SYDNEY WESTERN CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	2016SYW103
DA Number	DA-471/2016
Local Government Area	Liverpool City Council
Proposed Development	Demolition of existing structures, removal of trees, subdivision into four lots, construction of three residential flat buildings and construction of a road to be dedicated to Council. The proposal is identified as Nominated Integrated Development under the Water Management Act 2000 requiring approval from DPI Water.
Street Address	5-15 Rynan Avenue Edmondson Park
Applicant	Joshua Farkash & Associates
Owner	Mr M Taouk, Ms A Taouk and Abu Tony Pty Ltd
Date of DA Lodgement	17 May 2016
Number of Submissions	NIL
Regional Development Criteria (Schedule 4A of the Act)	The development has a capital investment value of $25,835,688.00

List of All Relevant 4.15(1)(a) Matters	• *List all of the relevant environmental planning instruments: Section 4.15(1)(a)(i)*
	
	• State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development.
	• State Environmental Planning Policy No.55 – Remediation of Land.
	• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
	• 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: Section 4.15(1)(a)(ii)*
	
	• No draft Environmental Planning Instruments apply to the site.
	
	• *List any relevant development control plan: Section 4.15(1)(a)(iii)*
	
	• Liverpool Development Control Plan 2008.
	  ○ Part 1: General Controls for All Development.
	  ○ Part 2.11 – Land Subdivision and Development in Edmondson Park
	
	• *List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: Section 4.15(1)(a)(iiia)*
	
	• No planning agreement relates to the site or proposed development.

	• List any relevant regulations: 4.15(1)(a)(iv) • Consideration of the provisions of the Building Code of Australia.
List all documents submitted with this report for the panel's consideration	1) Recommended Conditions of Consent 2) Architectural Plans 3) Landscape Plans 4) Statement of Environmental Effects with Clause 4.6 Variation for Height 5) Clause 4.6 Variation for FSR 6) Design Excellence Panel (DEP) Minutes 7) Applicants Response to DEP Minutes 8) Engineering Plans 9) BASIX Report 10) Concept stormwater drainage and WSUD strategy 11) Concept stormwater drainage strategy 12) Geotechnical report 13) Fire Engineering certificate 14) Remediation action plan 15) Traffic impact assessment 16) Waste management plan 17) Aboriginal heritage due diligence assessment 18) Access report 19) Acoustic report buildings B and C 20) Acoustic report building D 21) BCA assessment report
Recommendation	Approval, subject to conditions
Report Prepared by	George Nehme
Report date	17 October 2018

Summary of Section 4.15 matters Have all recommendations in relation to relevant Section 4.15 matters been summarised in the Executive Summary of the assessment report?	**Yes**
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? *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 (S7.11)? *Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*	**Yes**
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**

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

Sydney South West Planning Panel is the determining body as the Capital Investment Value of the development is over $20 million, pursuant to Clause 5(b) of Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011.

1.2 The proposal

The application seeks consent for Demolition of existing structures, removal of trees, subdivision into four lots, construction of three residential flat buildings and construction of a road to be dedicated to Council.

1.3 The site

The subject site is identified as Corner Lot 1 DP774700, Lot 22 DP631868 being 5-15 Rynan Avenue Edmondson Park.

1.4 The issues

The main issues are identified as follows:

- Non-compliance with the Liverpool Local Environmental Plan (LLEP) 2008 - Clause 4.3 Height of Buildings; and
- Non-compliance with the Liverpool Local Environmental Plan (LLEP) 2008 - Clause 4.4 Floor Space Ratio (FSR).

1.5 Exhibition of the proposal

Application was advertised from 8 June 2016 to 8 July 2016. No submissions were received during the advertising period. Due to the provision of amended plans the application was notified from 2 March 2018 to 19 March 2018. No submissions were received during the notification period.

1.6 Conclusion

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act 1979. Based on the assessment of the application and the consideration of the written request to vary the height of buildings and FSR development standard 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 Corner Lot 1 DP774700, Lot 22 DP631868 being 5-15 Rynan Avenue Edmondson Park. An aerial photograph of the subject site is provided below.

The site is rectangular in shape with a total area of 3.994Ha. The subject site is a corner allotment with two identifiable frontages. The primary frontage is to Rynan Avenue and a secondary frontage to Camden Valley Way. The subject site is split zoned between an E3 Environmental Management zone, which is isolated to the western portion of the site, RE1 Public Recreation, which is isolated to the centre of the site and an R1 General Residential zone which encompasses the eastern portion of the site, with a small pocket in the north-

western corner of the site as indicated in figure 2 below. The proposed development is isolated to the R1 General Residential zone on the eastern portion of the site.

Figure 1: Aerial photograph of the site

2.2 The locality

The proposed development is located within the suburb of Edmondson Park and is located approximately 9.5km south west of the Liverpool CBD and approximately 3km North West of the future Edmondson Park Town Centre and Edmondson Park train station, as indicated in figure 2. Edmondson Park is bound by the suburbs of Prestons and Horningsea Park to the north, Glenfield and Ingleburn to the south, Denham Court and Leppington to the east and Casula to the west.

Figure 2: Overall Context

The locality within the immediate vicinity of the subject site is predominately characterised by a semi-rural residential area that is undergoing transition to a predominant residential area. Directly east of the subject site across Rynan Avenue is No.1880 Camden Valley Way Edmondson Park, which is a large rural allotment that was recently approved for a staged subdivision to create 59 residential allotments ranging from 300sqm to 460sqm.

Located directly west of the subject site is low density residential development area characterised by small lot detached dwellings.

Located directly south of the subject site is No.25 Rynan Avenue Edmondson Park, which is a large rural allotment that was recently approved for a subdivision to create 14 residential allotments ranging from 310sqm to 355sqm.

Located directly north of the subject site across Camden Valley Way is the William Carey Christian School.

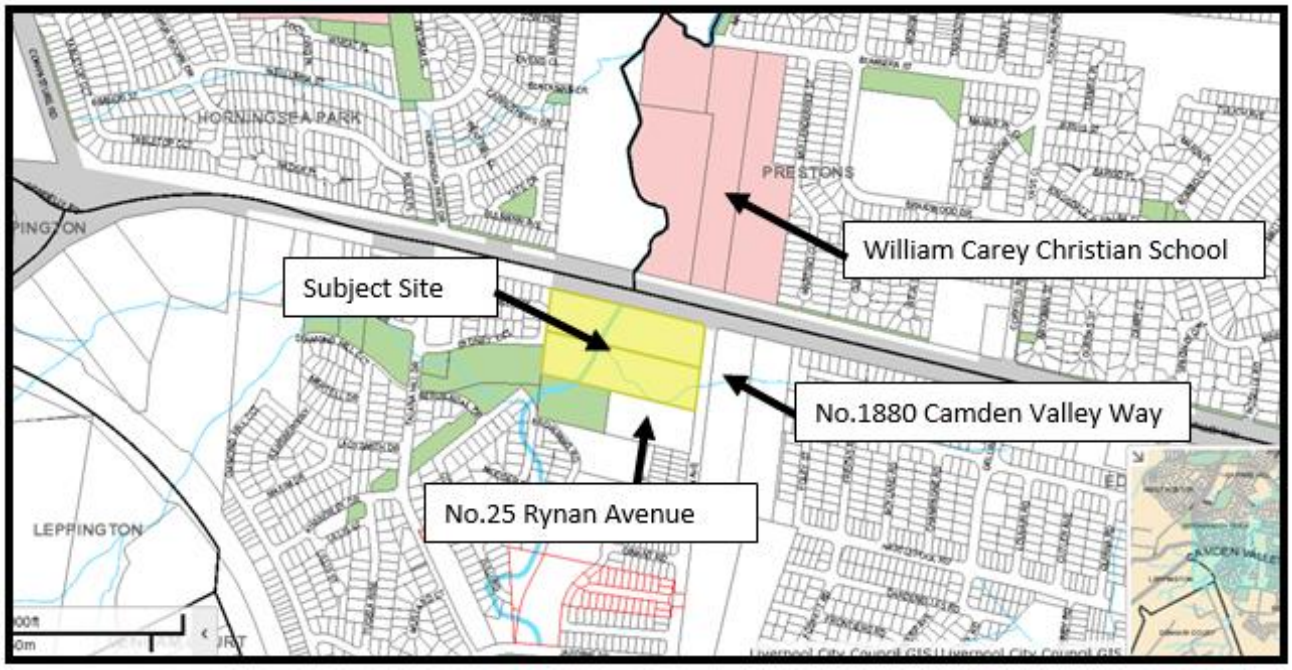

Figure 3: Adjoining Context

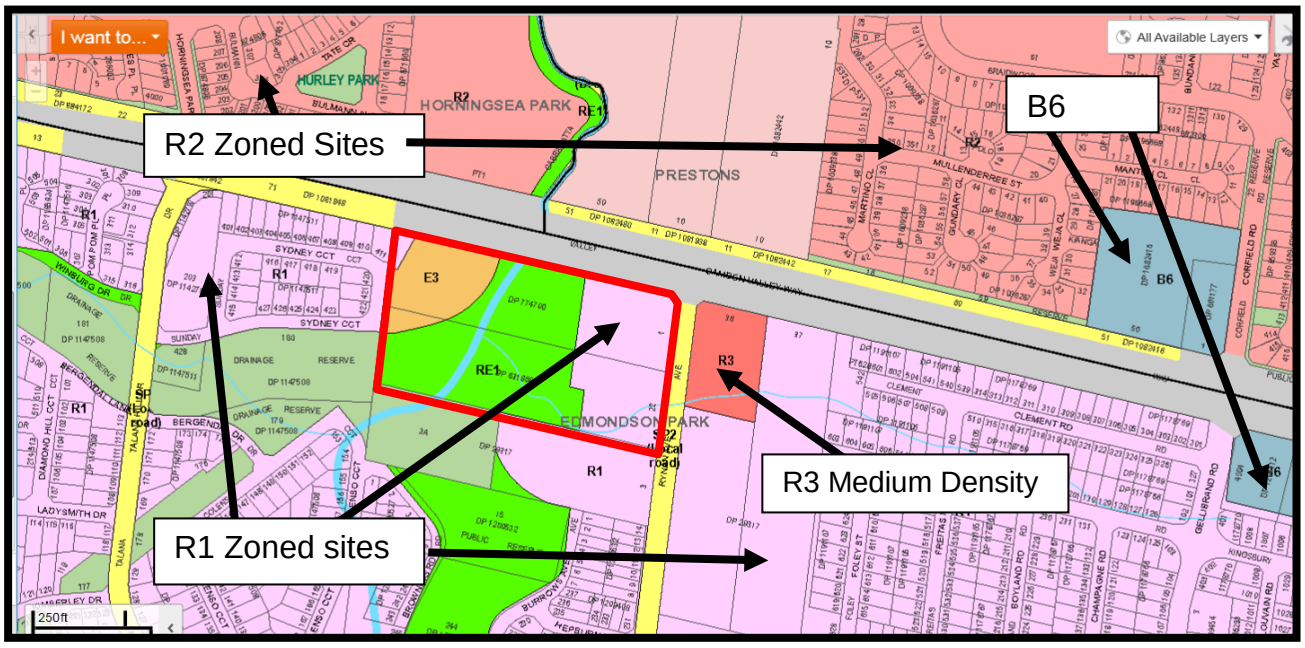

Figure 4: Surrounding Zoning

With regards to FSR the development site has two different FSR's. The majority of the site has an FSR of 1:1. The southern portion of the site has an FSR of 0.75:1. The site directly east of the development site across Rynan Avenue also has an FSR of 1:1. Apart from the subject site and the site across Rynan Avenue the surrounding locality have FSR's ranging from 0.6:1 to 0.75:1. This is detailed in Figure 5 below.

