COUNCIL ASSESSMENT REPORT

Panel Reference	2016SYW083
DA Number	DA-377/2016
LGA	Liverpool City Council
Proposed Development	Demolition of existing structures, removal of trees and the construction of two residential flat buildings of 9 and 12-storey in height containing 96 Units, with 2 basement car parking levels, (52 residential Units in Building A – 12-storey, and 44 residential Units in Building B – 9-storey). The application is lodged pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009.
Street Address	LOT 48, DP 1083428, No. 24-26 George Street Liverpool
Applicant	Synergy Development Group
Owner	EKD Investments Pty Ltd
Date of DA Lodgement	28 April 2016
Number of Submissions	Nil
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 4A of the Act)	Development with a Capital Investment Value (CIV) of more than $20 million. The proposal has a CIV of $22.8 Million.
List of all relevant s79C(1)(a) matters	*List all of the relevant environmental planning instruments: s79C(1)(a)(i)* • State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development. • State Environmental Planning Policy (Affordable Rental Housing) 2009. • State Environmental Planning Policy No.55 – Remediation of Land. • State Environmental Planning Policy (State and Regional Development) 2011. • 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

	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) • No draft Environmental Planning Instruments apply to the site. *List any relevant development control plan: s79C(1)(a)(iii)* • Liverpool Local Environmental Plan 2008 ➢ Part 1 – General Controls for all Development. ➢ Part 4 – Development in Liverpool City Centre *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)* • No planning agreement relates to the site or proposed development. *List any coastal zone management plan: s79C(1)(a)(v)* • The subject site is not within any coastal zone management plan. *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	1. Architectural plans 2. Landscape plan 3. Stormwater drainage plan 4. Survey plan 5. Clause 4.6 Variation Written Justification to vary Height of Buildings Development Standard 6. Clause 4.6 Variation Written Justification to vary Building Separation Development Standard 7. Statement of Environmental Effects 8. SEPP 65 Verification Statement, Design Principles and Compliance Table 9. Waste Management Plan 10. Traffic Report 11. BASIX Certificate 12. Design Excellence Panel Comments
Report prepared by	Brad Harris – Senior Development Planner
Report date	27 February 2017

Summary of s79C matters **Yes**

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

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)? *Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*	**No**
Conditions Have draft conditions been provided to the applicant for comment? *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*	**Yes**

EXECUTIVE SUMMARY

1.1 Reasons for the report

The Sydney South West Planning Panel (SSWPP) is the determining body as the development has a Capital Investment Value (CIV) of over $20million, pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979. The CIV is $22.8 million.

1.2 The proposal

The application seeks consent for demolition of existing structures, removal of trees and the construction of a 9 and 12-storey high residential flat building containing 96 Units, with 2 basement car parking levels. The application was amended on 3 February 2017 to include a component of Affordable Housing under State Environmental Planning Policy (Affordable Rental Housing) 2009. 20% of the development will be dedicated to Affordable Rental Housing.

1.3 The site

The subject site is identified as Lot 48 in DP 1083428 and is known as 24-26 George Street, Liverpool.

1.4 The issues

The main issues are:

- Non-compliance with Height of Building development standard under the Liverpool Local Environmental Plan (LLEP)
- Non-compliance with the building separation development standard under the LLEP
- Non-compliance with the Apartment Design Guide – building separation distances, Visual privacy and building depth guidelines and communal open space;
- Non-compliance with Liverpool Development Control Plan 2008 (LDCP 2008) - in relation to apartment mix, building depth and bulk, deep soil zones and driveway location.

These issues have been addressed in the assessment of the application and discussed in this assessment report.

1.5 Exhibition of the proposal

In accordance with the LDCP 2008, the application, being a residential flat building within the Liverpool City Centre, did not require public exhibition. No submissions have been received in respect of the proposal.

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 subject to conditions.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The subject site is identified as Lot 48 in DP 1083428 and is known as 24-26 George Street, Liverpool. The site is regular in shape with a total area of 2,483m² and a lot width of 30.528m. The site is approximately 82m deep and has secondary access to Tindall Avenue at the rear (south-eastern) corner of the site. The site contains a single storey detached dwelling and a two storey residential flat building. The site is relatively flat with a minor slope of approximately 1m over the length of the site from the east (rear boundary) to the west (front boundary).

Figure 1: Aerial photograph of the Site

2.1 The locality

The site is located in the north of the Liverpool City Centre and approximately 200m to the north-east of the Liverpool Westfield shopping centre (refer to Figure 2). The site is approximately 850m north of Liverpool Railway Station, 850m to the south-west of Warwick Farm railway station. It is 260m south of the Hume Highway. The immediate locality consists of Residential Flat buildings ranging in height from 2-3 storeys on the western side of George Street up to 5 and 6 storeys of the eastern side of George Street. Building heights increase to 9 storeys and up to 14 storeys in Lachlan Street to the north of the site.

Figure 2: Location Plan

Figure 3: The subject site as viewed from George Street, consisting of a single storey brick dwelling and a 2-storey red brick residential flat building.

Figure 4: View of the southern adjoining 5-storey residential flat building as seen from George St.

Figure 5: View of the northern adjoining 6 storey residential flat building at 22 George Street as seen from George St.

2.2 Site affectations

2.2.1 Heritage

The subject site is not listed as an item of local or state heritage significance. However, all streets in the surrounding area bounded by the Hume Highway, Copeland Street, Memorial Avenue, Scott Street, Georges River and Main Southern Railway Line (excluding Tindall Avenue and service ways) are listed as local heritage items under Liverpool Local Environmental Plan (LLEP) 2008. Other heritage items in the vicinity of the site consist of a dwelling at 13 Bigge Street to the east and Liverpool Memorial Pioneer's Park (formerly St Luke's Cemetery and Liverpool Cemetery) to the west.

3. BACKGROUND

3.1 Issues Identified in Initial Assessment

The initial assessment of the proposal at Pre-DA meetings held in 2015 by the Design Excellence Panel (DEP) identified several elements which would improve the built form and aesthetics of the proposal. These pre-DA comments were addressed by the applicant and the revised proposal was subsequently reviewed by the DEP as part of the development assessment process.

3.2 Design Excellence Panel Briefing

The application was considered by the DEP on 10 December 2015. The Panel made the following comments in respect of the proposal:

- *The FSR complies,*
- *The proposed building at 9 storeys is lower than the 35 metre height limit,*
- *The design response was poor,*
- *The setbacks do not comply,*
- *The interface with the adjacent development is not acceptable*

The Panel suggested the following:

Option 1

Have a building form with a two level base of town house type development facing the side boundary. Locate two buildings above the base building at the front and rear of the site with windows oriented to the front and back and with a courtyard space providing separation between them.

Option 2

Have two separate buildings with the buildings located across the site at the front and rear of the site oriented to the front and back with a separation between them. This option could have 4.5 metre side setbacks and 6 metre rear setback. The front building could be above the 9 storeys [25 metres BCA] to maximise the yield. Potential building separation issues for BCA purposes would need to be resolved in the basement, however this approach could

result in the maximum FSR being achieved whilst minimising the impact on adjoining neighbours, particularly in the centre of the site.

Both Options

Extend the planting along from Tindall Ave into the site to create a vegetated landscape setting between this site and the development on 19-25 Bigge St.

The panel required the application to be reviewed by the Panel again if amended plans were submitted.

The applicant chose to submit the application taking up the DEP's advice of providing two separate buildings with 4.5m setbacks. However, following an assessment of the application, it became clear that the applicant interpreted the DEP comments as encouraging a non-compliance with both the height of buildings and the floor space ratio (FSR) development standards of the LLEP 2008.

Council staff met with the applicant on several occasions and advised that the DEP comments should not have been taken as approval for a non-compliance of the height of buildings and FSR development standards, notwithstanding that the design approach taken was in line with the DEP recommendations.

A meeting was held with the applicant on 20 January 2017 where it was advised that Council staff could support the submitted Clause 4.6 variation in relation to building height, however the proposed variation to the FSR development standard could not be supported as insufficient justification had been provided.

The applicant responded by amending the application to incorporate 20% of the proposed total gross floor area (GFA) as affordable housing under the provisions of State Environmental Planning Policy (Affordable Rental Housing) (2009). This gives the application a bonus FSR of 0.23:1 under provisions of Clause 13 of the ARH SEPP and the proposal now complies with FSR.

3.4 SSWPP Briefing

A SSWPP Briefing was held 1 December 2016 in respect to the proposal. The panel was made aware of existing issues raised by the DEP in their review of the proposal. The panel requested that the following issues be addressed in the assessment of the application.

- Surrounding built context and heights
- Pedestrian access to Tindall Avenue
- Retention of trees
- Vehicle access arrangements
- Height of building non-compliance
- Good design building within the controls
- Communal open space
- Quality of the 4.6 variation justification

4. DETAILS OF THE PROPOSAL

The development application seeks consent for the demolition of existing structures, removal of trees and the construction of two residential flat buildings of 9 and 12-storey in height containing 96 Units, above 2 basement car parking levels, (52 residential Units in Building A – 12-storey, and 44 residential Units in Building B – 9-storey). Details of the proposal can be summarised as follows:

Building Design

- The construction of a residential flat development comprising two separate buildings. The front building (fronting George Street) is 12 storeys in height and contains 52 units (9 x one-bedroom units and 39 x 2-bedroom units and 4 x 3-bedroom units). The rear building is 9 storeys in height and contains 44 units (8 x one-bedroom units and 36 x 2-bedroom units).
- The construction of a single driveway off George Street. The construction of stairs, a lift and concrete pathways.
- A variety of landscape plantings of varying size throughout the site.

