be able to enter and leave the site in a forward direction without the need to make more than a three point turn.	Complies Minimum aisle widths are provided within the basement car parking area to sufficiently enable a three point turn. All vehicles will therefore be able to enter and exit the site in a forward direction.

Development Control	Provision	Comment
	Design of driveway crossings must be in accordance with Council's standard Vehicle Entrance Designs, with any works within the footpath and road reserve subject to a Section 138 Roads Act approval.	Complies Conditions will be imposed regarding the approval of Section 138 Roads Act certificate and a driveway crossing application.
	Driveway widths must comply with the relevant Australian Standards.	Complies A suitable driveway width is provided which is in accordance with AS.
	Car space dimensions must comply with Australian Standard 2890.1.	Complies Car space dimensions are in accordance with AS.
	Driveway grades, vehicular ramp width/ grades and passing bays must be in accordance with the relevant Australian Standard, (AS 2890.1).	Complies The driveway grades, vehicular ramp width/grades are in accordance with relevant AS.
	Access ways to underground parking should be sited to minimise noise impacts on adjacent habitable rooms, particularly bedrooms.	N/A No habitable rooms are located adjacent to the access way.
On Site Parking	Car Parking Requirements <ul style="list-style-type: none"> - 1 space per one bedroom or two bedroom apartments; - 1.5 spaces per three or more bedroom units - 1 space per 10 units for visitors - 1 space per 40 units for service vehicle 	As discussed above appropriate parking facilities are provided.
Motorcycle Car Parking Spaces <ul style="list-style-type: none"> - 1 motorcycle space per 20 car spaces 		
Accessible Car Parking Spaces <ul style="list-style-type: none"> - 2% of the total demand generated by a development. 		
Bicycle Parking <ul style="list-style-type: none"> - 1 bicycle space per 200m² of LFA. 		
	Car parking and associated internal manoeuvring areas provided over and beyond that required by the LDCP 2008 is to be calculated towards gross floor area.	N/A
	Car parking above ground level is to have a minimum floor to ceiling height of 2.8 so it can be adapted to another use in the future.	Complies Floor to ceiling heights of 3m are provided to all levels.
	Onsite parking must meet the relevant Australian Standards	Complies Subject to conditions.

Development Control	Provision	Comment
	<p>Onsite parking for residential flat buildings (or residential flat building component of a mixed use development) is to be wholly in basement parking unless Council is satisfied that unique site conditions prevent achieving all parking in basements. Council may require provision of a supporting geo-technical report or other supporting documentation, prepared by an appropriately qualified professional as information to accompany a development application to Council</p>	<p>Not Compliance Basement car parking is not provided, as parking is provided on podium levels. The variation is considered acceptable as the car parking is sleeved by uses which activate the street frontage. This includes, residential units, neighbourhood shop, the private gymnasium and community room.</p>
	<p>The impact of any on grade car parking must be minimised by:</p> <ul style="list-style-type: none"> - Locating parking on the side or rear of the lot, away from the street frontage - Provision of fencing or landscaping to screen the view of cars from adjacent streets and buildings - Incorporating car parking into landscape design of the site (such as plantings between parking bays to improve views, selection of paving material and screening from communal and open space areas) 	<p>Complies The overall building design minimises the impact of on grade parking, given that the car parking is sleeved by residential and other uses.</p>
	<p>Natural ventilation should be provide to underground parking areas, where possible, with ventilation grills and structures:</p> <ul style="list-style-type: none"> - Integrated into the overall façade and landscape design of the development - Not located on the primary street façade and - Oriented away from windows of habitable rooms and private open space areas 	<p>Not Applicable Above ground parking is provided.</p>
Environmental Management		
Energy Efficiency and Conservation	<p>New dwellings are to demonstrate compliance with SEPP (BASIX), 2004</p>	<p>Complies The proposal is accompanied by a BASIX Certificate which is consistent with the aims and intent of the SEPP (BASIX), 2004. It is recommended that conditions are imposed to ensure compliance with the BASIX commitments.</p>
Water Conservation	<p>New dwellings are to demonstrate compliance with SEPP (BASIX), 2004</p>	<p>Complies The proposal is accompanied by a BASIX Certificate which is consistent with the aims and intent of the SEPP (BASIX), 2004. It is recommended that conditions are imposed to ensure compliance with the BASIX commitments.</p>