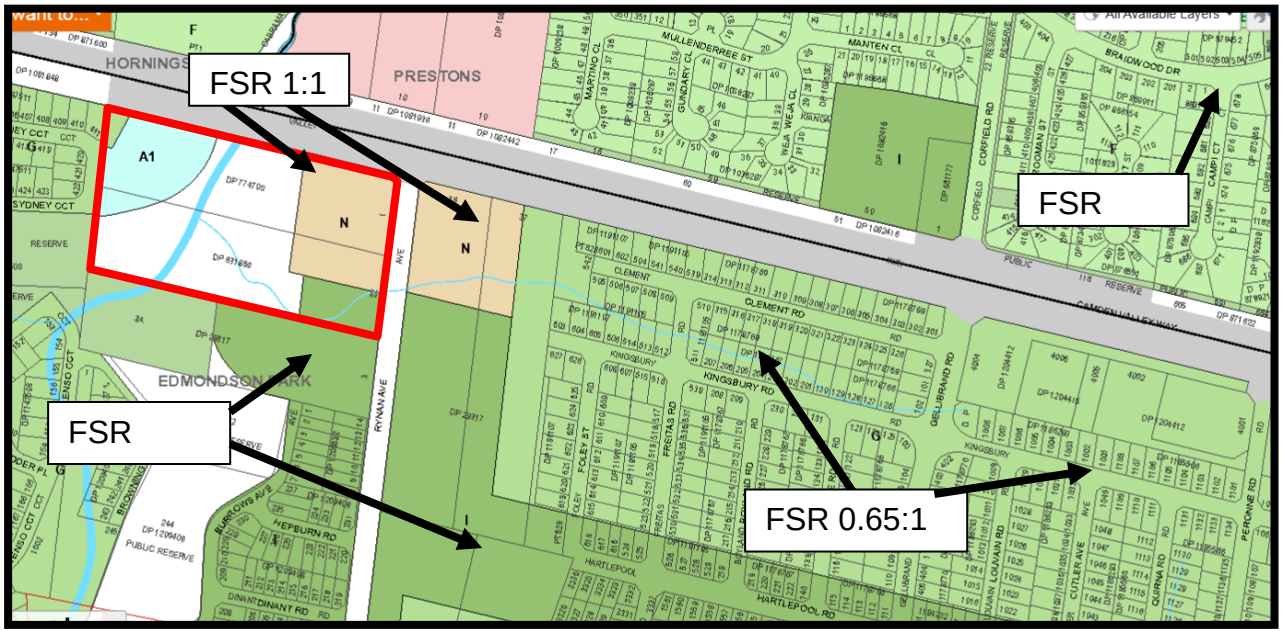

Figure 5: Surrounding FSR

With regards to height the development site has two different height limits. The majority of the site has a height limit of 15m. The southern portion of the site has a height limit of 12m. The site directly east of the development site across Rynan Avenue also has a height limit of 15m. Apart from the subject site and the site across Rynan Avenue the surrounding locality have maximum heights ranging from 8.5m to 12m. This is detailed in Figure 6 below.

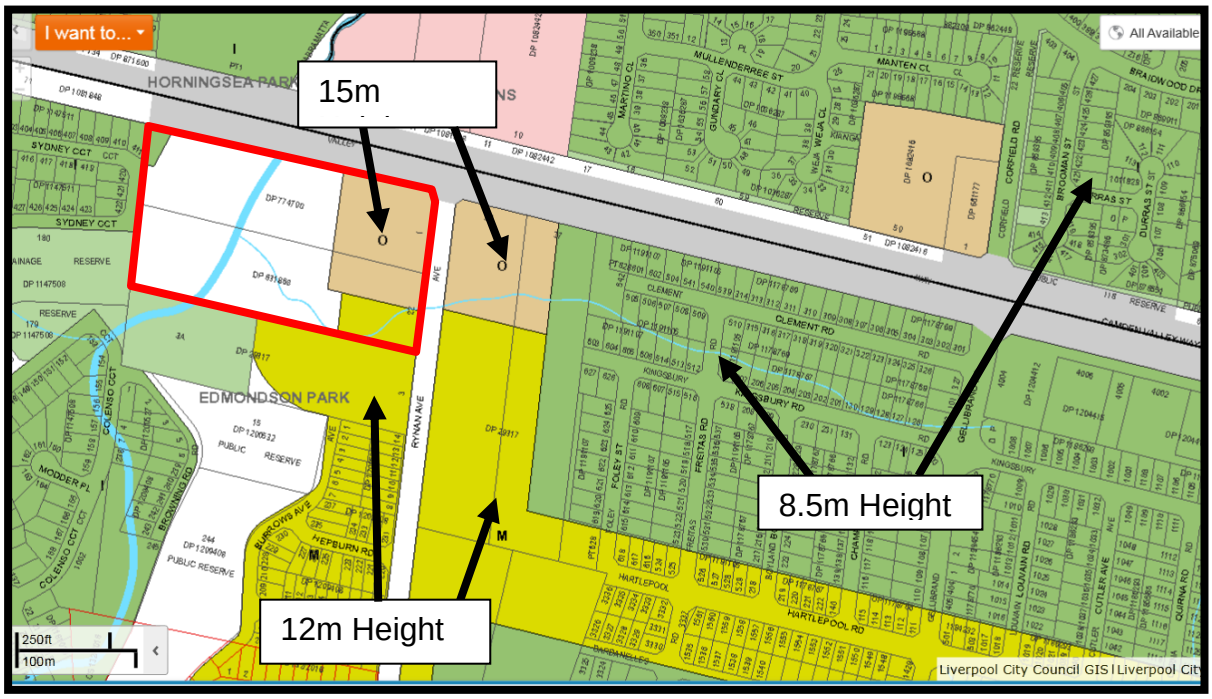

Figure 6: Surrounding height

2.3 Site Affectations

2.3.1 Flooding

The proposed development site is located on the Cabramatta Creek Floodplain. The subject property is affected by flooding under the 1% Annual Exceedance Probability (AEP) event. Cabramatta Creek also runs through the site.

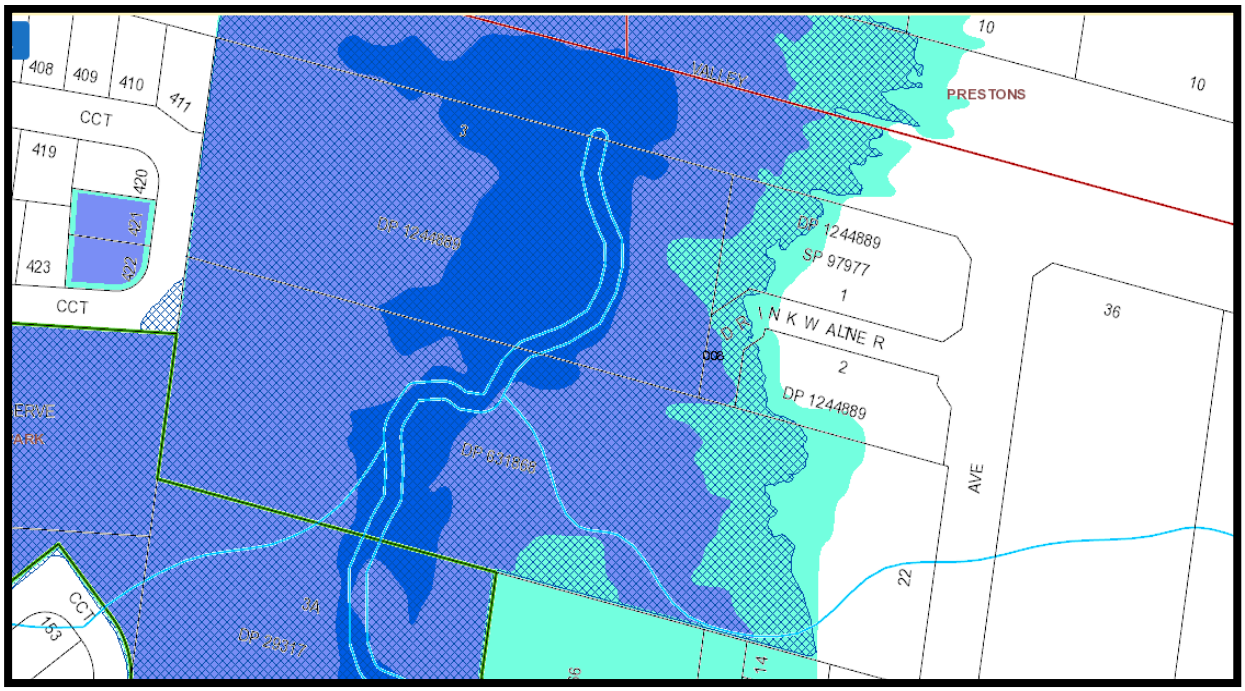

Figure 7: Flooding Affectation

2.3.2 Main Road Noise

The subject site has a frontage to a classified road being Camden Valley Way. As such the proposal must address clause 102 of the State Environmental Planning Policy (Infrastructure)

2007 (SEPP Infrastructure 2007). The applicants have submitted an acoustic assessment, which is currently being reviewed by Council.