Vehicular and Pedestrian Access

- Vehicular access is provided from George Street via a 6.1m wide driveway. No vehicular access is provided to Tindall Street at the rear.
- The main pedestrian access is provided via steps from George Street to the Lobby of Building A. A separate public pathway located on the northern side of the development site provides access to Building B at the rear of the site.

Parking Provisions

- Car parking for a total of 108 spaces is provided within two basement levels, including 11 accessible spaces, 2 motor cycle spaces and 30 bicycle spaces.

Floor Layouts

- Basement: The development provides two basement levels. Basement 1 provides 46 car parking spaces (including 7 accessible spaces) including garbage storage areas, service bays and lift/stair access points. Basement 2 provides 62 car parking spaces (including 4 accessible spaces)

  Building A (Front)

  - Ground Floor: 3 x 2 bedroom units.
  - Levels 1-9: 2 x 2 bedroom units and 4 x 1 bedroom units.
  - Levels 10-11: 2 x 3 Bedrooms

  Building B (Rear)

  - Ground Floor: 3 x 2 bedroom units.
  - Levels 1-8: 2 x 2 bedroom units and 4 x 1 bedroom units.

  All ground floor units are provided with private courtyards and all other units provided with balconies.

Tree Removal / Landscaping

A variety of landscape plantings of varying size are proposed throughout the site. A significant number of trees are proposed to be removed as part of the proposal. The majority of these are located along the northern boundary and provide good amenity for the residential flat building to the north of the site. Whilst the submitted Arborists report does not provide good justification for removal of these trees in terms of their health or longevity, it is considered unlikely that they would be able to be retained as part of any viable scheme for the re-development of the site.

It is proposed to retain at least one significant sized tree at the rear of the proposed site and this is considered desirable to provide amenity for future occupants of the site and providing a visual screen to the development from properties to the rear (No. 25 Bigge Street and No.1 Tindall Street).

Site Servicing Facilities

- A garbage and recycling storage area has been provided within basement Level 1. Waste management has been addressed by way of recommended conditions of consent. There is a small area for services provided on the ground floor.

Stormwater Drainage

- A concept stormwater plan has been submitted with the application and is considered satisfactory by Council's Engineering Department, subject to conditions.

A perspective drawing of the proposed development is provided below.

Figure 6: Perspective view of the proposal as viewed from George 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 (Affordable Rental Housing) 2009;
- 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.

Other Plans and Policies

- Apartment Design Guide.

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 (Liverpool City Centre) applies to the site.

5.2 Zoning

The subject site is zoned R4 High Density Residential pursuant to LLEP 2008 as depicted in Figure 7 below.

Figure 7: Zoning of the site (Source: Geocortex)

5.3 Permissibility

The proposed development is defined as a residential flat building *(**residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing)*, which is a permissible form of development with consent within the R4 High Density Residential zone.

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 (SEPP 65)

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	
Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.	*The most significant elements contributing to the character of this locality are a strongly defined street edge, which reinforces the Hoddle Grid street pattern with a 5 to 10 storey street edge along the eastern side of George Street and 2 to 3 storey buildings on the western side of the same street.* *The locality has developed subsequent to the introduction of SEPP 65 and it is clear that the Design Quality Principles have strongly informed the siting and design of surrounding buildings. The proposed development is consistent with this context and character. The development provides two buildings, one at the front with 12 storey and one at the back with 9 stories and will deliver a street wall height which is consistent with the maximum allowance in this area of the City Centre.*
Design Principle 2 – Built form and scale	
Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. 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. 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.	*The bulk of the buildings generally comply with controls set out in the Liverpool DCP.* *Due to the Design Excellence Panel suggesting to minimise the impact of adjoining neighbours, particularly in the centre of the site, they have suggested an increase the height of the front tower in order to achieve better amenity to adjoining properties.* *Architectural features and balcony articulation will create patterns of light and shadow and reduce the perceived bulk of the building mass.* *The scale of the proposed development, in terms of height, setback and site coverage is consistent with the Liverpool Design Excellence Panel suggestions and is also consistent with the scale of adjoining development.* *The siting, footprint and building separations incorporated into the subject design are entirely responsive to, and consistent with the pattern of adjoining and surrounding development.*

Design Quality Principle	Comment
Design Principle 3 – Density	
Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. 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.	*The density of the proposed development when assessed as a floor space ratio is 3.21:1. This complies with the maximum permissible FSR of 3.22 (with bonus FSR under ARH SEPP).*
Design Principle 4 – Sustainability	
Good design combines positive environmental, social and economic outcomes. 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	*A minimum of 2 hours solar access is achieved to all of units and 82% of units are naturally cross ventilated. The western building fronting George Street is provided with 1 single aspect, east facing unit at each level, such that 9 single aspect east facing units are proposed. Same for the back tower, with only 8 single aspect east facing units, with a total of 17 units out of 96.* *Building materials from the demolition will be salvaged and recycled offsite as stated within the proposed construction waste management plan. Lastly, I note that the application is submitted with a BASIX Certificate which sets out, among other things, the required energy rating of proposed appliances.*
Design Principle 5 – Landscape	
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. 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. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.	*The landscaping concept for the proposed development involves a perimeter landscape treatment, including street frontages and deep soil at the back of the property.* *The internal building separation area allocates a central communal open space principally accommodates pedestrian movement functions, including disabled access, as well as recreation facility for the residents of the property. Densely planted formal garden areas are provided surrounding the entire building in order to provide a vegetated buffer separation with the adjoining property and George Street.* *The eastern part of the central communal open space area provides communal recreation opportunity. The area is internally divided by hedge for the purposes of limiting the opportunity for ball games which have greater potential to impact*

Design Quality Principle	Comment
Design Principle 6 – Amenity	
Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing. 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.	*The development provides 17% of one bedroom apartments, 75% of two bedrooms apartments and 4% of three bedrooms apartments, ensuring a good mix of units and size. 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.* *The unit layout is consistent with the better design practice guidelines contained within the NSW Apartment Design Guide and serve to achieve good acoustic privacy. Window and balcony locations, together with the use of blade wall privacy screens, will ensure satisfactory visual privacy both internal and external to the site.* *Private internal storage spaces are provided in each units as well as overhead storage at basement level. Balconies exceed minimum size requirements whilst maximizing ground floor private open space.* *The residential amenity of the development is further improved by the provision of generously proportioned, high quality communal open space.*
Design Principle 7 – Safety	
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. 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.	*The building has been designed to incorporate safety by providing clearly defined quality pedestrian entries at ground floor level along with a secondary entry for the rear tower that complies with all regulations and codes referring to disability (AS 1428.1).* *The threshold between public communal and private areas are clearly defined to ensure a sense of ownership between public and private domains.* *The building maintains direct site lines to the residential lobby to the street. All entrance lobby's will provided with lighting at night to ensure a passive surveillance to the street.* *Both access are well distinguished with different materials and height level. Each apartment overlooks generally two aspects of the property, avoiding blind corners and hidden spaces.* *Security key system will be provided for each units, as well as secure car park located in*

Design Quality Principle	Comment
	two locked up basement levels.
Design Principle 8 – Housing Diversity and Social Interaction	
Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. 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.	*The proposed development provides a good mix of unit sizes and includes 17 x one-bedroom units; 75 x two bedroom units and 4 x three-bedroom units. This proposed unit mix provides opportunity for families in the surrounding suburbs to move in the area when it is needed with also a good choice of affordable houses and price differentiation.* *Communal Open space is well connected through the internal lobbies and support the communal life of the building.* *The subject site is well serviced in terms of access to social facilities and the proposal will add to the supply and choice of housing opportunities within the Liverpool CBD.*
Design Principle 9 – Aesthetics	
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. 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.	*The aesthetic treatment of the development has sought to emphasis vertical expression as well as provide elegant yet simple street facades. These Facades integrate with the architectural language of surrounding sites whilst avoiding visual pastiche.* *Each elevation are heavily comprised of balcony balustrades and careful attention has been paid to manipulating the materials, colours and treatments of the same to achieve distinctive and patterned elements into the street elevations.* *The design has also achieved well defined base, middle and top elements with light weight metal cladding used to define the top two storeys of the front tower.* *Proposed materials have been selected on the basis of proven durability. Proposed colours include a mixed pallet of earthy tones which are consistent with surrounding buildings combined with other materials and tones more appropriate to the high-density suburban context of the site.*

The response to the Design Quality Principles demonstrates that the proposed development achieves the design quality principles set out in Schedule 1 of SEPP 65 - Design Quality of Residential Apartment Development.

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 application against the relevant provisions of the ADG.

Provisions	Comment
2E Building depth	
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.	**Non Compliance** The building depth for both Building A and Building B is 24m at the Ground Floor and Level 1, and 21m for the remaining levels. The lower levels have large balconies which contribute to building depth and all levels in each building provide a maximum of 5 units per floor which provides for good cross ventilation and are considered to be relative efficient, and well below the maximum permitted of 8 apartments off a vertical circulation. See Discussion below.
2F Building separation	
Minimum separation distances for buildings are: Up to four storeys (approximately 12m): • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms Five to eight storeys (approximately 25m): • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms Nine storeys and above (over 25m): • 24m between habitable rooms/balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms	**Partial Non Compliance** Building separation is provided as follows: <u>Habitable rooms/Balconies</u> Up to four storeys (approximately 12m): The building is setback 4.6m - 5.8m from the northern boundary and combined with the position of the northern adjoining 6-storey RFB, a building separation of 10m – 11m is provided between the proposal and the northern adjoining RFB (does not comply). The building is setback 4.5m - 5.5m from the southern boundary and combined with the position of the southern adjoining 5-storey RFB, a building separation of 9.5m – 10.7m is provided between the proposal and the southern adjoining RFB (does not comply). Five to eight storeys (approximately 25m): 10-11m to the north (Does not comply) 9.5-10.7m to the south (Does not comply) The adjoining buildings do not exceed 25m in height.
3A Site analysis	
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	Complies A detailed site analysis plan has been provided.
3B Orientation	
Building types and layouts respond to the streetscape and site while optimising solar access within the development.	Complies The building type is appropriate for the streetscape.