Development Control	Provision	Comment
Reflectivity	New buildings and facades should not result in glare that causes discomfort or threatens safety of pedestrians or drivers.	Complies The types of building materials used in the facade include painted rendered finish, face brick, glazing, aluminium framed windows, metal roofing, perforated metal feature screens. It is unlikely that these materials will result in an unacceptable level of glare on pedestrians and/or drivers.
	Visible light reflectivity from building materials used on the facades of new buildings should not exceed 20%.	Complies It is recommended that a condition is imposed to ensure compliance with this provision.
	Subject to the extent and nature of glazing and reflective materials used, a Reflectivity Report that analyses potential solar glare from the proposed development on pedestrians or motorists may be required	N/A A reflectivity report is not required given the materials used will not result in an unacceptable level of solar glare.
Wind Mitigation	To ensure public safety and comfort, the following maximum wind criteria are to be met by new buildings: <ul style="list-style-type: none"> - 10m/second in retail streets, - 13m/second along major pedestrian streets, parks and public places, and - 16m/second in all other streets. 	Complies It is unlikely the proposed development will impact upon the public safety in terms of wind.
	Site design for tall buildings (towers) should: <ul style="list-style-type: none"> - set tower buildings back from lower structures built at the street frontage to protect pedestrians from strong wind downdrafts at the base of the tower, - ensure that tower buildings are well spaced from each other to allow breezes to penetrate city centre, - consider the shape, location and height of buildings to satisfy wind criteria for public safety and comfort at ground level, and - ensure useability of open terraces and balconies. 	N/A The proposed development is not considered to be a tower.
	A Wind Effects Report is to be submitted with the DA for all buildings greater than 35m in height.	N/A The development does not exceed 35m in height.
	For buildings over 48m in height, results of a wind tunnel test are to be included in the report	N/A The development does not exceed 48m in height.
Noise	An acoustic report is required for all noise affected locations, as identified in figure 25.	Complies As demonstrated within the Acoustic Report, the dwellings will be able to achieve compliance with

Development Control	Provision	Comment
	<p>Sites adjacent to noise sources identified in figure 25 are to be designed in a manner that any residential development is shielded from the noise source by virtue of the location and orientation of built form on the site.</p>	<p>the noise criteria, subject to noise mitigation measures. Therefore, the variation is considered acceptable.</p>
	<p>An 8m setback is to be provided to any habitable building located adjacent to the Hume Highway</p>	
<p>Waste</p>	<p>Provisions must be provided for the following waste generation:</p> <p>Residential</p> <ul style="list-style-type: none"> - General waste: 120L/week/dwelling. - Recycling: 120L/week/dwelling - Green waste: a communal waste bin of sufficient capacity to accept waste from landscape areas. 	<p>Complies</p> <p>The application was accompanied by a waste management plan prepared by Elephants Foot Pty Ltd (refer to Attachment 11)</p> <p>The following is a summary of the waste management for the development:</p> <ul style="list-style-type: none"> - Garbage and recycling will be collected twice weekly; - Garbage will be compacted; - 14 x 660L garbage bins are required; - 41 x 240L recycling bins are required; - Commercial garbage room provided for the future neighbourhood shop; - Bulk storage room provided for the storage of bulky items. <p>It is noted that the Waste Management Plan indicates the provision of 41 x 240 L recycling bins. In order to reduce the number of bins presented to the street kerb for collection, it is recommended that larger 660L bins are utilised instead. This will be enforced through a condition of consent.</p>
	<p>In a development of more than six dwellings or where the topography, or distance to the street makes access difficult for individual occupants, a collection and storage area is required. The storage area must be located in a position which is:</p> <ul style="list-style-type: none"> - Not visible from the street - Easily accessible to dwelling occupants - Accessible by collection vehicles (or adequately managed by the body corporate to permit relocation of bins to an approved collection point), - Has water and drainage facilities for cleaning and maintenance; and - Does not immediately adjoin private open space, windows or clothes drying areas 	<p>Complies</p> <p>The development will provide sufficient storage rooms for the storage of waste, recycling bins and bulky items.</p> <p>A bin holding room is also provided for the temporary storage of bins awaiting collection.</p>
	<p>The size and number of the waste bins shall be determined having</p>	<p>Complies</p>