2.4 History

1) On 6 August 2015, the Sydney West Joint Regional Planning Panel approved a development (DA-898/2014) on No.5 Rynan Avenue Edmondson Park for the removal of trees on site, four lot Torrens title subdivision and the construction of three residential flat buildings A, B and C. The figure below indicates approved development.

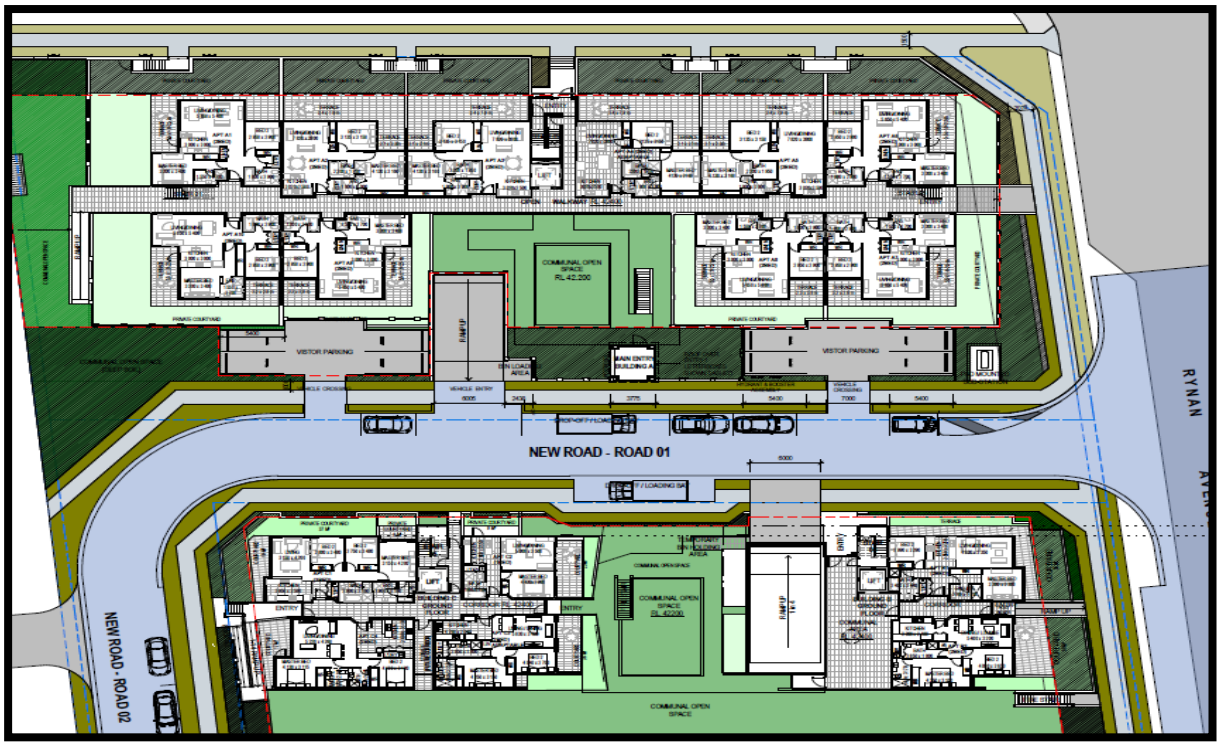

Figure 8: Approved plans for DA-898/2014

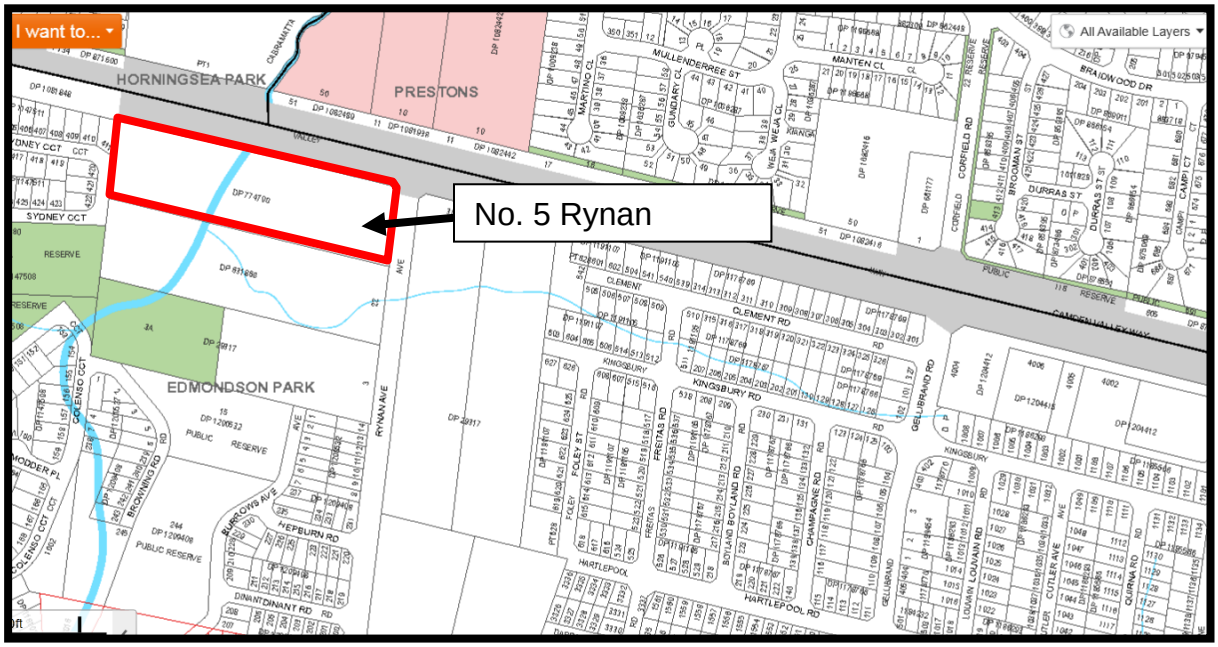

Figure 9: Location Map No.5 Rynan Avenue

2) Subsequent to the approval of DA-898/2014, the applicant purchased the site to the south No.15 Rynan Avenue Edmondson Park.

3) Following the purchase of No.15 Rynan Avenue, a modification application was lodged for DA-898/2014 to remove buildings B and C from DA-898/2014. The modification was approved on 30 November 2017.

4) Concurrently with the modification the subject application was lodged for the construction of 3 RFB's over 5 and 15 Rynan Avenue, which included a revised buildings B and C which traversed both 5 and 15 Rynan Avenue and a third building known as Building D.

   It is envisaged that the determination of this application will result in a total of 4 RFBs (A-D) over 5-15 Rynan Avenue as identified in figure 9 below.

3. BACKGROUND

3.1 Design Excellence Panel

As part of the Pre-DA process, the proposed development was referred to the Design Excellence Panel (DEP) on two occasions being 21 July 2016 and 17 May 2018. The DEP were supportive of the proposal, subject to some minor design changes. The comments from the DEP are provided in the table below, including a response on how the comments have been addressed in the DA:

DEP Comments	**Response from the Applicant/Assessment Staff**
The Panel thanks the proponent for bringing the scheme back to the Panel for reconsideration and the explanation provided by the applicant on how the scheme has responded to the Panel's previous minutes.	Noted
The Panel has been advised that the amended proposal is within the allowable FSR for the site. The buildings, however, encroach into the maximum building height limit. The slight exceedance of the building height limit is considered acceptable to the Panel having regard to the flood affectation of the site and the limited impact upon neighbouring properties in terms of overshadowing and visual/acoustic privacy.	Noted. Refer to discussions in LLEP assessment section of this report regarding height and FSR non-compliance.
The Panel notes that the site is identified within the 17 dwellings/ha density band. The density of the scheme is approximately 125dwellings/ha over the developable part of the site. However, when calculated against the overall site area of roughly 3.944 hectares, the scheme yields a density of approximately 40 dwellings per hectare. This is not considered to be unreasonable and would be in-line with the maximum density permitted for the locality	Noted
The height exceedance is accepted by the Panel for building B and C. The height exceedance for Building D, except where required by lift overruns, as it is adjacent to new lower scaled development should be removed to create a better transition to the neighbouring properties unless it can be shown to have no increased impact on the shading to the neighbouring properties.	In response to the request the applicant has provided the following response as summarised; *"The filling of the land reduces the extent of potential overshadowing. The plan form of the two storey dwelling currently under construction on the allotment sharing the common boundary is considered typical of the type of development anticipated here. The northern wall is mostly blank with living / bedroom windows facing either east or*

	west. This orientation and with the subject sites having direct road access will guarantee access to natural daylight". Despite the non-compliant height limit Building D does not create an additional impact on the adjoining sites to the south in terms of overshadowing. Building D has been setback from the front and side boundary to enable sufficient solar access to the dwellings to the south. For further justification regarding the height non-compliance please refer to discussion within the LLEP assessment below.
The proposed built form, scale and architectural treatment of the amended proposal is supported by the Panel	Noted
The panel recommends a minimum 3050 to 3100mm floor-to-floor height so as to comfortably achieve the minimum 2700mm floor-to-ceiling height as required by the ADG.	In response to this request the applicant has provided the following response: "*These heights would be applicable should the building require fire sprinklers and feature floor slab set downs for balconies. However neither is the case here as sprinklers are not mandated and a flat slab soffit will be employed with upturns at doorways to provide waterproofing".* Aside from the applicants comments above the proposed development has provided for 2.8m floor to ceiling height across the development. Given the predominant north orientation of the buildings the increased floor to ceiling height allows for improved solar access and cross ventilation to most units within the development. The floor to ceiling heights proposed maintain consistency with the ADG and are considered acceptable in this instance.
Building B corridor should be amended to provide for an open corridor rather being terminated with an enclosed fire stair. The applicant advised that the previous scheme provided for open corridor. This should be reintroduced into the scheme.	Amended designs provided and an open corridor has been reintroduces to Building B.
The Panel is satisfied that the issues raised in the previous DEP minutes have been satisfactorily addressed by the applicant.	Noted

3.2 Planning Panel Briefing

The proposal was briefed to the previous Sydney South West Planning Panel on two occasions being 24 November 2016 and 1 December 2016. Due to the provisions of amended plans and the amendment to the development proposal the proposal was briefed to Sydney Western City Planning Panel for a third time on 3 September 2018.