<table>
<tr><th>Provisions</th><th>Comment</th></tr>
<tr><td colspan="2">3D Communal and public open space</td></tr>
<tr><td>Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)

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)

Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting

Communal open space is designed to maximise safety

Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood</td><td>Non Compliance but could be made to comply by condition of consent
A total 621m^2 of communal open space is required. The proposed development provides a total communal open space area of 479m^2 (19.%) comprising of:
- 182m^2 at ground level at the rear of the site;
- 217m^2 centrally located between Building A and Building B; and
- 80m^2 at ground level at the front of the site.

The 3 ground floor apartments facing the southern boundary are provided with generous terraces. If these terraces were reduced to a maximum of 1m deep, the landscape strip between the building and the southern boundary would be increased to a minimum of 3.5m and thus could be included in the calculation of communal open space (3m minimum). Accordingly, an additional 158m^2 of communal open space would be provided, increasing the communal open space for the development to 637m^2 (25.4% of the site). In this regard, a condition of consent is to be imposed on any approval requiring the south facing balconies of the 3 ground floor apartments be reduced to a maximum depth of 1m.</td></tr>
<tr><td colspan="2">3E Deep soil zones</td></tr>
<tr><td>Deep soil zones are to meet the following minimum requirements:

<table><tr><th>Site Area</th><th>Minimum Dimensions</th><th>Deep Soil Zone (% of site area)</th></tr><tr><td>Less than 650m^2</td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m^2 to 1500m^2</td><td>3m</td></tr><tr><td>Greater than 1500m^2</td><td>6m</td></tr><tr><td>Greater than 1500m^2 with significant tree cover</td><td>6m</td></tr></table></td><td>Complies
A total of 7.3% of the site has been provided as deep soil zones.</td></tr>
<tr><td colspan="2">3F Visual Privacy</td></tr>
<tr><td>Minimum required separation distances from buildings to the side and rear boundaries are as follows:

<table><tr><th>Building Height</th><th>Habitable Rooms and Balconies</th><th>Non Habitable Rooms</th></tr><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></table></td><td>Partial Non Compliance
Side setbacks of 4.5m have been provided in accordance with advice from Council's Design Excellence Panel. This was considered acceptable where windows were located away from side boundaries. Separation between habitable rooms/balconies of 9.5m and 11m are provided between the development and north/south adjoining RFB. These do not comply with the required separation distance between habitable rooms/balconies of up to 4 storeys.
The adjoining buildings are 5 and 6 storeys in height and the separation distance (as above) are non-compliant. However, the variation is</td></tr>
</table>

Provisions	Comment
	considered acceptable given that adequate measures have been incorporated to protect privacy through use of visual screens and minimising the number of habitable rooms that face side boundaries.
3G Pedestrian Access and Entries	
Building entries and pedestrian access connects to and addresses the public domain	Complies Pedestrian access and entries complies with the objectives of the ADG.
Access, entries and pathways are accessible and easy to identify	
Large sites provide pedestrian links for access to streets and connection to destinations	
3H Vehicle Access	
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	Complies The vehicle access point is located to achieve safety and minimise conflict.
3J Bicycle and Car Parking	
For development in the following locations: - on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or - on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre 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	Complies Bicycle and car parking is provided in accordance with the requirements of the LDCP 2008.
Parking and facilities are provided for other modes of transport	
Car park design and access is safe and secure	
Visual and environmental impacts of underground car parking are minimised	
Visual and environmental impacts of on-grade car parking are minimised	
Visual and environmental impacts of above ground enclosed car parking are minimised	
4A Solar and Daylight Access	
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	Complies More than 70% of the apartments will receive a minimum of 2 hours of solar access.
4B Natural Ventilation	
All habitable rooms are naturally ventilated	Complies Approximately 82% of all units are naturally cross ventilated.
The layout and design of single aspect apartments maximises natural ventilation	
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	

<table>
<tr><th>Provisions</th><th>Comment</th></tr>
<tr><td>be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</td><td rowspan="2"></td></tr>
<tr><td>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</td></tr>
<tr><td colspan="2">4C Ceiling Heights</td></tr>
<tr><td>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:

<table><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></td><td rowspan="3">Complies
The building is provided with a 3.1m floor to floor height, as requested by the DEP, and thus, would easily achieve the minimum required 2.7m floor to ceiling height of 2.7m for habitable rooms.</td></tr>
<tr><td>Ceiling height increases the sense of space in apartments and provides for well proportioned rooms</td></tr>
<tr><td>Ceiling heights contribute to the flexibility of building use over the life of the building</td></tr>
<tr><td colspan="2">4D Apartment Size and Layout</td></tr>
<tr><td>Apartments are required to have the following minimum internal areas:

<table><tr><td>Apartment Type</td><td>Minimum Internal Area</td></tr><tr><td>Studio</td><td>35m^2</td></tr><tr><td>1 bedroom</td><td>50m^2</td></tr><tr><td>2 bedroom</td><td>70m^2</td></tr><tr><td>3 bedroom</td><td>90m^2</td></tr></table>
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m^2 each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m^2 each</td><td>Complies
Apartment sizes comply with the minimum requirement.</td></tr>
<tr><td>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</td><td>Complies
Habitable rooms are provided with windows of sufficient glass areas.</td></tr>
<tr><td>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</td><td>Complies
Habitable rooms are generally limited to 2.5m x the ceiling height.</td></tr>
<tr><td>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</td><td>Complies
Habitable room depth is generally limited to 8m in open plan layouts.</td></tr>
<tr><td>Master bedrooms have a minimum area of 10m^2 and other bedrooms 9m^2 (excluding wardrobe space)</td><td>Complies
Bedrooms are of sufficient size.</td></tr>
<tr><td>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</td><td>Complies
Bedrooms have a minimum dimension of 3m.</td></tr>
<tr><td>Living rooms or combined living/dining rooms have a minimum width of:
- 3.6m for studio and 1 bedroom apartments
- 4m for 2 and 3 bedroom apartments</td><td>Complies
Sufficient widths are provided to living rooms/dining rooms.</td></tr>
<tr><td colspan="2">4E Private Open Space and Balconies</td></tr>
<tr><td>All apartments are required to have primary</td><td>Complies</td></tr>
</table>

<table>
<tr><th>Provisions</th><th>Comment</th></tr>
<tr><td>balconies as follows:

<table><tr><td>Dwelling Type</td><td>Minimum Area</td><td>Minimum Depth</td></tr><tr><td>Studio</td><td>4m^2</td><td>-</td></tr><tr><td>1 bedroom</td><td>8m^2</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m^2</td><td>2m</td></tr><tr><td>3 bedroom</td><td>12m^2</td><td>2.4</td></tr></table>
The minimum balcony depth to be counted as contributing to the balcony area is 1m</td><td>The development provides for sufficient balcony size and depths.</td></tr>
<tr><td>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 15m^2 and a minimum depth of 3m</td><td>Complies
More than 15m^2 of private open space is provided to ground floor units.</td></tr>
<tr><td colspan="2">4F Common Circulation and Spaces</td></tr>
<tr><td>The maximum number of apartments off a circulation core on a single level is eight</td><td>Complies
The maximum number of units off a circulation core is 5.</td></tr>
<tr><td>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</td><td>Not applicable</td></tr>
<tr><td colspan="2">4G Storage</td></tr>
<tr><td>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:

<table><tr><td>Dwelling Type</td><td>Storage Size Volume</td></tr><tr><td>Studio</td><td>4m^3</td></tr><tr><td>1 bedroom</td><td>6m^3</td></tr><tr><td>2 bedroom</td><td>8m^3</td></tr><tr><td>3 bedroom</td><td>10m^3</td></tr></table>
At least 50% of the required storage is to be located within the apartment.</td><td>Complies
Sufficient storage space is provided within each unit and within the basement.</td></tr>
<tr><td colspan="2">4H Acoustic Privacy</td></tr>
<tr><td>Noise transfer is minimised through the siting of buildings and building layout</td><td rowspan="2">Complies
The development is in accordance with the objectives.</td></tr>
<tr><td>Noise impacts are mitigated within apartments through layout and acoustic treatments</td></tr>
<tr><td colspan="2">4K Apartment Mix</td></tr>
<tr><td>A range of apartment types and sizes is provided to cater for different household types now and into the future</td><td rowspan="2">Complies
A range of apartment types are provided and located throughout the building. These consist of 17 x 1-bedroom, 75 x 2-bedroom and 4 x 3-bedroom apartments.</td></tr>
<tr><td>The apartment mix is distributed to suitable locations within the building</td></tr>
<tr><td colspan="2">4L Ground Floor Apartments</td></tr>
<tr><td>Street frontage activity is maximised where ground floor apartments are located</td><td rowspan="2">Complies
The development is in accordance with these objectives.</td></tr>
<tr><td>Design of ground floor apartments delivers amenity and safety for residents</td></tr>
<tr><td colspan="2">4M Facades</td></tr>
<tr><td>Building facades provide visual interest along the street while respecting the character of the local area</td><td rowspan="2">Complies
The overall design including building façade has been endorsed by the Design Excellence Panel.</td></tr>
<tr><td>Building functions are expressed by the facade</td></tr>
<tr><td colspan="2">4N Roof Design</td></tr>
<tr><td>Roof treatments are integrated into the building design and positively respond to the street</td><td>Complies
The development is in accordance with these</td></tr>
</table>

Provisions	Comment
Opportunities to use roof space for residential accommodation and open space are maximized.	objectives.
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	
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

Provisions	Comment
	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	Not Applicable The site is not flood affected.
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	

As demonstrated in the above compliance table, the proposed development does not comply with the ADG with respect to the following: building depth, building separation and visual privacy, and communal open space. A discussion on these issues is provided below:

Building depth

Part 2 of the ADG is designed to assist Council in the preparation of planning controls for Residential Flat Buildings to address amenity issues, particularly in respect of cross flow ventilation.