Development Control	Provision	Comment
	<p>regard to the need for either on-site access by collection vehicles or the requirement for bins to be wheeled to the street for collection by a contractor. If transferred to the street for collection, the body corporate or a caretaker must be responsible for the movement of bins to their collection point.</p>	<p>The waste bins will be wheeled to the designated collection point for collection by a private contractor.</p>
<p>Floodplain and Water Cycle Management</p>	<p>The following controls apply to development that is located within Council's identified floodplain. (Note: site specific investigations will need to be undertaken by proponents):</p> <p>The habitable floor level of all dwellings is to be at least 0.5m above the 1% flood level.</p> <p>All services associated with the development are to be either flood proofed or located at least 0.5m above the 1% flood level.</p> <p>Development is to comply with Council's adopted Floodplain Management Studies and Plans for relevant catchments such as Georges River, Cabramatta Creek and the city centre.</p> <p>Development is to comply with the NSW Government's current Floodplain Management Manual</p> <p>Development is not to make flooding any worse than existing conditions and demonstrate any mitigation measures for changes in floodplain, such as loss of flood storage.</p> <p>Any SEE submitted with an application shall identify the flood impact and risk of flooding to residents as a result of the development. The Statement is to assess the development by considering the primary objective of the NSW Government's Flood Prone Land Policy, that is: <i>"to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods, utilising ecologically positive methods wherever possible."</i></p> <p>Development is to provide effective flood access and evacuation routes from flood prone areas. The routes shall:</p> <ul style="list-style-type: none"> - Remain accessible for sufficient period of time to evacuate people and 	<p>Complies</p> <p>This aspect has been reviewed by Council's Floodplain Engineers and Land development Engineers, who have raised no issues with the proposed development, subject to conditions.</p>

Development Control	Provision	Comment
	<p>possessions.</p> <ul style="list-style-type: none"> - Consider both pedestrian and vehicular access - Consider access and evacuation during extreme flood up to and including PMF. <p>Any basement car parking area is to be protected from inundation by flood equal to or greater than the 1% flood.</p> <p>The driveway providing access between the road and on-site car parking spaces must be provided at a level that minimises risk to persons and vehicles during floods.</p> <p>Any car parking areas that are at a level below the 5% flood level or more than 0.8m below the 1% flood level shall have appropriate warning systems and signs to assist in safe evacuation.</p> <p>All exits from car parking areas shall be located such that pedestrian evacuation paths provide safe travel routes to a place of refuge above the PMF.</p>	
Sewage Treatment Plant	Development within 400m of the Schrivener Street Sewage Treatment Plant needs to be referred to Sydney Water for assessment.	Not Applicable The site is not within 400m of the STP.
Controls for Residential Development		
Housing Choice Mix	<p>To achieve a mix of living styles, sizes and layouts within each residential development, comply with the following mix and size:</p> <ul style="list-style-type: none"> - studio and one bedroom units must not be less than 10% of the total mix of units within each development; - three or more bedroom units must not to be less than 10% of the total mix of units within each development, and <p>For smaller developments (less than six dwellings) achieve a mix appropriate to the locality.</p> <p>For development built by (or on behalf of) the Department of Housing, an alternative mix of unit types may be approved, subject to housing needs being demonstrated by the Department.</p> <p>For residential flat buildings and multi-unit housing, 10% of all dwellings (or at least one dwelling – whichever is greater) must be designed to be capable of</p>	<p>Complies</p> <p>The apartment mix is as follows:</p> <ul style="list-style-type: none"> - 24 x 1 bedroom units (18%) - 96 x 2 bedroom units (72%) - 14 x 3 bedroom units (10%) <p>Not Applicable</p> <p>Not Applicable The development will not be built by the Department of Housing.</p> <p>Complies 13 adaptable units are proposed which have been designed to be capable of adaptation in accordance with Australian Standards.</p>