The key issues outlined at the briefing of 3 September 2018 to be addressed by Council are as follows;

- *Analysis of the validity of applying floor space ratio to the area of land including the proposed roadway given that the land comprising the roadway is to be excised from the development area and dedicated to Council as a public road;*

Comment: A thorough discussion pertaining to the variation to the FSR is provided within the LLEP assessment section of the report.

- *Thorough discussion on justification of the height proposed as a response to flood management requiring part of the site to be filled, given that the proposed height exceedance is greater than the depth of fill;*

Comment: A thorough discussion pertaining to the variation to the height is provided within the LLEP assessment section of the report.

- *Impact of the additional height on the adjoining lands;*

Comment: The proposed development will not create additional overshadowing or privacy impacts on the adjoining sites to the south. Proposed Building D has provided an appropriate side and front setback to enable sufficient solar access to the living areas and POS of the adjoining developments to the south. Further detail in terms of the impact of the additional height on the adjoining southern properties are outlined in the Clause 4.6 variation to the maximum height of building in the LLEP 2008 assessment of the report.

- *Flood management in regard to finish development and the roadway to be dedicated.*

Buildings B-D and the surrounding road network have been built to achieve appropriate levels for overland flow to enable flood free access to the site and provide sufficient fall to the drainage basin located west of the site. To achieve the appropriate levels a finished ground level (FGL) of generally 43.1 needs to be obtained east of the site closer to Rynan Avenue with a gradual down-slope west of the site to a FGL of generally 42.1. Moreover, Councils also requires an additional 500mm of free board to be provided above the flood level for each building.

Having regards to the levels above, the development will requires on average 1m of fill to obtain the appropriate FGL required and also provide an additional 500mm of freeboard for each building to achieve the required Finished Floor Level (FFL). All buildings have been provided with levels that are consistent with the required levels. Building B closest to Rynan Avenue has provided a FFL of 43.76, Building C located further west has provided a FFL of 42.7. Building D provides an FFL of 44.00.

The proposal has also been reviewed by Councils Flooding Engineers and considered satisfactory. Conditions have been imposed on the consent stipulating that there is to be no adverse (overland) flooding impact in the vicinity of the site and on Rynan Avenue and that. existing overland flows from adjoining properties shall not be disturbed and be accommodated into the proposed major/minor system of the development up to the 1 in 100yr ARI storm.

4. DETAILS OF THE PROPOSAL

Development consent is sought for demolition of existing structures, removal of trees, subdivision into four lots, construction of three residential flat buildings and construction of a road to be dedicated to Council.

The details of the proposed development involves

1) Construction of 3 RFB’s consisting of the following;

- Buildings B and C and will consist of a total 83 apartments (35x 1 bed, 38 x 2 bedroom and 10 x 3 bed) over 5 storeys.
- Building D will consist of 28 apartments (3 x 1 bed, 22 x 2 bed and 3 x 3 bed) over 4 storeys

2) Subdivision into 4 lots with road construction and associated site works.

- Proposed Lot 2 will contain buildings B and C and have a site area of 3,538m²
- Proposed Lot 5 will contain building D and have a site area of 2,186m²
- Lot 3 will contain a future road to be dedicated to Council and will have a site area of 4,014m².
- The remaining subdivided lot is to contain the non-residential portion of the site to the west of the residential zoned portion of the land.

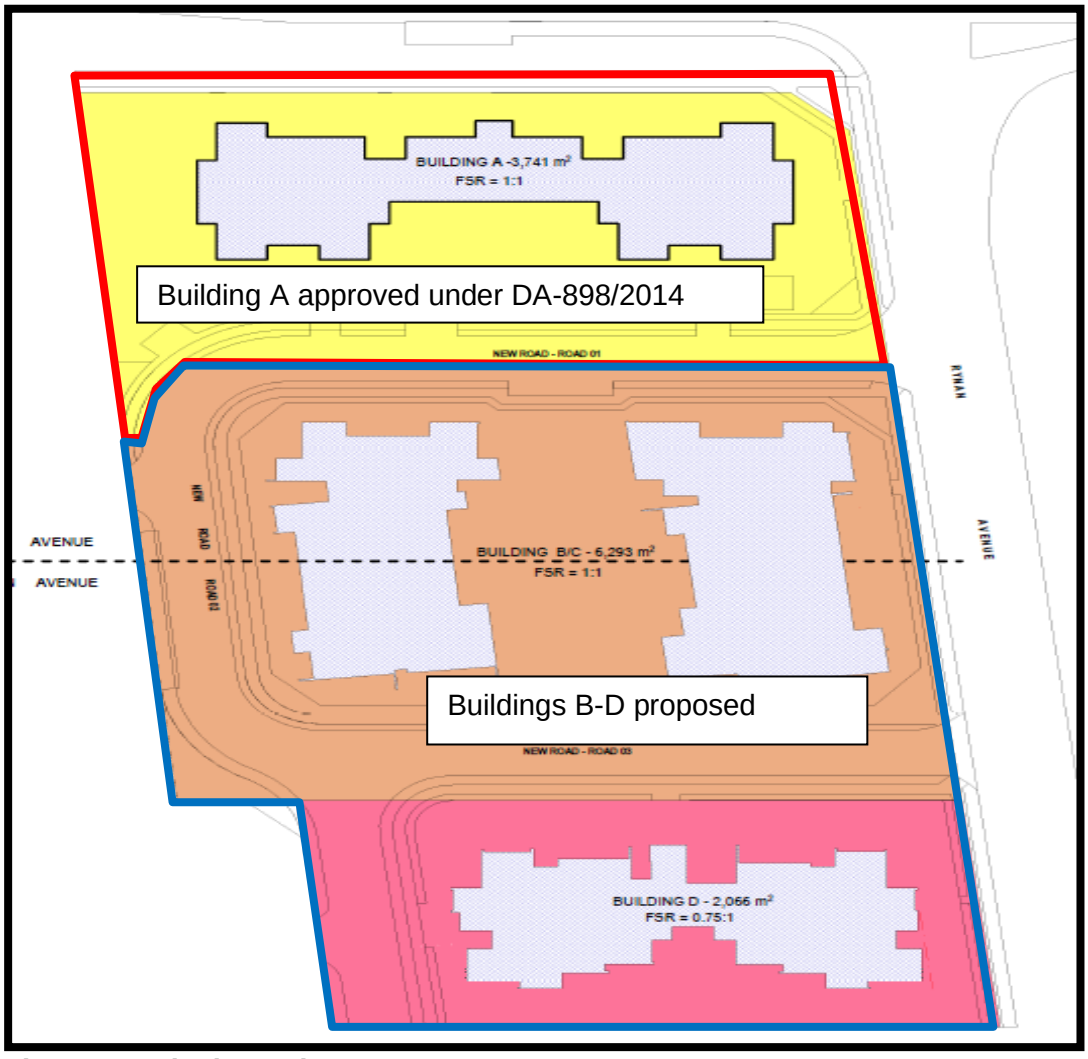

Figure 10: Final Development Layout

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 Flat Development.
- State Environmental Planning Policy No.55 – Remediation of Land.
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;
- State Environmental Planning Policy (State Significant Precincts) 2005
- Liverpool Local Environmental Plan 2008;
- Liverpool Development Control Plan 2008.

Development Control Plans

- Liverpool Development Control Plan 2008
    - Part 1 – Controls to all development
    - Part 2.11 – Land Subdivision and Development in Edmondson Park

Contributions Plans

Liverpool Contributions Plan 2008 Edmondson Park applies to this site.

6. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 4.15 of the Environmental Planning and Assessment Act 1979 as follows:

6.1 Section 4.15(1)(a)(1) – Any Environmental Planning Instrument

(b) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; and the Apartment Design Guide

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 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	The proposed development is considered to respond to its context. The development has been designed to respond to the key natural features of the site including providing a direct response to the future public open space west of the development site. The proposed development is considered to respond to the desired future context for the surrounding locality and the subject site. The proposed development is considered to be of a nature that is consistent with the objectives of the zone in which it is located as well as remaining consistent with the objectives

Design Quality Principle	Comment
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.	intended future built form that is expected on the site and the immediate surrounding locality.
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.	It is considered that the proposed development achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. The proposed development achieves an appropriate built form for the site and is generally consistent with the applicable standards under the Apartment Design Guide (ADG). The proposed development has been reviewed by Council's Design Excellence Panel (DEP) on two occasions and is considered to be satisfactory. The development provides an appropriate form that enhances the streetscape and provides a direct response to the site characteristics including the adjoining public reserve to the west of the development site. The buildings have been designed to improve casual and passive surveillance while also providing direct views of public reserves where possible.
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.	It is considered that the proposed development achieves a high level of amenity. Each apartment meets the minimum requirements in terms of floor area and Private Open Space (POS). The proposed development achieves the required solar access and cross ventilation requirements under the ADG. The development is considered to be of a bulk and scale that is appropriate for the context and consistent with the objectives of the zone in which it is located. The proposed development provides a density that is consistent with the expected densities for the site and will provide an opportunity to encourage employment in the current and future commercial centres in the locality including the Edmondson park Town Centre.
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	The proposed development provides for a sustainable design. The development is consistent with BASIX and has proposed a development that meets the minimum cross ventilation and solar access requirements under the ADG. The proposed development provides a large amount of deep soil zones which further encourages the growth of mature trees and canopy cover across the development site.

Design Quality Principle	Comment
materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation	
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 proposed development provides a generous and extensive landscaping design and provides extensive landscaping along the boundaries of the development and within the development itself. The extensive landscape proposed along the primary frontages will assist in promoting an aesthetically pleasing streetscape. The extensive landscape provided for all three buildings within the communal open space areas creates a sense of place and encourages social interaction.
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 proposed development achieves a high level of amenity for residents and neighbours. All apartments achieve the required room dimensions under the ADG as well as achieving the required solar access and natural ventilation under the ADG. The development has been designed to maximise visual and acoustic privacy through the design.
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.	The proposed development has been designed to maximise active and passive surveillance where possible. The development has been designed to encourage casual and passive surveillance of the street, future public open space and the communal open space within the development.