The ADG encourages the employment of a range of apartment sizes and stipulates maximum building depths of 12-18m measured from glass line to glass line (i.e. including balconies). The purpose of building depth is to ensure that apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation. The building depth for both Building A and Building B is 24m at the Ground Floor and Level 1 and 21m for the remaining levels. The lower levels have large balconies which contribute to building depth and all levels in each building provide a maximum of 5 units per floor which provides for good cross ventilation, solar access. Although the overall building depth exceeds the 18m building depth guideline, each of the proposed apartments are within the allowable apartment depths of 12-18m. The majority of the apartments are corner apartments, and thus receive good cross-ventilation and solar access. Therefore, the variation to the building depth guideline is considered acceptable.

Building Separation and Visual Privacy

The ADG stipulates that habitable rooms and balconies within 4-storey residential flat buildings (12m in height) are required to be provided with a minimum building separation of 12m so as to address visual and acoustic privacy.

Given that the northern and southern elevations of the proposed development incorporate habitable room windows associated with living rooms and bedrooms, the proposed spatial building separation of between 9.5m and 11m do not comply with the requirement of the ADG. However, the development has been designed such that the north and south facing

living room and bedroom windows are provided with privacy screens designed to ensure that there will be acceptable privacy between the development and the northern and southern adjoining RFBs.

Scope exists for the first 4 storeys of the development to be replanned such that the bedroom windows facing the southern and northern adjoining RFBs are further recessed into the building to provide the minimum required 6m setback from the northern and southern boundaries. Scope also exists for the secondary living room windows along the north and south elevations of the building to be deleted. However, it is considered that the applicant has sufficiently demonstrated that the proposed privacy measures are sufficient to address the visual privacy of the north and south adjoining RFBs.

On the basis that the northern and southern adjoining RFB are 5 and 6 storeys in height, the building separation above these levels are not particularly critical in terms of visual and acoustic privacy.

Communal open space

The ADG requires the development to provide a communal open space with a minimum area equal to 25% of the site. A total 621m^2 of communal open space is required. The proposed development provides a total communal open space area of 479m² comprising of:

- 182m^2 at ground level at the rear of the site;
- 217m² centrally located between Building A and Building B; and
- 80m² at ground level at the front of the site.

Therefore, the proposed development, as submitted, does not comply with the minimum required communal open space. It falls short of the minimum required quantum of communal open space by 142m².

The 3 ground floor apartments facing the southern boundary are provided with generous terraces. If these terraces were reduced to a maximum of 1m deep, the landscape strip between the building and the southern boundary would be increased to a minimum of 3.5m and thus could be included in the calculation of communal open space (3m minimum). Accordingly, an additional 158m² of communal open space would be provided, increasing the communal open space for the development to 637m² (25.4% of the site). In this regard, a condition of consent is recommended requiring the south facing balconies of the 3 ground floor apartments be reduced to a maximum depth of 1m.

b) State Environmental Planning Policy (Affordable Rental Housing) 2009

The proposal has been lodged as an affordable housing development pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (Affordable Housing SEPP). An assessment against the relevant provisions of the SEPP is detailed below.

PROVISION	PROPOSAL	COMMENT
10. Development to which Division applies Land must be in an accessible area and meet one of the	The subject site is within an 'accessible area', as defined in the SEPP, as it is within 400m of a bus stop with bus services that meet the frequency requirement.	Complies

following: 800 metres walking distance of a public entrance to a railway station 400 metres walking distance of light rail station 400 metres walking distance of a bus stop used by a regular bus service – at least one bus per hour 6am-9pm Monday-Friday and 8am-6pm Saturday & Sunday.	The site is approximately 900m from Liverpool Railway Station but is well serviced by buses with many stops within a 400m radius of the site.	
13 Floor space Ratio **Policy applies when affordable housing is at least 20%** That allowed under LLEP (2.99:1) plus Z per cent - if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where: AH is the percentage of the gross floor area of the development that is used for affordable housing. Z = AH ÷ 2.5	20% of units proposed as affordable housing units Bonus floor space = 20/2.5 = 8 8% of 2.99 = 0.23 2.99 + 0.23 = 3.22:1 Proposed: 3.21:1	Complies
14 Standards Site area – 450m²	Site area – 2,483m²	Complies
Landscape (i) in the case of a development application made by a social housing provider—at least 35 square metres of landscaped area per dwelling is provided, or (ii) in any other case—at least 30 per cent of the site area is to be landscaped.	The application is not made by a social housing provider. Landscaped area required is 30% of site which is equivalent to of 744.9m². Landscaped Area provided (including additional landscaped area provided as a condition of consent) = 951m² which is equivalent to 38% of the site area.	Complies
Deep soil – 15% site	A total of 7.3% of the site has been provided as deep soil zones.	Does not Comply, however the proposal meets the requirements of the ADG for Deep Soil.

Solar access – living rooms and POS for 70% dwellings receive 3 hours sunlight	The proposal demonstrates compliance with the solar access provisions of the ADG and the ARH SEPP.	Complies
Parking - (i) in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms, or (ii) in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms	The application is not made by a social housing provider. Parking requirements are: 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms The application is compliant with the parking provisions of Liverpool DCP 2008 which are more onerous than the parking requirements of the ARH SEPP (refer to DCP compliance table for further details).	Complies
Dwelling size Studio dwelling min 35m² 1 bedroom dwelling min 50m² 2 bedroom dwelling min 70m² 3 plus bedroom dwelling min 95m²	All units comply	Complies
15 Design Requirements Consider provisions of *Seniors Living Policy: Urban Design Guidelines for Infill Development*	Not applicable, as SEPP 65 applies to the development.	N/A
16A Character of local area Consent authority to take into consideration whether design of development is compatible with the character of the local area	The proposed development is considered to be compatible with character of the local area. The site is zoned R4 High Density with Residential Flat Buildings permissible in the zone, with a maximum height limit of 35m. The development proposes a high quality design which will integrate with the surrounding development and is compatible with the character of the local area.	Complies
17 Must be used for	This requirement will be enforced by conditions of	Complies

affordable housing for 10 years	consent.	
18 Subdivision Land on which development has been carried out under this Division may be subdivided with the consent of the consent authority.	No subdivision is proposed as part of this application.	N/A

As demonstrated in the above compliance table, the proposed development complies with all the requirements of the ARHSEPP, except the deep soil zone standard. Clause 14 of the ARHSEPP requries 15% of the site to be designated as deep soil zone. The proposal does not comply with this requirement in that it only provides 7.3% of the site as deep soil zone.

The non-compliance is considered to be acceptable in this instance because the proposal is a residential flat building and it complies with the minimum required deep soil zone of 7% of the site under the ADG, as articulated earlier in the report. In addition, the standards contained within Division 1 In-fill affordable housing is considered to be more relevant to multi-dwelling housing developments than residential flat buildings, which are regulated by SEPP 65 and the Apartment Design Guide.

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

The objectives of SEPP 55 are:

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

Pursuant to the above SEPP, Council must consider:

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

Council's Environmental Health Department has advised that "a review of aerial photography shows that the subject site has been used for residential purposes since at least 2002. An inspection of the premises conducted on 20 June 2016 found no obvious signs of site contamination. Due to the past/current use of the site, a lack of any significant reason to suspect site contamination and the extent of excavation required for the proposed development, a contamination report will not be required. There is no change in land use as the use is currently residential. Conditions have been provided to ensure that any hazardous materials which may be present (such as asbestos building materials in the existing dwellings) are removed and disposed of appropriately during demolition.

Based on the above, Council is satisfied that the provisions of SEPP 55 have been addressed and that there is no evidence that any activities that may cause contamination as referred to in Table 1 in the *Managing Land Contamination - Planning Guidelines SEPP 55 – Remediation of Land* have been undertaken on the site. As a result, the site is considered suitable for its intended use.

d) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposal is accompanied by a BASIX Certificate which is consistent with the aims and intent of the Plan. It is recommended that appropriate conditions be imposed to ensure compliance with the BASIX commitments.

e) State Environmental Planning Policy (Infrastructure) 2007

The proposal does not trigger any provisions of the Infrastructure SEPP.