Development Control	Provision	Comment
	adaptation for disabled or elderly residents. Dwellings must be designed in accordance with the Australian Adaptable Housing Standard (AS 4299-1995), which includes "pre-adaptation" design details to ensure visit ability is achieved.	
	Where possible, adaptable dwellings shall be located on the ground floor, for ease of access. Dwellings located above the ground level of a building may only be provided as adaptable dwellings where lift access is available within the building. The lift access must provide access from the basement to allow access for people with disabilities.	Complies Adaptable units are provided throughout various levels of the buildings. However, this is considered acceptable given that lift access is provided from the basement to the adaptable units on each level.
	The development application must be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Adaptable Housing Standard (AS 4299-1995).	Non Compliance An access report has not been submitted; however this aspect has been reviewed by Council's Building Surveyor. The adaptable units are capable of being modified to comply with relevant Australian Standards.

The above assessment has found that the development is generally compliant with the LDCP 2008 and satisfactory. However, it is noted that there are some variations sought to the controls. These include:

Variation to the Street Setback

Control 1 of Section 2.1 of Part 4 of the LDCP 2008, stipulates a setback of 4m-4.5m. The development generally provides a setback of 4m. However, certain elements encroach into the setback by up to 2.5m. The figure below illustrates the areas of non-compliance:

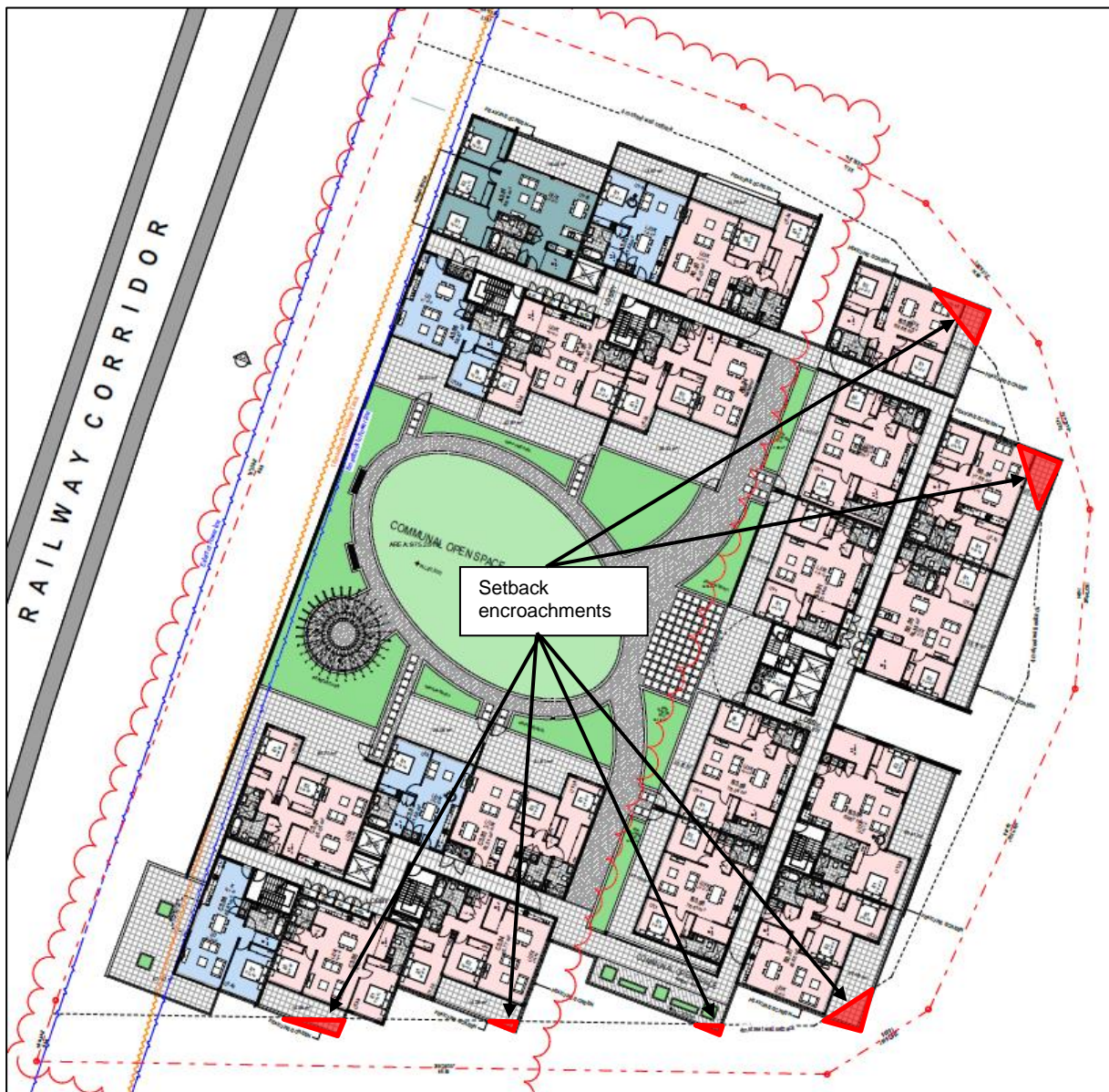


Figure 20 – Areas of non-compliance

Although the proposed development does not strictly comply with the setback control, the objectives are still met. The objectives in relation to the street setback control are:

- a) *To achieve a strong and consistent definition of the public domain.*
- b) *To align external facades of buildings with the streets that they front.*
- c) *To provide front setbacks appropriate to building function and character.*
- d) *To establish the desired spatial proportions of the street and define the street edge.*
- e) *To create a transition between public and private space.*
- f) *To locate active uses, such as shopfronts, closer to pedestrian activity areas.*
- g) *To allow an outlook to, and surveillance of, the street.*
- h) *To allow for street landscape character, where appropriate.*
- i) *To maintain sun access to the public domain*

Given the irregular shape of the site, it is considered that the proposed building remains consistent with the above objectives despite the minor encroachments. It is recognised that an amended design could achieve strict compliance, however, the same would result in either or both smaller buildings and irregular wall angles together with a significant reduction in the area of balconies of affected units.

Given the consistency of the proposed design with the relative objectives of the control together

with the additional building costs and reduced amenity which would arise from an alternative but complying design, it is considered that the minor encroachment as proposed is reasonable and appropriate in the circumstances.

Variation to the Street Frontage Height

Control 1 of Section 2.1 of Part 4 of the LDCP 2008, stipulates a street frontage height of 15m-20m (5-7 storeys). The proposed development does not provide an additional setback above 20m, as such the street wall exceeds the street frontage height.

Notwithstanding the above, control 3 also requires that *that street frontage height controls of any new building adjacent to heritage items be appropriately scaled.*

The massing arrangement of the proposed development is compatible with that which has been approved for the Paper Mill Development. Given the greater contextual relationship between the subject site and the Paper Mill development, it is argued that strict application of the street wall height controls, which might have stronger contextual relevance on the western side of the railway line, can be more flexibly applied to the site, given the Paper Mill approval and future development of the Shepherd Street precinct.

Variation to the Building Depth and Bulk

In accordance with Section 2.1 of Part 4 of the LDCP 2008, a maximum floor plate size of 500m² and a maximum building depth of 18m (excluding balconies) is applicable to parts of the building which exceed 25m in height. This would be applicable to Level 7 of Building B and Level 8 of Building C. Additionally, building lengths are not to exceed 45m for parts of the building above street frontage height. This would be applicable to Level 6 and above for Building B.