Design Quality Principle	Comment
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.	
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 achieves an appropriate apartment mix and sizes that will provide for a variable housing mix and choice for different demographics. The development has been designed with appropriately located and designed communal open space areas that encourages social interaction. The proposed development has also been designed to take advantage of future communal open spaces located to the west of the site, which will also encourage social interaction of residents within the development as well as residents within the surrounding locality.
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 proposed buildings have been designed with a good mix of building materials and contribute to a positive streetscape.

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 development 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	All three buildings have a maximum apartment depth of between 12-18m.
2F Building separation	

Provisions	Comment
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	**<u>Between buildings B and C</u>** **Ground Floor** • A separation in excess of 23m is provided between buildings B and C at the ground floor is provided between habitable rooms which complies. • A separation of 16m is provided between buildings B and C at the ground floor between habitable rooms and non-habitable rooms which complies. **Levels 1-3** • A separation in excess of 23m is provided between buildings B and C at levels 1-3 between habitable rooms which complies. • A separation of 16m is provided between buildings B and C at levels 1-3 between habitable rooms and non-habitable rooms which complies. • A separation of 16m is provided between buildings B and C at levels 1-3 between non-habitable rooms which complies. **<u>Building D</u>** As there is no building of a similar height located south of building D across the common boundary it would be considered equitable to divide the required building separation across the boundary to enable a similar scale development to be constructed on the adjoining site to the south. **Ground Floor** • A building setback of a minimum 6m is provided to the southern boundary, which complies. **Levels 1-3** • A building setback of a minimum 6m is provided to the southern boundary which complies.

Provisions	Comment
Five to eight storeys (approximately 25m): - 18m between habitable rooms/balconies - 12m between habitable and non-habitable rooms - 9m between non-habitable rooms	**Between buildings B and C** **Level 4** • A separation in excess of 23m is provided between buildings B and C at level 4 between habitable rooms which complies. • A separation of 15.5m is provided between buildings B and C at level 4 between habitable rooms and non-habitable rooms which complies. • A separation of 15.3m is provided between buildings B and C at level 4 between non-habitable rooms which complies.
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	The design of the proposed development is based on existing site conditions and constraints. The proposed development takes advantage of the northerly aspect where possible to maximise solar access to the development. The proposal provides for adequate presentation to the street and future public open space which provides for an aesthetically pleasing development.
3B Orientation	
Building types and layouts respond to the streetscape and site while optimising solar access within the development Overshadowing of neighbouring properties is minimised during mid-winter	The development provides for a building type and layout that optimises solar access to the individual units where possible and the POS and COS available for the development. The proposal has been designed to minimise overshadowing on adjoining neighbours particularly to the south an also provides appropriate building separation to enable a similar development to be constructed on the southern adjoining site in accordance with the height limits and FSR applicable to the site.
3D Communal and public open space	
Communal open space has a minimum area equal to 25% of the site 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	**Lot 2 – Containing Building B and C** Site Area = 3,538m² COS required = 25% or 884.5m² COS provided = 35% or 1,240m². 897m² provided at ground level between buildings B and C and an additional 187m² provided on level 4 of Building B as podium COS and an additional 156m² provided on level 4 of Building C as podium COS. **Lot 5 – Containing Building D** Site Area = 2,186m² COS required = 25% or 546.5m² COS provided = 231m² or 10.5% **(COS for Building D is non-compliant, please refer to discussion below)** COS has been designed to allow for a range of activities and is responsive to site conditions. The proposed development has been designed to utilise the future public open space and

<table>
<tr><th>Provisions</th><th>Comment</th></tr>
<tr><td></td><td>increase the amount of private and public recreational facilities available to the residents within the development.</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><u>Lot 2 – Containing Building B and C</u>

Site Area = 3,538m²
Deep soil required = 7% or 247.6m² with a minimum 6m width
Deep soil provided = 22% or 781m² with a minimum 6m width

<u>Lot 5 – Containing Building D</u>

Site Area = 2,186m²
Deep soil required = 7% or 153m² with a minimum 6m width.
Deep soil provided = 22% or 479m² with a minimum 6m width.</td></tr>
<tr><td colspan="2">3F Visual Privacy</td></tr>
<tr><td>Minimum 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>All buildings achieve the minimum separation distances from side and rear boundaries. Please refer to section 2F.</td></tr>
<tr><td colspan="2">3G Pedestrian Access and Entries</td></tr>
<tr><td>Building entries and pedestrian access connects to and addresses the public domain</td><td rowspan="3">All building and pedestrian access connects to and addresses the public domain. Entries are easy to identify.</td></tr>
<tr><td>Access, entries and pathways are accessible and easy to identify</td></tr>
<tr><td>Large sites provide pedestrian links for access to streets and connection to destinations</td></tr>
<tr><td colspan="2">3H Vehicle Access</td></tr>
<tr><td>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</td><td>Vehicular access points for each building are located away from each other to minimise conflicts and achieve safety.</td></tr>
<tr><td colspan="2">3J Bicycle and Car Parking</td></tr>
<tr><td>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</td><td>The Liverpool Development Control Plan (LDCP), parking rates apply to this development. Please refer to the LDCP assessment table for parking assessment.

Car parking design is considered to be safe and secure. The basement parking facilities provide options for the parking of alternative modes of transport including bicycles and motorcycles. All basement parking facilities are located to minimise impacts on the surrounding locality in terms of visual impact and acoustic privacy.</td></tr>
</table>

<table>
<tr><th>Provisions</th><th>Comment</th></tr>
<tr><td>Parking and facilities are provided for other modes of transport</td><td rowspan="5"></td></tr>
<tr><td>Car park design and access is safe and secure</td></tr>
<tr><td>Visual and environmental impacts of underground car parking are minimised</td></tr>
<tr><td>Visual and environmental impacts of on-grade car parking are minimised</td></tr>
<tr><td>Visual and environmental impacts of above ground enclosed car parking are minimised</td></tr>
<tr><td colspan="2">4A Solar and Daylight Access</td></tr>
<tr><td>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</td><td>80% of living rooms and POS receive a minimum 2 hours of solar access at mid-winter. Moreover 60% of all units receive 3 or more hours of solar access.</td></tr>
<tr><td>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</td><td>Less than 15% of apartments in each building will receive no direct sunlight at mid-winter</td></tr>
<tr><td colspan="2">4B Natural Ventilation</td></tr>
<tr><td>All habitable rooms are naturally ventilated</td><td rowspan="4">65% of all apartments are naturally cross-ventilated. All cross-through apartments do not exceed 18m from glass line to glass line.</td></tr>
<tr><td>The layout and design of single aspect apartments maximises natural ventilation</td></tr>
<tr><td>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</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">A minimum 2.8m floor to ceiling height is proposed for all habitable areas. A 3m floor to floor is also proposed. The proposed development provides an extra 100mm floor to ceiling height to increase the amenity of the living space and contribute to a better living environment.</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</td><td>All internal areas of apartments exceed the minimum requirement.</td></tr>
</table>

<table>
<tr><th>Provisions</th><th>Comment</th></tr>
<tr><td>and further additional bedrooms increase the minimum internal area by 12m^2 each</td><td></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>All habitable rooms provide for a window to an external wall that is not less than 10% of the floor area of the room.</td></tr>
<tr><td>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</td><td>All habitable room depths comply with this requirement.</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>No habitable room in open plan apartments exceed a depth of 8m from a window.</td></tr>
<tr><td>Master bedrooms have a minimum area of 10m^2 and other bedrooms 9m^2 (excluding wardrobe space)</td><td>All bedrooms comply with this requirement</td></tr>
<tr><td>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</td><td>All bedrooms comply with this requirement.</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>All living areas comply with the minimum widths</td></tr>
<tr><td colspan="2">4E Private Open Space and Balconies</td></tr>
<tr><td>All apartments are required to have primary 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>All balconies exceed the minimum depth and areas required.</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>All ground floor courtyards for Buildings B-D provide POS areas ranging from 20m² to in excess of 100m².</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.

Where design criteria 1 above is not achieved, no more than 12 apartments should be provided off a circulation core on a single level</td><td>The maximum number of apartments off a circulation core does not exceed 8.</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>All storage areas exceed this requirement. More than 50% of the storage area is located within the apartment, with the remaining provided in the basement areas.</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">Apartment layouts have been appropriately designed to minimise acoustic impact.</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>
</table>

Provisions	Comment
A range of apartment types and sizes is provided to cater for different household types now and into the future	An appropriate apartment mix is provided within the development. Appropriate residential mix of apartments proposed. In total 34.2% 1 bedroom proposed, 54% 2 bedroom proposed and 11.5% 3 bedroom proposed.
The apartment mix is distributed to suitable locations within the building	
4L Ground Floor Apartments	
Street frontage activity is maximised where ground floor apartments are located	Ground floor apartments have been appropriately designed.
Design of ground floor apartments delivers amenity and safety for residents	
4M Facades	
Building facades provide visual interest along the street while respecting the character of the local area	Visual aesthetic facades have been provided to provide interest to the streetscape.
Building functions are expressed by the facade	
4N Roof Design	
Roof treatments are integrated into the building design and positively respond to the street	Roof design considered appropriate.
Opportunities to use roof space for residential accommodation and open space are maximised	
Roof design incorporates sustainability features	
4O Landscape Design	
Landscape design is viable and sustainable	Landscape design is considered appropriate and contributes to the streetscape amenity.
Landscape design contributes to the streetscape and amenity	
4P Planting on Structures	
Appropriate soil profiles are provided	Not applicable
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	10% of apartments are adaptable.
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
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
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	Not applicable
Signage responds to the context and desired streetscape character	

Provisions	Comment
4U Energy Efficiency	
Development incorporates passive environmental design	Proposal has been designed to maximise solar access and natural ventilation.
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	Appropriate water management and conservation methods incorporated into the design.
Urban stormwater is treated on site before being discharged to receiving waters	
Flood management systems are integrated into site design	
4W Waste Management	
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Appropriate waste storage facilities have been provided to reduce the impacts on the streetscape.
Domestic waste is minimized by providing safe and convenient source separation and recycling	
4X Building Maintenance	
Building design detail provides protection from weathering	Building materials utilised in the building considered satisfactory. N
Systems and access enable ease of maintenance	
Material selection reduces ongoing maintenance costs	

3D Communal and public open space	
Communal open space has a minimum area equal to 25% of the site 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	**<u>Lot 2 – Containing Building B and C</u>** Site Area = 3,538m² COS required = 25% or 884.5m² COS provided = 35% or 1,240m². 897m² provided at ground level between buildings B and C and an additional 187m² provided on level 4 of Building B as podium COS and an additional 156m² provided on level 4 of Building C as podium COS. **<u>Lot 5 – Containing Building D</u>** Site Area = 2,186m² COS required = 25% or 546.5m² COS provided = 231m² or 10.5% **(COS for Building D is non-compliant, please refer to discussion below)** COS has been designed to allow for a range of activities and is responsive to site conditions. The proposed development has been designed to utilise the future public open space and increase the amount of private and public recreational facilities available to the residents within the development.