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

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

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

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 *Georges River Catchment Regional Planning Strategy* (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 sulphate soils	The land is not identified as containing acid sulphate soils on LLEP 2008 Acid Sulphate Soil mapping.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The site is not identified by Council's mapping systems as flood affected land.
(4) Industrial discharges	There will be no industrial discharges.
(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 or within 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 appropriate sedimentation and erosion controls being implemented during construction, the development will have minimal impact on the Georges River Catchment.

g) Liverpool Local Environmental Plan 2008

(i) Permissibility

The proposed development is defined as a residential flat building which is 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.*

Residential flat buildings are permissible with consent within the R4 High Density Residential

zoning for which the site is zoned.

(ii) Objectives of the zone

The objectives of the zoned R4 High Density Residential Zone are as follows:

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

The proposal is considered to satisfy the above objectives of the R4 zone in that:

- It will provide for housing needs within a high density residential environment.
- It will contain a number of different sized units, thereby providing a variety of housings types within a high density residential environment.
- It will not hinder the opportunity for other land uses that provide facilities or services to meet the day to day needs of residents.
- The site is within close proximity to transport facilities including Liverpool Railway Station and bus routes.
- The proposal will provide high density residential development that will not result in the fragmentation of land that would otherwise hinder the opportunity for other high density residential development within the area.

(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 35m	**Non Compliance** The development exceeds the maximum building height for Building A which fronts George Street. Building A is 37.95m in height (a 2.95m height exceedance which is 8.4 % variation). Note: the lift overrun is an additional 1m above the top of the building. 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	The site is mapped as having a maximum FSR of 2.0:1. Clause 4.4(2B)(a) provides for a bonus FSR of 0.99:1 for the site based on allowable height and the site area. A further bonus FSR of 0.23:1 is allowed under SEPP (ARH) 2009. 2.0 + 0.99 + 0.23 = 3.22:1	**Complies** The development provides an FSR of 3.21:1
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-compliance associated with Clause 4.3 Height of Buildings and Clause 7.4 Building separation.
Clause 7.4 Building Separation in Liverpool City Centre	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: - 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)	**Partial non-compliance** The development provides 9.5m - 11m building separation for parts of the building between 12m and 25m in height. Whilst the required 12m building separation for parts of buildings between 25m and 35m is not provided, the adjoining RFBs are less than 25m in height (See discussion below). .
Clause 7.7 Acid Sulfate Soils	Provisions relating to Acid Sulfate Soils	**Complies** The site is not identified as containing acid sulfate soils.
Clause 7.8 Flood Planning	(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: (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	**Complies** The site is not flood affected.

	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 the Floodplain Development Manual.	
Clause 7.14 Minimum Building Street Frontage	A minimum building street frontage of 24m is applicable.	**Complies** The street frontage is 30.5m.
Clause 7.17 Airspace Operations	Provisions to protect airspace around airports	**Complies** An airport obstacle height limit of 110m 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 generally complies with the majority of provisions prescribed in the LLEP 2008 with the exception of the height of buildings and building separation development standards. These are addressed as follows:

Variation to Clause 4.3 Height of Buildings

Clause 4.3(2) of the LLEP 2008 identifies a maximum height of 35m for the site.

The development proposes a building height of 37.95m for Building A. The 2.95m exceedance represents an 8.4% variation to the standard. This height excludes the lift overrun, which increases the Building A by an additional 1m. Building B is compliant.

The applicant has demonstrated within their Clause 4.6 variation that strict compliance with the standard is considered to be unreasonable and unnecessary in the circumstances of the case, which can be summarised as follows (the full Clause 4.6 Variation request is attached as **Attachment 6**):

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

- *The proposed development will not result in any significant adverse environmental impacts to surrounding area. The proposed density of the development, with an overall height of 37.95m is generally consistent with the scale and nature of existing development along George Street and desired future character for the northern end of Liverpool City Centre. The upper most storeys of the proposed development are setback approximately 3m from the site's George Street boundary and views to these levels will not readily be available from the public domain. A person walking or*

travelling in a vehicle along George Street would not notice or perceive the additional 2.95m or appreciate the proposed departure from the height development standard.

- *Strict compliance with the numeric height of buildings development standard would not result in any real planning gain, would make no difference in terms of the proposal's environmental impacts (overshadowing, views or privacy) of which the proposed development does not raise any significant issue.*
- *Compliance with the development standard is considered unreasonable and unnecessary in the circumstances. It improves the appearance of the site when viewed from the public domain; will improve the housing choice and mix within the Liverpool city centre; will not detract from the heritage significance of George Street; and does not cause any significant environmental impacts to adjoining properties or the public domain in terms of overshadowing, privacy, access to daylight and ventilation.*

Are there sufficient environmental planning grounds to justify contravening the development standard?

Yes, there are sufficient environmental planning grounds to justify the contravening development. These include:

- *The variation does not result in adverse amenity impacts on adjacent land;*
- *The variation does not diminish the development potential of adjacent land;*
- *The development achieves suitable internal amenity including compliance with SEPP 65 separation distances;*
- *The development provides all necessary supporting facilities and infrastructure within the site*
- *The scale of development along George Street is comparable;*
- *The upper most storeys of the proposed development are setback from the level below and street boundaries. Views to the upper most levels not readily available from the public domain. A person walking or travelling in a vehicle along the street would not notice the additional 2.95m or appreciate the proposed departure from the height development standard.*

Is the objection well founded?

The proposed exception to the height of buildings development standard will, in part, facilitate the delivery of additional housing located within an established urban area within proximity to public transport connections. This presents a positive environmental planning outcome.

Crucially, this development application is in accordance with Liverpool Council's vision for Liverpool city centre and addresses the need for additional housing as identified in recent research undertaken by MacroPlan Dimasi and the Property Council of Australia, Missing the Mark - An Audit of Housing Targets (2014).

This research entailed a comprehensive audit of housing target performance across metropolitan Sydney, the Lower Hunter and Illawarra local government areas (LGAs). All councils were benchmarked in relation to approvals against housing targets by LGA assigned in the relevant subregional and regional strategies.

Based on actual population growth and household formation it was found that the majority of councils across metropolitan Sydney had not delivered housing where it is needed, nor have

the allotted targets reflected actual demand... Fringe suburbs (i.e. Blacktown, The Hills, Penrith, Camden and Liverpool) remain central sources of housing supply, but a lesser reliance on new estate locations in delivering Sydney's housing needs is anticipated in the projections.

South West subregions have lagged behind their allocated targets, as the contribution from the Growth Centres has not occurred at the rate expected. Housing production in these areas has ramped up, but only in the latter years since 2010 onwards. It considered that Liverpool has underperformed but has experienced high population growth, indicating the need for additional housing.

As outlined in section 3.2, the development is consistent with the objectives of the development standard. Moreover, the proposal is consistent with the aims of the policy to allow flexibility in the application of development standards where to require compliance would hinder the objectives. Compliance in this circumstance would not improve the outcome. Rather it would necessitate the loss of housing by reducing the height, for no better outcome than compliance itself. It is our view that to force compliance in the circumstance would be antipathetic to the intent of the policy, thereby hindering the attainment of its objectives and thwarting housing supply in Liverpool city centre.

Based on the insignificant nature of impacts arising from the proposed variation, numerical compliance would not contribute to an improved outcome. As such it is considered that compliance with the development standards is neither reasonable nor necessary in the circumstances.

Comment

Whilst some of the issues raised in the applicant's Clause 4.6 variation do specifically demonstrate the unreasonableness of fully complying with the development standard in relation to building height, the variation is considered reasonable in that:

- The height exceedance is only for one of the two proposed building towers.
- The height variation as a percentage of the overall building height is minor and is unlikely to be detectable when viewed from street level in the context of other taller buildings in the locality (notwithstanding that it is significantly taller than the residential flat buildings on the immediately adjoining sites in George Street (see building height map and aerial photo (below) depicting existing and approved building heights in the locality).
- The additional height will not result in any view loss or have any significant effect on overshadowing of adjoining properties.
- The reduction in height of the street frontage building (Building A) and the transference of floor space in accordance with the allowable FSR for the site to the rear building would have increased impacts to properties adjacent to the rear of the site and would result in the rear building (Building B) exceeding a height of 25m therefore resulting in significant additional building costs associated with meeting fire regulations.