Level 7 of Building B does not achieve compliance as it has a floor plate size of 970m², building depth ranging from 17m to 21m and a length of 50m.

Level 8 of Building C has a floor plate size of 522m² and a building depth ranging from 19m to 22m.

Although, strict compliance with the above controls are not achieved, the development has been designed to still meet the relevant objectives of the controls which are as follows:

- a) To promote the design and development of sustainable buildings.*
- b) To achieve the development of living and working environments with good internal amenity and minimise the need for artificial heating, cooling and lighting.*
- c) To provide viable and useable commercial floor space.*
- d) To achieve useable and pleasant streets and public domain at ground level by controlling the size of upper level floor plates of buildings.*
- e) To reduce the apparent bulk and scale of buildings by breaking up expanses of building wall with building separation, modulation of form and articulation of facades.*

Although the length and floor plate of Building B exceeds the maximum requirements, the building has been designed with a 4m wide by 10m deep recess which divides its eastern elevation into 2 x 25m compartments with a floor plate of 485m². This helps to reduce the bulk and scale of the building through the modulation and articulation of building form.

The proposed exceedance of building depth is relatively minor in absolute terms and the development still provides internal amenity in terms of solar access and cross ventilation.

Variation to the Rail Corridor Setback

In accordance with Section 2.1 of Part 4 of the LDCP 2008, a 12m setback is required to the rail corridor.

The proposed development provides a setback ranging from 1m on the ground floor, Level 1 and Level 2, a setback of 6.5m for Level 3, and a setback ranging from 6.5m to 8.5m for Levels 4 – 8.

The proposed setback has been informed following liaison with Sydney Trains and is based on both derailment risk assessment and powerline blowout risk. The proposed development effectively minimises the railway setback to the maximum extent which still achieves satisfactory safety and setback from railway infrastructure. It is considered that this is an appropriate design response to the railway constraint.

It is noted that the objective of the control is *to ensure an appropriate level of amenity for building occupants in terms of daylight, outlook, view sharing, ventilation, wind mitigation, and privacy*. A reduced setback does not limit the level of amenity for future occupants. Sufficient daylight, visual and acoustic privacy is still achieved.

Variation to the Site Coverage

In accordance with Section 2.3 of Part 4 of the LDCP 2008, the maximum site cover for development within the residential zone is 50%. The development provides a site coverage of 92%.

As indicated above, the development does not achieve compliance with the numerical control. However, the overall design has taken into consideration the objectives of the control which are as follows:

- a) To provide an area on sites that enables soft landscaping and deep soil planting, permitting the retention and/or planting of trees that will grow to a large or medium size.*
- b) To limit building bulk on a site and improve the amenity of developments, allowing for good daylight access, ventilation, and improved visual privacy.*
- c) To provide passive and active recreational opportunities.*

The development achieves the objectives as follows:

- Although the site coverage greatly exceeds the maximum requirement, areas of soft landscaping and deep soil planting have been provided above the podium level within the communal open space area located on Level 3 and the rooftop of Building B. Landscaping on this level consists of deep soil planters, which will contain a combination of trees, capable of reaching mature tree heights of 10m.
- The building bulk is not considered to be excessive, as compliance with the FSR is achieved.
- The communal open space areas on Level 3, Level 7 of Building A and the rooftop of Building B will provide the future occupants with passive and active recreational opportunities.

Given the above, the variation is considered to be acceptable despite the numerical non-compliance.

6.4 Section 79C(1)(a)(iia) - Any Planning Agreement or any Draft Planning Agreement

No planning agreement relates to the site or proposed development.

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

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

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

There are no Coastal Zones applicable to the subject site.

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

(a) Natural and Built Environment

Built Environment

The introduction of high residential development in this area will be met with some initial opposition as it does not reflect the historic industrial land use of the area. This section of the City Centre is zoned high density residential and the proposal is therefore considered consistent with the long term future character of the locality.

Natural Environment

The proposed development will have minimal impact on the natural environment. The subject site is affected by flooding however the application provides for a compensatory flood storage area to mitigate adverse flooding impacts.