Variation to 3D – Communal and Public Open Space

As indicated in the above table the development proposes a 10.5% COS for Building D. This generates a deficiency of 315m² or 42.3%. The location of the COS for Building D is indicated in the figure below;

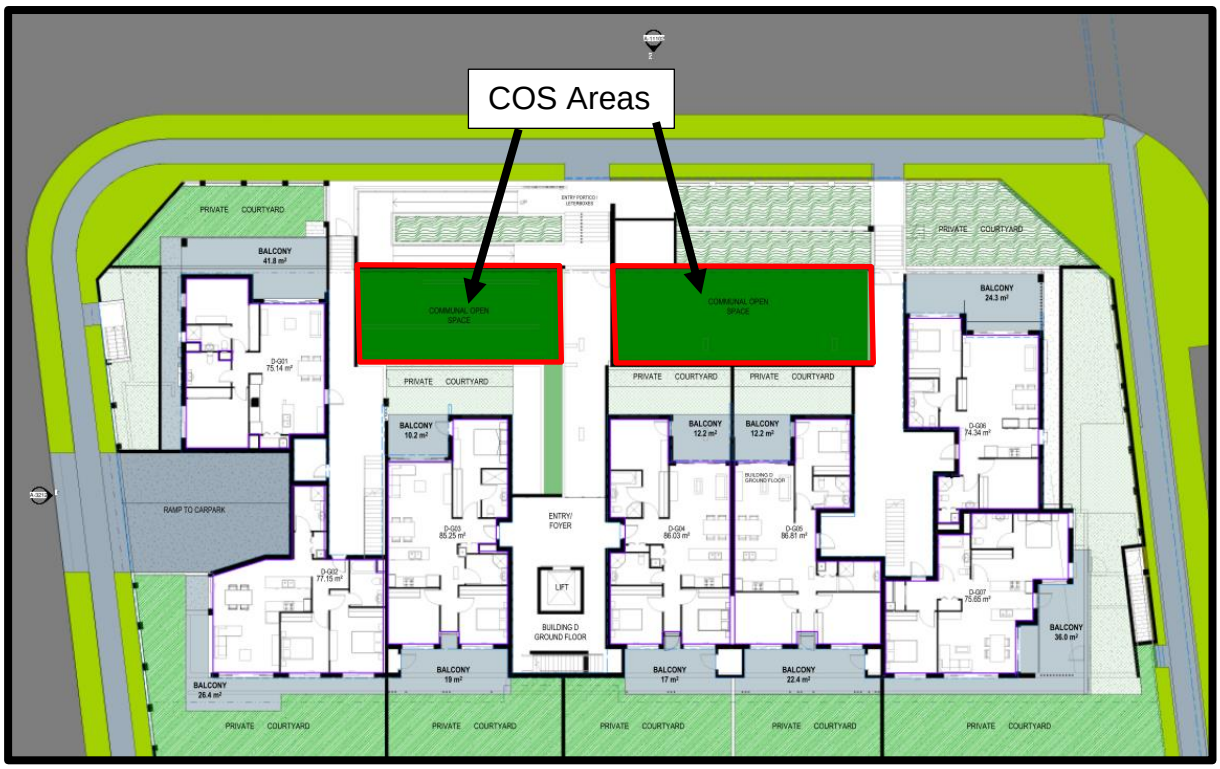

Figure 11: Location of COS for Building D

The variation to section 3D of the ADG for Building D is worthy of support in this instance for the following reasons;

1) Despite the deficient COS area for the site, the proposal provides for generous POS areas throughout the building for each unit. All ground floor apartments are afforded with POS areas ranging from 40sqm to upwards of 100sqm. This far exceeds the 15sqm and enables sufficient areas for recreation within these courtyards. All balcony areas for the units from Level 1-3 have been afforded with balcony areas in excess of the minimum requirements of the ADG, thus allowing for greater areas for private recreation.

2) The proposed development is directly east of a future public open space area that is approximately 2 hectares in area. This provides a large area within a short walking distance of the development site that can be utilised for the purpose of outdoor recreation.

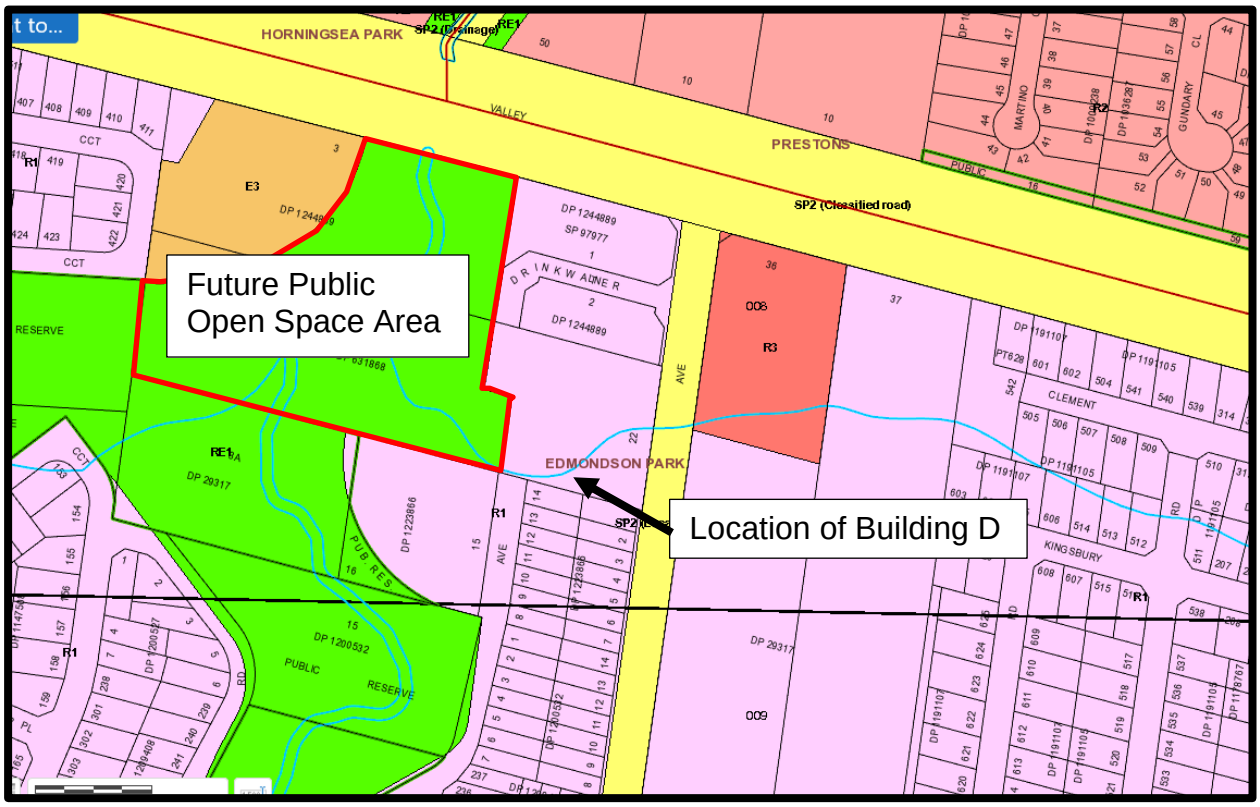

Figure 12: Location of the future public open space

3) Despite the deficient COS areas the proposal still maintains sufficient landscaping and deep soil areas and provides sufficient space on site and along the street boundary for suitable tree planting.

Having regard to the above the non-compliance of the common open space is considered worthy of support in this instance.

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

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

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

EIS (Environmental Investigation Services) have prepared a Stage 2 Environmental Site Assessment (ref:E28733Krpt) dated 24 February 2016 for the proposed residential development.

The investigation encountered FCF and loose fibre bundles containing asbestos. During sampling the FCF were assessed to be in good condition and could not be broken by hand pressure. The loose fibre bundles within the soils profile indicate that the material is ‘friable’. The FCF material was assessed to be ‘non-friable’ based on field information. EIS are of the opinion that the risk posed to human receptors is moderate and will require remediation and/or management.

EIS consider that the site can be made suitable for the proposed development provided that the following recommendations are implemented to address the data gaps and to minimise/better manage/characterise the risks:

1. Prepare a Remediation Action Plan (RAP) to outline remedial measures for the site;

2. Prepare a Validation Assessment (VA) report on completion of remediation; and
3. Undertake a Hazardous Materials Assessment (Hazmat) for the existing buildings prior to the commencement of demolition work.

EIS (Environmental Investigation Services) have prepared a Remediation Action Plan (REF: E28733Krpt2-RAP) dated 5 May 2016 for the proposed residential development.

The scope of work included a review of the background information; identify potential remediation options; outline the remedation procedures; outline the validation sampling and analysis plan for the remedation work and preperation of the RAP report. EIS conclude that the site can be made suitable for the proposed development provided the recommendations in the RAP are successfully implemented, including a validation assessment.

Council's Environment and Health section have reviewed the report and agree that the site can be made suitable for the proposed development.

Clause 7 - Contamination and remediation to be considered in determining development application	**Comment**
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	A stage 2 contamination assessment and a RAP prepared by EIS that have been submitted with the DA concluded that the site is potentially contaminated.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	The submitted assessment concluded that the sites will be made suitable once the recommendations of the RAP are implemented.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	Conditions have been imposed to this effect.

Given the above, the site is considered to be suitable for the proposed development and meets the requirements of SEPP 55.