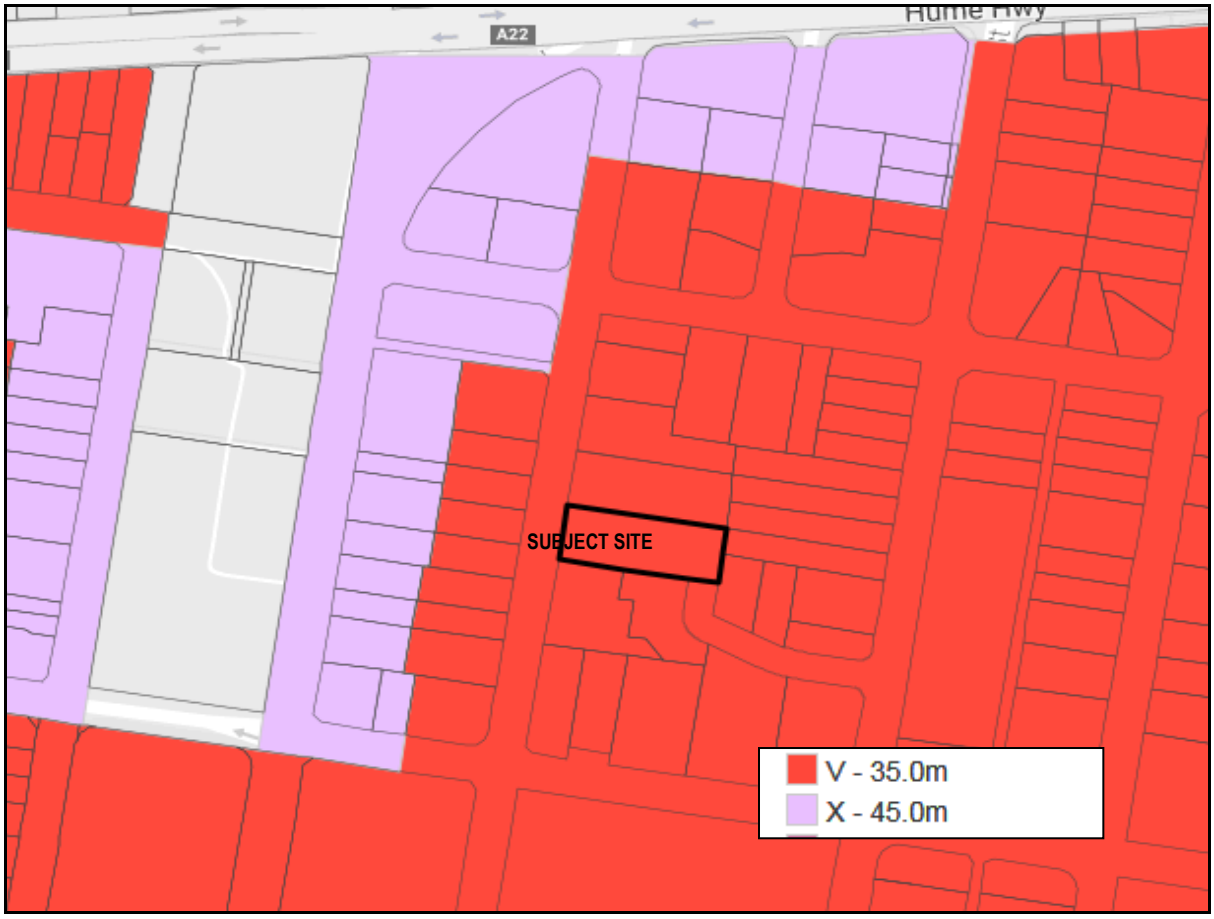

Figure 8 - Extract from LLEP 2008 Building Height Map

Figure 9 – Illustration of existing and approved building heights

Variation to Clause 7.4 Building Separation in Liverpool City Centre

Clause 7.4 of LLEP 2008 states:

7.4 Building separation in Liverpool city centre

(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.

As the highest building on an adjoining site is 18m in height only subclauses (a) and (b) are relevant. The following diagram shows the separation between the proposed building and the adjoining sites to the north and south of the subject site. The diagram below illustrates that the required 9m separation for buildings between 12m and 25m is achieved to the north (20-22 George Street). The separation in this location is 10-11m.

The required building separation of 9m is also provided to the building to the south (28-32 George Street). The proposed separation of 9.5-10.7m is proposed to the southern adjoining RFB.

Although the proposed development has a building height of between 27.9m and 37.95m and technically, a 12m building separation should be provided between the proposal and the adjoining buildings, this requirement is not relevant given that the north and south adjoining site are less than 25m in height. Nonetheless, the proposed building separation is not considered to be unreasonable on the basis that the applicant has incorporated appropriate privacy screens to address any potential privacy problems to the south and north adjoining RFBs.

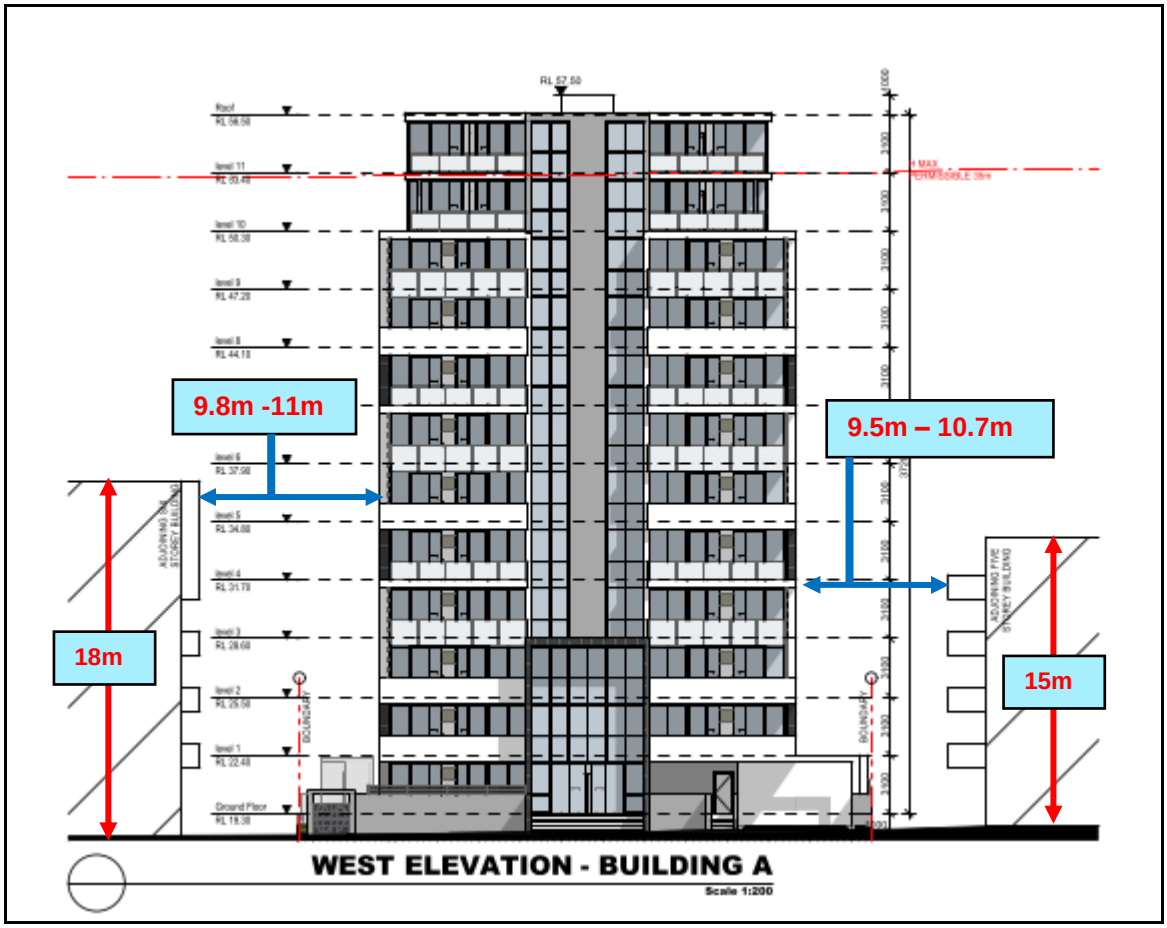

Figure 10 – Bulding Separation

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

- The siting and separation distances provided to Building A at the front of the site will appear consistent when viewed in the broader context of surrounding sites and separation distances between neighbouring developments.

- Privacy will not be affected by the departure from numerical standard for building separation. Privacy screens have been included to the outer faces of the balconies and habitable rooms to the northern and southern aspects of the towers. These will ensure visual privacy is maintained to adjoining properties, while maintaining a suitable habitable space for residents

- Solar access will not be drastically compromised by an exception to this standard. All surrounding properties will receive substantial amounts of sunlight for approximately two thirds of the day.

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.

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 Item 89 of Schedule 5 of LLEP 2008 being the Plan of Town of Liverpool (early town centre street layout–Hoddle 1827). This consists of streets in the area bounded by the Hume Highway, Copeland Street, Memorial Avenue, Scott Street, Georges River and Main Southern Railway Line (excluding Tindall Avenue and service ways).

The proposed development of the subject site has no effect on the heritage item in that it proposes no change to the established street pattern which is recognised as having heritage significance.

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

Clause 7.1 of the LLEP 2008, specifies 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 siting of the development is consistent with the established street setback 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. Further comment on overshadowing is detailed in the applicant's Clause 4.6 Variation Statement in relation to building height.

(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 reasonable 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: Not relevant in relation to the river foreshore. No impact on the heritage listed street pattern.

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

Comment: Not relevant.

- **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 Design Excellence Panel prior to lodgement of the final design submitted as part of the development application. Consequently, the design quality is 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 applying 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	The proposal results in the removal of a number of trees however, this is considered unavoidable and would be necessary as part of any redevelopment of the site in accordance with high density residential development for which the site is zoned.
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	Controls relating to bushland and fauna habitat preservation	Not Applicable The development site is not identified as containing any native flora and fauna.

Development Control	Provision	Comment
Preservation		
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.
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.	Not Applicable The development site is not identified as being flood affected.
Section 10. Contaminated Land Risk	Provisions relating to development on contaminated land.	Complies As discussed within Section 6.1(b) of this report, the site is considered suitable for development.
Section 11. Salinity Risk	Provisions relating to development on saline land.	The development site is identified as containing a high salinity potential. A condition of consent has been imposed requiring a Salinity Management Report to be prepared prior to release of CC.
Section 12. Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	Not Applicable The site is not mapped as containing acid sulfate soils.
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.
Section 17. Heritage and Archaeological Sites	Provisions relating to heritage sites.	Complies This aspect has been discussed in detail within Section 6.1(f)(3) of this report.
Section 18. Notification of Applications	Provisions relating to the notification of applications.	Complies The application did require advertising or notification in accordance with the LDCP 2008.