(b) Social Impacts and Economic Impacts

The development is likely to result in a positive social impact within the locality. The provision of the community rooms, gymnasium and the on-site neighbourhood shop will create a positive space for social interaction and bonding among building occupants. Social interaction will further be made possible through the communal open spaces areas provided on Level 3, Level 4 and the rooftop of Building B.

The development also provides 62 bicycle spaces which will encourage users to engage in outdoor activities resulting in improved health and general well-being.

The development will result in a positive economic impact, through the provision of the neighbourhood shop will provide employment opportunities for the community.

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

The site is considered to be suitable for the proposed development. Site constraints such as the adjoining rail corridor will be appropriately managed through the recommended conditions provided by Sydney Trains.

The proposal is generally compliant with the provisions of LLEP 2008 and LDGP 2008 as outlined in the report. The identified variations have been considered and are supported as they do not result in any long term adverse impacts. Overall the development is considered to satisfy the relevant controls for site selection.

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

(a) Internal Referrals

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

Department	Comments
Building	Supported, subject to conditions.
Engineering	Supported, subject to conditions.
Health and Environment	Application supported, subject to conditions.
Heritage Advisor	Supported, subject to recommendations.

Floodplain Engineer	Supported, subject to conditions
Landscaping	Application supported.
Traffic and Transport	Supported, subject to conditions.
Trees within Council Reserve	Application supported, subject to conditions.
Community Planning	Supported.
Design Excellence Panel	Supported

(b) External Referrals

The DA was referred to the following external Public Authorities for comment:

Authority	Comments
Sydney Water	Application supported, subject to recommendations.
Sydney Trains	Application supported, subject to deferred commencement conditions.
Endeavour Energy	Application supported, subject to recommendations.
Liverpool Police – Safer by Design Officer	Application supported, subject to recommendations.

(c) Community Consultation

In accordance with LDCP 2008, the application was notified for a period of 14 days from 3 March 02 to 16 March 2016. One submission was received following the conclusion of the notification period. However, the submission was later withdrawn.

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

The proposed development is consistent with the zoning of the land and would represent a high quality development for Liverpool. The development provides additional housing opportunities within close proximity to employment opportunities and public transport.

In addition to the social and economic benefit of the proposed development, it is considered to be in the public interest.

7 CONCLUSION

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The proposal substantially complies with the provisions of the LDCP 2008. There are variations proposed to some development standards, however these are considered acceptable on merit.
- The proposal provides an appropriate response to the site’s context and satisfies the SEPP 65 design principles and the requirements of the ADG. The scale and built form is consistent with the desired future character of the area that is envisaged under the LLEP 2008 and LDCP 2008.
- The development will be well located in relation to transport, employment, shopping, business and community services, as well as recreation facilities. It will deliver an efficient use of the site with well-designed high amenity dwellings.
- The application was referred to a number of external authorities with no objections raised, subject to imposition of conditions.

- The proposed development will have positive impacts on the surrounding area, which are largely anticipated by the zoning of the site.

It is for these reasons that the proposed development is considered to be satisfactory and the subject application is recommended for approval, subject to conditions.

8 ATTACHMENTS

1. Architectural plans
2. Landscape plan
3. Stormwater drainage plan
4. Survey plan
5. Recommended conditions of consent
6. Clause 4.6 Variation Written Justification to Height
7. Clause 4.6 Variation Written Justification to Building Separation Distance
8. Statement of Environmental Effects
9. SEPP 65 Verification Statement, Design Principles and Compliance Table
10. Detailed Contamination Assessment Report
11. Waste Management Plan
12. Traffic Report
13. Statement of Heritage Impact
14. Council's Heritage Advice
15. Acoustic Report
16. Acid Sulphate Report
17. Geotechnical Report
18. Overhead Power Mains Report
19. Retention Wall Design Report
20. Risk Assessment Report
21. BASIX Certificate
22. Flood Report
23. Design Excellence Panel Comments