(d) State Environmental Planning Policy (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 are imposed to ensure compliance with the BASIX commitments.

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

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

When a consent authority determines a development application planning principles are to be applied (Clause 7(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	Planning principles are to be applied when a consent

taken into account:	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. The 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 sulfate soils	The site is not identified as containing the potential for acid sulphate soils to occur.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The site is identified as flood prone. The proposal has been reviewed by Council's flooding engineers and considered satisfactory.
(4) Industrial discharges	Not applicable.
(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	Not Applicable
(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 during construction. The development will have minimal impact on the Georges River Catchment.

(f) State Environmental Planning Policy (Infrastructure) 2007

The subject site has a secondary frontage to Camden Valley Way. Camden Valley Way is a Classified Road and as such the proposal must be considered under the relevant

provisions of the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP). Specifically the following clause has been considered during the assessment of this proposal.

102 Impact of road noise or vibration on non-road development

(1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers is likely to be adversely affected by road noise or vibration:

(a) a building for residential use,
(b) a place of public worship,
(c) a hospital,
(d) an educational establishment or child care centre.

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

(a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

*(4) In this clause, **freeway**, **tollway** and **transitway** have the same meanings as they have in the Roads Act 1993.*

Comment: In response to the above clause the applicant submitted an acoustic assessment, prepared by Acoustic Logic, dated 20 April 2016. The report recommended a variety of acoustic treatments to comply with the SEPP Infrastructure. The acoustic assessment was reviewed by Council's Environmental Health Department and found to be satisfactory. Therefore conditions of consent have been included, that ensure the recommendations specified in the acoustic report will be implemented during the construction.

Given the above it is considered that the subject proposal meets the relevant objectives and regulations of Clause 102. The proposed development has incorporated suitable acoustic treatments in accordance with the submitted acoustic report to comply with the relevant requirements of the Infrastructure SEPP.

(g) Liverpool Local Environmental Plan 2008

The subject site is split zoned between an E3 Environmental Management zone, which is isolated to the western portion of the site, an RE1 Public Recreation Zone, which is isolated to the centre of the site and an R1 General Residential zone which encompasses the eastern portion of the site, with a small pocket in the north-western corner of the site. The proposed development is proposed on the eastern portion of the site that is zoned R1 General Residential.

(i) Permissibility

The proposed development is most appropriately defined by the standard instrument as "Residential Accommodation" and more specifically "Residential Flat Building", which is a permitted land use in the R1 General Residential Zone. A residential flat building is defined as;

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

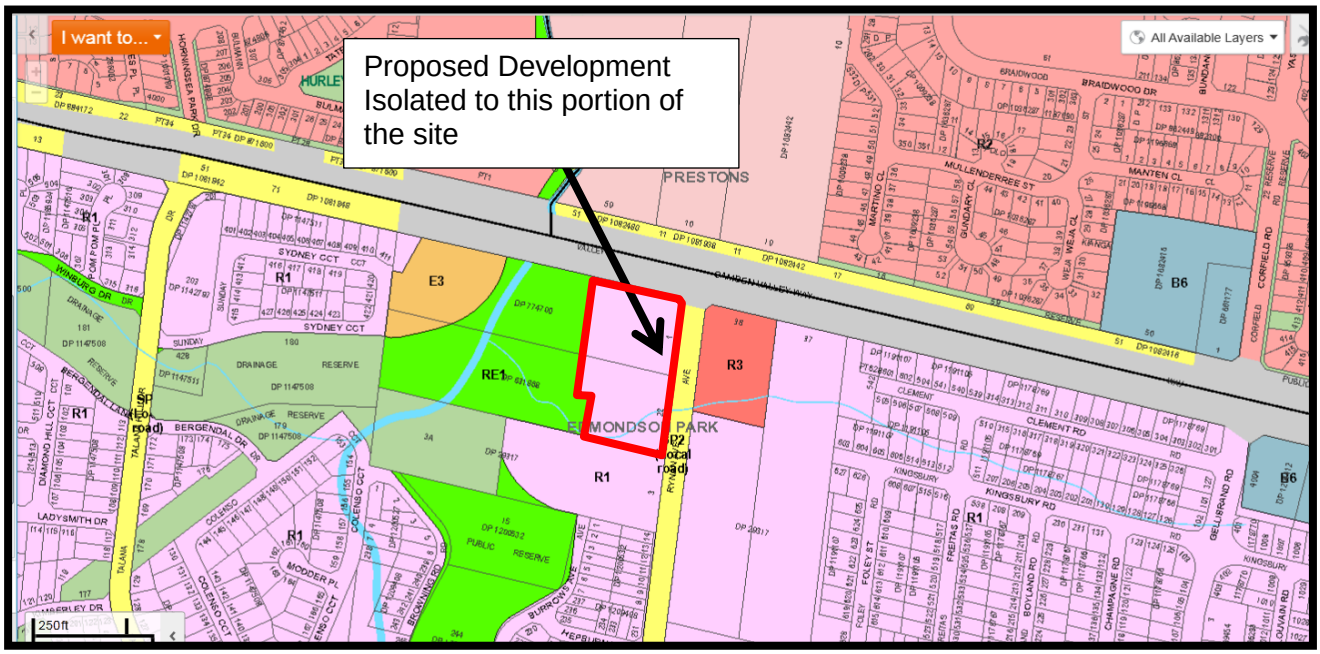

Figure 13: Zoning Map

(ii) Objectives of the zone

The objectives of the R1 General Residential Zone under the LLEP 2008 are as follows;

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that housing densities are broadly concentrated in locations accessible to public transport, employment, services and facilities.*
- *To facilitate development of social and community infrastructure to meet the needs of future residents.*

The proposed development provides housing needs for the community. The proposed development also provides an opportunity for the provision of a variety of housing types and densities in a developing area. Having regard to the above it is considered that the proposed development is consistent with the objectives of the R1 General Residential Zone.

(iii) Principal Development Standards and Provisions

The following principal development standards are applicable to the proposal when assessed against the LLEP 2008:

DEVELOPMENT PROVISION	REQUIREMENT	PROPOSED	COMMENT
4.1 Subdivision Lot Size	Minimum 300m²	Lot 2 = 3,538m² Lot 3 = 4,014m² (Road dedication) Lot 5 = 2,186m²	Yes Yes Yes

4.3 Height of Buildings	Maximum 15m & 12m	**<u>Building B and C</u>** Permissible = 15m Building B = 15.7m-16.67m to top of parapet and 18.09m to lift overrun. Building C = 15.55m-16.31m to top of parapet and 16.56m to top of lift overrun. **<u>Building D</u>** Permissible = 12m Proposed = 12.37m-13.89m to top of parapet and 15.12m to lift overrun.	**NO** (See clause 4.6 variation below), **NO** (See clause 4.6 variation below) variation equates to a maximum 25.75%
4.4 Floor Space Ratio	Maximum 1:1 & 0.75:1	**<u>Overall FSR (Pre-Subdivision and dedication of road)</u>** Maximum GFA permissible = 12,129m² (when reflected as a ratio it equates to 0.95:1) Maximum GFA proposed = 12,129m² (when reflected as a ratio it equates to 0.95:1) **<u>FSR post subdivision and dedication of roads</u>** **Lot 2 Containing Buildings B and C** Maximum FSR permissible = 1:1 or 3,538m² Maximum FSR proposed = 1.79:1 or 6,323m² **Lot 5 Containing Building D** Maximum FSR permissible = 0.75:1 or 1,639.5m² Maximum FSR proposed = 0.94:1 or 2,065m²	Yes **NO** (See clause 4.6 variation below) variation equates to 78% **NO** (See clause 4.6 variation below) variation equates to 26%

6.5 Public Utilitiy Infrastructure	Public utility infrastructure must be available	Provided by conditions of consent	Yes
7.8 Flood Planning	Proposal is to comply the flood planning controls	Subject property is affected by the 1%AEP flooding from Cabramatta Creek. However the portion of the land under subject development is generally free from the 1%AEP flood and partially affected by the PMF. The site is affected by overland flooding from a major overland flow path draining a significant upstream catchment (on the east) through middle of the site and discharging into Cabramatta Creek on the west.	The proposed development has been reviewed by Council's Flooding Engineers and is considered satisfactory subject to conditions of consent.
7.11 Minimum Dwelling Density	Development site is located within the 17 dwellings/hectare area	Based on the overall site area, 40 dwellings/hectare is provided.	Yes
7.13 Minimum Lot Width in Zones R1, R2, R3 and R4	Minimum width 10m	All lots accommodating residential development i.e. lots 2 and 5 exceed 10m in width	Yes
7.31 Earthworks	Council to consider matters listed (a)-(g)	Matters addressed by applicant and considered by Engineers – conditioned as required	Yes

Discussion on variation under Clause 4.6 of LLEP 2008 development standards

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

Variation to Clause 4.3 Height of Buildings

Clause 4.3 of the LLEP 2008, stipulates that the maximum height permissible on the subject site is 15m and 12m. The part of the development site containing Buildings B and C has a maximum height of building of 15m. The part of the site containing Building D has a maximum height of 12m. The figure below indicates the applicable heights of the site.