Development Control	Provision	Comment
Section 19. Used Clothing Bins	Provisions relating to used clothing bins.	Not Applicable The DA does not propose used clothing bins.
Section 20. Car Parking and Access	Residential Development Car Parking Requirements: - 1 space per two studio apartments - 1 space per one bedroom or two bedroom apartments - 1.5 spaces per three of 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).	Complies The following parking is required: - 17 x 1 bedroom units requires 17 spaces - 75 x 2 bedroom units requires 75 spaces - 4 x 3 bedroom units requires 6 spaces A total of 98 spaces is required for the residential units - 98 residential units requires 9 visitor spaces - 3 carwash/service bays are required. The following parking is provided: - 99 spaces for residential units - 9 spaces for visitors; and - 3 carwash/service bays
	Provision is to be made for motorcycle parking at the rate of 1 motorcycle space per 20 car spaces	Complies A minimum of 98 parking spaces is required. Therefore 5 motorcycle spaces are required. A total of 5 motorcycle spaces have been provided.
	Provide 2% of the total demand generated by a development, for parking spaces accessible, designed and appropriately signposted for use by persons with disabilities.	Complies A total 2 spaces of the 98 parking spaces shall be accessible spaces. A total of 11 accessible spaces have been provided.
	1 bicycle space per 200m^2 of gross floor area. 15% of this requirement is to be accessible to visitors	Complies A total GFA of 8,232m^2 is provided, therefore 41 bicycle spaces (including 6 accessible to visitors) shall be provided. A total of 41 bicycle spaces are provided which are all accessible to visitors.
Section 21. Subdivision of Land and Buildings	Provisions relating to the subdivision of land.	Not Applicable The DA does not propose the subdivision of land.
Section 22. and Section 23 Water Conservation and Energy Conservation	New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	Complies Conditions of consent will be imposed to ensure compliance with the BASIX commitments.
Section 25. Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Complies During Construction: A waste management plan has been submitted. Conditions of consent will be imposed to ensure that compliance with the WMP is achieved during construction. On-going Waste Management: Residents will dispose their garbage in the waste

Development Control	Provision	Comment
		chute located in a designated room on each level of each building. 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. The main garage rooms are of sufficient size to accommodate a compactor, bins and bulky storage in accordance with Council's Waste Management Policy. Bins will be wheeled to the front for collection.
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 social impact comment shall be submitted for residential flat buildings containing between 20-100 units.	The application was accompanied by a social impact comment. This 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 George Street frontage. It is noted that the LDCP does not prescribe a setback for the Tindall Avenue frontage.	Complies The development generally provides a landscaped setback of 4.5m to George Street. The development is setback 4.5m from to Tindall Avenue.
	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 blade walls at ground floor and Level 1.
Street Frontage Height	A street frontage height (SFH) of 15m-25m (5 to 7 storeys) is required for all street frontages	Non-compliance The building height at the George Street frontage is 10 storeys/31.75m. This exceeds the nominated frontage height of 25m by 6m. A variation is considered justified as the upper 2 levels are setback behind the mandated street setback line, relieving building bulk.
Building Depth and Bulk	The GFA permitted above 25m in height is 20% of the total GFA and building depth of 18m (excluding balconies) is required above 25m in height.	Non-compliance Building Depth: The maximum building depth provided at the level above 25m is 21m. This is a minor exceedance and is considered acceptable given that adequate

Development Control	Provision	Comment
		cross flow ventilation and solar access is provided. Building Depth: Levels above 25m in height (levels 8-11) exceed the GFA guideline, containing 21.4% of the GFA above 25m. This non-compliance is considered acceptable as it is a very minor numerical variation. The building bulk at the upper levels is reduced through the design of balconies and modulation incorporated into the streetscape facade. The substantial reduction of floor space above level 8 tapers the buildings towards the higher elevations and reduces bulk, meeting the objectives of this control.
	Buildings with a rear or side boundary to the rail corridor are to be setback a minimum of 12m with a landscaped area.	Not Applicable
Site Cover and Deep Soil Zones	Maximum site cover of 50%	Compliance 38% of the total site area is covered.
	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 7.3% of the site area is provided as deep soil zone. It is noted that this is in accordance with the ADG requirement for 7% of the site to be deep soil zone.
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.
	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

Development Control	Provision	Comment
	Design for optimum conditions for plant growth by: - 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.	issues in regards to this aspect of the proposal.
	Increase minimum soil depths in accordance with: - 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.	
	Provide sufficient soil depth and area to allow for plant establishment and growth. The following minimum standards are recommended: - Large trees (over 8m high) minimum soil depth 1.3m, minimum soil volume 150m^3 - Medium trees (2 – 8m high), minimum soil depth 1m, minimum soil volume 35m^3 - Small trees (up to 2m high), minimum soil depth 0.8m, minimum soil volume 9m^3	

Development Control	Provision	Comment
	- 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 an appropriate street edge in the form of fencing.
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 though 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 George street frontage for Building A and a separate pedestrian entrance/pathway is provided to building B. Pedestrian access is also provided from Tindall Avenue.
	Provide entrances which are in visually prominent positions and which are easily identifiable, with visible numbering.	Complies 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. (Fig. 18)	Not Applicable
	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	Non-Compliance Vehicular access to/from Tindall Avenue not considered desirable having regard to configuration of street, the extent of on street

Development Control	Provision	Comment
	pedestrian priority routes identified in Figure 18 (marked yellow).	parking and traffic congestion. Preferred access is from George 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.	Complies 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 and the public domain
	Adjoining buildings (particularly heritage buildings) are to be considered in the design of new buildings in terms of: - appropriate alignment and street frontage heights, - setbacks above street frontage heights, - appropriate materials and finishes selection, - facade proportions including horizontal or vertical emphasis, and - the provision of enclosed corners at street intersections.	Complies The proposed development comprises two separate buildings which have been separated to align with the buildings situated to the south at 32 George Street and 12 Tindall Avenue. Balconies have been designed to face east and west to minimise overlooking of adjoining properties. North and south facing habitable windows are provided with suitable privacy screens to ameliorate any privacy impacts. The privacy screens have been designed as architectural elements to complement the materials and finishes of the building.
	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	Complies The proposed development incorporates appropriately articulated facades.

Development Control	Provision	Comment
	in design.	
	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.	Complies The building frontage does not contain any blank walls.
	Highly reflective finishes and curtain wall glazing are not permitted above ground floor level.	Complies Highly reflective materials will not be used.
	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.	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.
	Roof top structures, such as air conditioning, lift motor rooms, and the like are to be incorporated into the architectural design of the building.	Complies Roof top structures are incorporated within the internal design of the development and will not be visible from public view.
Corner Treatments	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,	Not Applicable The site is not identified in Figures 20 and 21.
	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.	Not Applicable
	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 *Liverpool LEP 2008*.	Not Applicable
Public Artworks	Provisions relating to public artwork	Public artwork is not proposed. Council considers a holistic approach to public artwork is more suitable that adhoc public artworks for each development. Council is currently considering amendments to this DCP control.

Development Control	Provision	Comment
Traffic And Access		
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.
	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	Driveways should be: - 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.	Non -Compliance The driveway is located on the George Street frontage notwithstanding access at the rear of the site to Tindall Avenue. The proposed vehicular access point is considered to the optimal access point having regard to traffic/parking considerations in Tindall Avenue which is a short cul-de-sac with no turning head provided. Further discussion is provided below.
	Vehicle access is to be integrated into the building design so as to be visually	Complies The vehicle access is visually recessive as it is setback behind the building façade.

Development Control	Provision	Comment
	recessive.	
	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.
	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 - 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 - 1 motorcycle space per 20 car spaces	
	Accessible Car Parking Spaces - 2% of the total demand generated by a development.	

Development Control	Provision	Comment
	Bicycle Parking - 1 bicycle space per 200m^2 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.
	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	Complies All parking is provided with a basement.
	The impact of any on grade car parking must be minimised by: - 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)	Not Applicable
	Natural ventilation should be provide to underground parking areas, where possible, with	Complies

Development Control	Provision	Comment
	ventilation grills and structures: - 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	
Environmental Management		
Energy Efficiency and Conservation	New dwellings are to demonstrate compliance with SEPP (BASIX), 2004	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.
Water Conservation	New dwellings are to demonstrate compliance with SEPP (BASIX), 2004	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.
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	Not Applicable 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: - 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	Not Applicable

Development Control	Provision	Comment
	(towers) should: - 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.	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.	Not Applicable Whilst one of the two buildings exceeds 35m in height by a minor amount the building is not considered likely to create adverse wind effects.
	For buildings over 48m in height, results of a wind tunnel test are to be included in the report	Not Applicable The development does not exceed 48m in height.
Noise	An acoustic report is required for all noise affected locations, as identified in figure 25.	Not Applicable
	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.	
	An 8m setback is to be provided to any habitable building located adjacent to the Hume Highway	
Waste	Provisions must be provided for the following waste generation: Residential - General waste: 120L/week/dwelling. - Recycling: 120L/week/dwelling - Green waste: a communal waste bin of sufficient capacity to accept waste from landscape areas.	Complies The application was accompanied by a waste management plan prepared by Elephants Foot Pty Ltd (refer to **Attachment 12**) The following is a summary of the waste management for the development: - Garbage and recycling will be collected twice weekly; - Garbage will be compacted; - 9 x 660L garbage bins are required; - 9 x 660L recycling bins are required; - Bulk storage room provided for the storage of bulky items.

Development Control	Provision	Comment
	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: - 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	Complies The development will provide sufficient storage rooms for the storage of waste, recycling bins and bulky items.
	The size and number of the waste bins shall be determined having 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.	Complies The waste bins will be wheeled to the designated collection point by the building manager for collection by a private contractor.
Controls for Residential Development		
Housing Choice Mix	To achieve a mix of living styles, sizes and layouts within each residential development, comply with the following mix and size: - studio and one bedroom units must not be less than 10% of the total mix of units within each development; - three or more bedroom units must not to be less than 10% of the total mix of units within each development.	**Does not comply** The apartment mix is as follows: - 17 x 1 bedroom units (17.7%) - 75 x 2 bedroom units (78.1%) - 4 x 3 bedroom units (4.1%) - 11 Adaptable Units See discussion below
	For smaller developments (less than six dwellings) achieve a mix appropriate to the locality.	**Not Applicable**

Development Control	Provision	Comment
	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.	**Not Applicable** The development will not be built by the Department of Housing.
	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 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.	Complies 11 adaptable units are proposed which have been designed to be capable of adaptation in accordance with Australian Standards.
	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. It is proposed to provide a condition of consent requiring submission of an access report prior to release of CC to ensure 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, except the provisions relating to building depth and bulk, deep soil zones, apartment mix and driveway location. The strict non-compliance with these numerical requirements of the DCP are addressed as follows:

Building Depth and Bulk

A maximum floor plate size of 500m² (GFA) and building depth of 18m (excluding balconies) is required for building above 25m in height. Levels 8-11 of the development exceed the GFA guideline, containing 21.4% of the GFA above 25m. This non-compliance is considered acceptable in that it is a minor numerical variation. The building bulk at the upper levels is reduced through the design of balconies and modulation incorporated into the streetscape

facade. The substantial reduction of floor space above level 8 tapers the buildings towards the higher elevations and reduces bulk, thus meeting the objectives of this control.

Nevertheless, the proposed floor plate of the development is considered relatively efficient in that a maximum of 5 apartments are proposed off a vertical circulation. In doing so, the applicant has demonstrated that the apartments are highly efficient in terms of cross-ventilation and solar access. Significantly, the floor plate of the building do not unnecessary attenuate the depth and bulk of the building, particularly given the proposal was changed from a single rectilinear building to two smaller buildings that reasonably responded to the site's orientation and neighbouring properties.

Deep Soil Zones

The DCP requires deep soil zone to 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. As proposed, 7.3% of the site area is provided as deep soil zone along the rear of the site. Whilst this does not comply with the requirement of the DCP, it is to be noted that this is in accordance with the ADG requirement for 7% of the site to be deep soil zone. Accordingly, the variation from the DCP with respect to deep soil zone is not considered to be unreasonable in this instance.

Driveway Location

LDCP states that driveway should be provided from lanes and secondary streets rather than the primary street, wherever practical. The proposed vehicular ingress/egress driveway is located on the George Street frontage. This is considered the most appropriate location for vehicular access notwithstanding that the site has rear access to Tindall Avenue. The proposed vehicular access point is considered to the optimal access point having regard to traffic/parking considerations in Tindall Avenue which is a short cul-de-sac with no turning head provided. The provision of vehicular access from Tindall Avenue would result in additional traffic generation in Tindall Avenue and would be detrimental to the provision of communal open space at the rear of the site.

Apartment Mix

The application provides for 4 x 3 bedroom units which equates to 4.16% of the total of 96 Units. The applicant has not made a formal submission to vary the unit mix in relation to meeting the DCP requirement for 10% of the units to be 3 bedroom units. Whilst not specifically meeting the target for 3 bedroom units, there is nonetheless a mix of units provided with 1 bedroom units comprising 17.7% and 2 bedroom units comprising 78% of the total number of units. From a community benefit perspective, the proposal is contributing 20% of the units to affordable rental housing which is considered desirable within the Liverpool city centre.

It is also noted that the ADG addresses apartment mix but does not specify a percentage of different sized units that should be provided. It simply states that a mix of apartment types provides housing choice and supports equitable housing access. By accommodating a range of household types, apartment buildings support the needs of the community now and into the future. This is particularly important because apartment buildings form a significant and often long term part of the urban fabric.

Further, it states that a mix of apartment sizes is appropriate, taking into consideration:

- the distance to public transport, employment and education centres
- the current market demands and projected future demographic trends
- the demand for social and affordable housing
- different cultural and socioeconomic groups

Notwithstanding the range of unit sizes proposed and the development providing 20% of the units as affordable housing, it is considered that the applicant has not provided any compelling evidence in support of the departure from the apartment mix requirements of the DCP. It is considered appropriate that the development be amended to provide the required apartment mix as per the DCP by providing an additional 6 x 3-bedroom apartments on the lower levels of the buildings in order to ensure that a minimum of 10% of the apartments consist of 3-bedrooms. This could be achieved with the following amendments to the development:

i. Unit 8 (a 1-bedroom apartment) on the first floor of Building A be deleted and transformed into part of Unit 5 (a 2-bedroom apartment) and part of Unit 7 (a 2-bedroom apartment). In doing so, Units 5 and 7 are transformed into 3-bedroom apartment each.

ii. Unit 9 (a 1-bedroom apartment) on the first floor of Building B be deleted and transformed into part of Unit 6 (a 2-bedroom apartment) and part of Unit 8 (a 2-bedroom apartment). In doing so, Units 6 and 8 are transformed into 3-bedroom apartment each.

iii. Unit 13 (a 1-bedroom apartment) on the second floor of Building A be deleted and transformed into part of Unit 10 (a 2-bedroom apartment) and part of Unit 12 (a 2-bedroom apartment). In doing so, Units 10 and 12 are transformed into 3-bedroom apartment each.

iv. Unit 14 (a 1-bedroom apartment) on the second floor of Building B be deleted and transformed into part of Unit 11 (a 2-bedroom apartment) and part of Unit 13 (a 2-bedroom apartment). In doing so, Units 11 and 13 are transformed into 3-bedroom apartment each.

v. Unit 18 (a 1-bedroom apartment) on the third floor of Building A be deleted and transformed into part of Unit 15 (a 2-bedroom apartment) and part of Unit 17 (a 2-bedroom apartment). In doing so, Units 15 and 17 are transformed into 3-bedroom apartment each.

vi. Unit 19 (a 1-bedroom apartment) on the third floor of Building B be deleted and transformed into part of Unit 16 (a 2-bedroom apartment) and part of Unit 18 (a 2-bedroom apartment). In doing so, Units 16 and 18 are transformed into 3-bedroom apartment each.

The suggested design changes will result in the following apartment mix: 11 x 1-bedroom apartments, 69 x 2-bedroom apartments and 10 x 3-bedroom apartments, complying with

the DCP requirements. These requirements are recommended as conditions of consent.

6.4 Section 79C(1)(a)(iiia) - Any Draft Environmental Planning Instrument

There are currently no draft planning instruments that would be applicable to the proposal.

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

There are no planning agreements applicable.

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

Relevant provisions of the Environmental Planning and Assessment Regulation 2000 have been considered.

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 proposed development is considered to meet the objectives of the R4 High Density Residential zone and is therefore considered consistent with the long term future character of the locality. As articulated earlier in the report, the amended scheme is a significant improvement from the original scheme that provided for a single rectilinear building that ran along the length of the site with apartments facing adjoining sites, not dissimilar to the 6-storey residential flat building to the immediate north of the site. Consequently, the original scheme would had resulted in detrimental amenity impacts upon the northern and southern adjoining RFBs in terms of visual and acoustic privacy and overshadowing impacts due to the limited spatial separation provided to the side boundaries.

The development site is highly constrained, having regard to its orientation and the fact that it is adjoined by a 6-storey RFB to the north and a 5-storey RFBs to the south with windows and balconies facing the subject site. The balconies and windows are located relatively close to the subject site.

The amended scheme with two buildings separated by a central communal open space is considered to be an appropriate design response to the orientation of the site and importantly, the northern and southern adjoining RFBs. The two building built form maintains the green space established by the southern adjoining 5-storey RFBs and minimises overshadowing of the neighbouring properties, particularly the southern adjoining RFBs. Despite the positive benefits of the amended scheme, there are habitable room windows (living room and bedrooms) directly facing the northern and southern adjoining RFBs and the building is not provided with the recommended building separation as per the ADG. However, and as detailed above, the proposal incorporates privacy screen elements to ensure that the reduced setback to the side boundaries do not result in any adverse visual

and acoustic privacy problems to the adjoining RFBs.

Natural Environment

The proposed development will have minimal impact on the natural environment.

(b) Social Impacts and Economic Impacts

The development is likely to result in a positive social impact within the locality through provision of high quality housing with a variety of unit sizes. The development also provides 20% of the units as affordable housing.

The development will result in a positive economic impact, initially through employment in the construction of the development and in the longer term by providing housing close to the Liverpool City Centre.

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.

The proposal is generally compliant with the provisions of LLEP 2008 and LDCP 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
Engineering	Supported, subject to conditions.
Health and Environment	Application supported, subject to conditions.
Landscaping	Application supported.
Traffic and Transport	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.
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 did not require notification/advertising. No submissions have been received in respect of the proposal.

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

The proposed development is consistent with the zoning of the land and would represent a reasonably 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 the building height development standard and building separation standard, 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 considered to be 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
10. SEPP 65 Design Principles
11. ADG Compliance Table
12. Waste Management Plan
13. Traffic Report
14. BASIX Certificate
15. Design Excellence Panel Comments