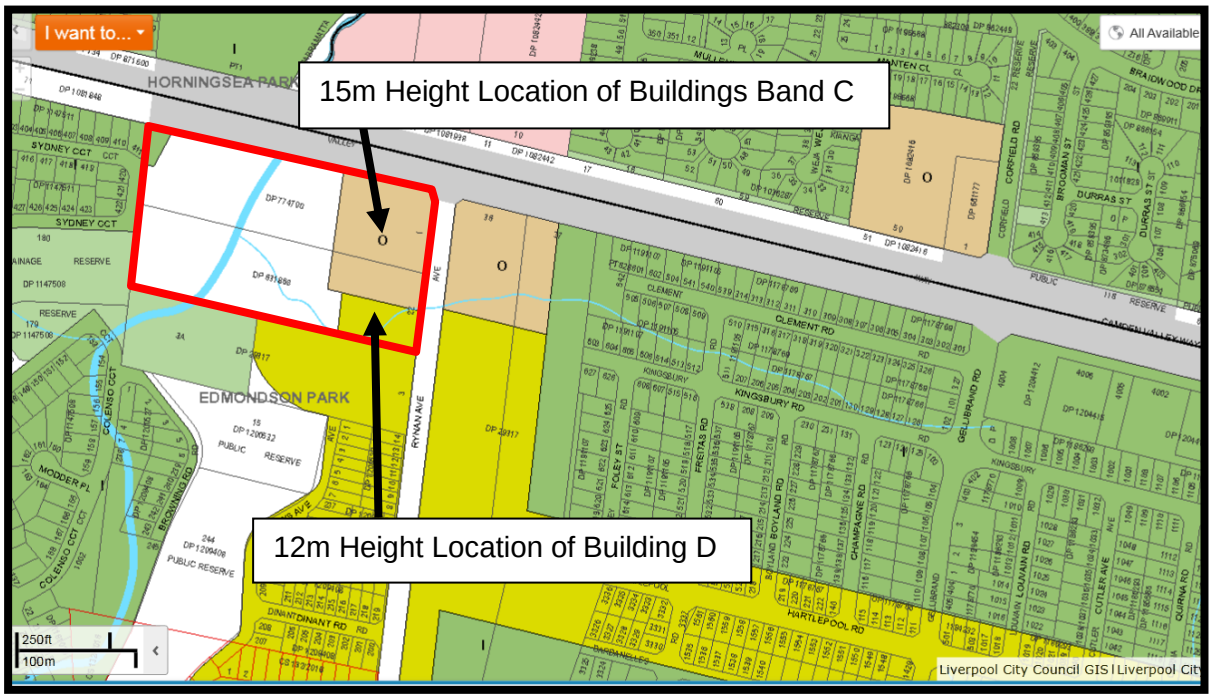

Figure 14: Applicable heights for the site

The development has proposed a maximum height above existing NGL for buildings B ranging from 15.7m-16.67m to the top of the parapet and 18.09m to the lift overrun. The maximum height for Building C above existing NGL varies from 15.55m-16.31m to the top of the parapet and 16.56m to the top of the lift overrun. The maximum height of Building D above existing NGL varies from 12.37m-13.89m to the top of the parapet and 15.12m to the top of the lift overrun. The variation extent ranges from 3% to 15.75% for the height exceedance to the top of the parapet and from 10.4% to 26% to the top of the lift overrun from the existing NGL.

Consequently, the applicant has provided a clause 4.6 variation to justify the non-compliance. The clause 4.6 variation is attached to this report.

The submitted written request to vary Clause 4.3 (Height of buildings) has been assessed against the provisions of Clause 4.6; the objectives of the Clause being varied; and the objectives of the R1 zone, are discussed below:

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

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

(1) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(2) *Development consent must not be granted for development that contravenes a development standard unless:*
  (a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

1) Circumstances of the development

The application seeks consent for Demolition of existing structures, removal of trees, subdivision into four lots, construction of three residential flat buildings and construction of roads to be dedicated to Council.

2) Written request addressing why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the contravening of the development standard

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

- *The site works require changes to the finished ground surface levels surrounding each building in order to achieve an overland flow path within the future public road reserve.*
- *The required site works will markedly change the perceived appearance of the building height throughout the site and particularly from the primary frontages of Rynan Avenue. It is important to note that the changes to finished ground level surrounding each building footprint is similar to the change in finished ground level created for the neighboring subdivision to the south, which has significant elevated the ground level and associated footpath levels immediately adjoining the subject site. The site works will be consistent with the completed streetscape and public domain.*
- *The maximum height of building control of 15m allows for a five storey residential building with a flat roof. The proposed Building B/C is five storeys with a flat roof. The floorplate of the uppermost level of the building is stepped in from the eastern, western and southern facades and from the central courtyard space to reduce the visual appearance and scale at the top storey and enhance the transition of reduce scale towards the south.*
- *The maximum building height control of 12m allows for a four storey residential building with a flat roof. The proposed building D is four storeys with a flat roof.*
- *The largest area of deep soil zone is located within the southern setback area to further enhance the separation between proposed Building D and the adjoining property to the south (which is subject to the same height control).*
- *The proposal displays high quality urban form. The height and floor plate size and layout of each building is distinctly different and adds variety and interest to the streetscape.*
- *The buildings meet the requirements of the ADG in terms of the building siting, orientation and setbacks and apartment design and layout.*
- *The degree to which the buildings exceed the maximum height limit does not substantially change the overall appearance of the buildings and would not be readily apparent to the casual observer at street level.*
- *The future development of the neighboring site to the east is likely to result in buildings of a similar scale and height and the proposed buildings will be well integrated into the evolving character of the neighborhood.*
- *The lift overruns are recessed from the perimeter of both buildings and will not be readily apparent as adding height to the overall building form when viewed from the adjoining public spaces.*
- *The overall siting, layout and design of the proposed buildings has achieved compliance with the requirements of the ADG in terms of solar access for apartments and private open space areas within the development.*

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

- The primary reason for the height exceedance of buildings B-D was to achieve appropriate levels for overland flow to enable flood free access to the site and provide sufficient fall to the drainage basin located west of the site. To achieve the appropriate levels required a finished ground level (FGL) of generally 43.1 needs to be obtained east of the site closer to Rynan Avenue with a gradual down-slope west of the site to a FGL of generally 42.1. Moreover, Councils also requires an additional 500mm of free board to be provided above the flood level for each building.

  Having regards to the levels above, the development will requires on average 1m of fill to obtain the appropriate FGL required and also provide an additional 500mm of freeboard for each building to achieve the required Finished Floor Level (FFL). All buildings have been provided with levels that are consistent with the required levels. Building B closest to Rynan Avenue has provided a FFL of 43.76, Building C located further west has provided a FFL of 42.7. Building D provides an FFL of 44.00.

  It is important to note that height exceedance for this development is taken from existing NGL as required by the LLEP. As indicated in the figures below once the site is filled to achieve appropriate flood free access the height exceedance from the new FGL is negligible.

  With regards to building B, the height exceedance pre-fill to the top of the parapet varies 700mm along the south-eastern elevation to a maximum of 1.67m along the south-western elevation. When taking into account the lift overrun the height exceedance is 3.09m along the south-western elevation.

  However once the site is filled the height exceedance to the top of the parapet varies from nil along the south-eastern elevation to a maximum of 850mm along the south-western elevation. When taking into account the lift overrun the height exceedance is 2.27m along the south-western elevation. It is important to note that not all of the building exceeds the 15m height limit once filled as indicated in the figure below.

  With regards to Building C, the height exceedance pre-fill to the top of the parapet varies 550mm along the south-eastern elevation to a maximum of 1.31m along the south-western elevation. When taking into account the lift overrun the height exceedance is 1.56m along the south-western elevation.

  However once the site is filled the height exceedance to the top of the parapet varies from nil along the south-eastern elevation to a maximum of 490mm along the south-western elevation. When taking into account the lift overrun the height exceedance is 740mm along the south-western elevation. It is important to note that the majority of Building C is within the height limit once the site is filed to the appropriate levels. The non-compliance will be limited to a minor element of the building along the western elevation and the lift overrun.

  With regards to building D, the height exceedance pre-fill to the top of the parapet varies 370mm along the south-eastern elevation to a maximum of 1.89m along the south-western elevation. When taking into account the lift overrun the height exceedance is 3.12m at the centre of the building.

  However once the site is filled the height exceedance to the top of the parapet varies from 200mm along the south-eastern elevation to a maximum of 570mm along the south-western elevation. When taking into account the lift overrun the height exceedance is 1.8m at the centre of the building. It is important to note that the non-compliance post fill for Building D is predominately limited to the parapet and does not is encroach into the floors of the building.

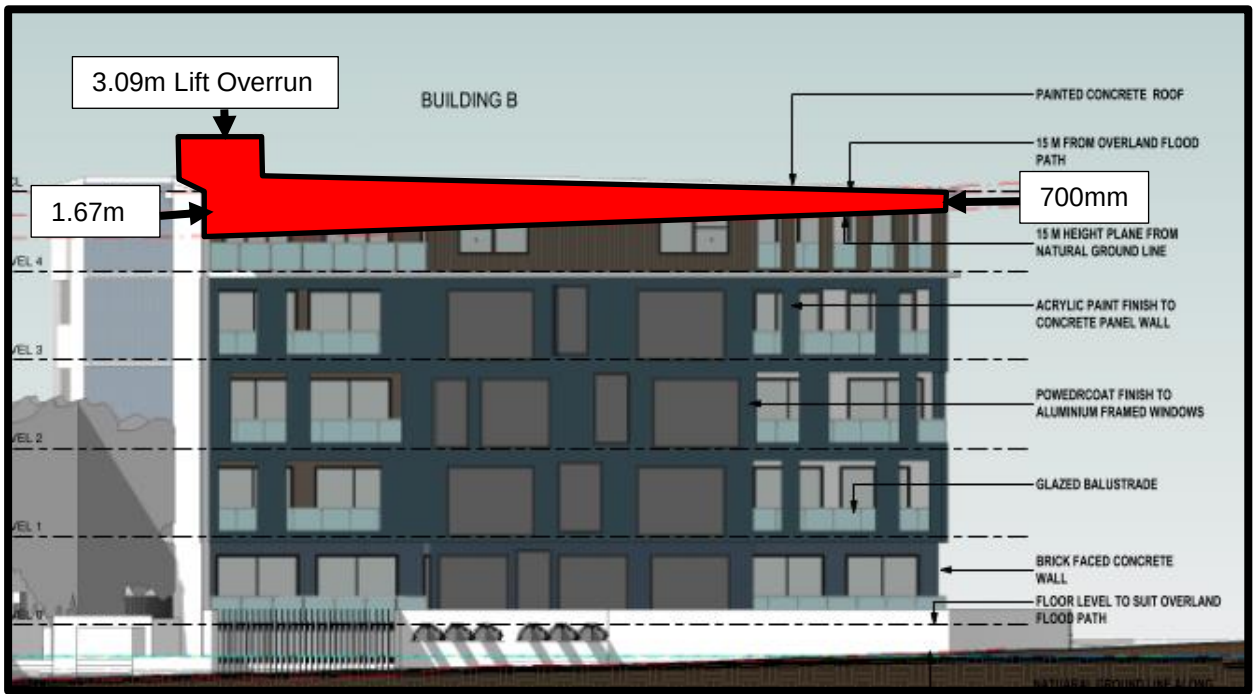

Figure 15: Height Exceedance from existing NGL from south elevation Building B (pre-fill)

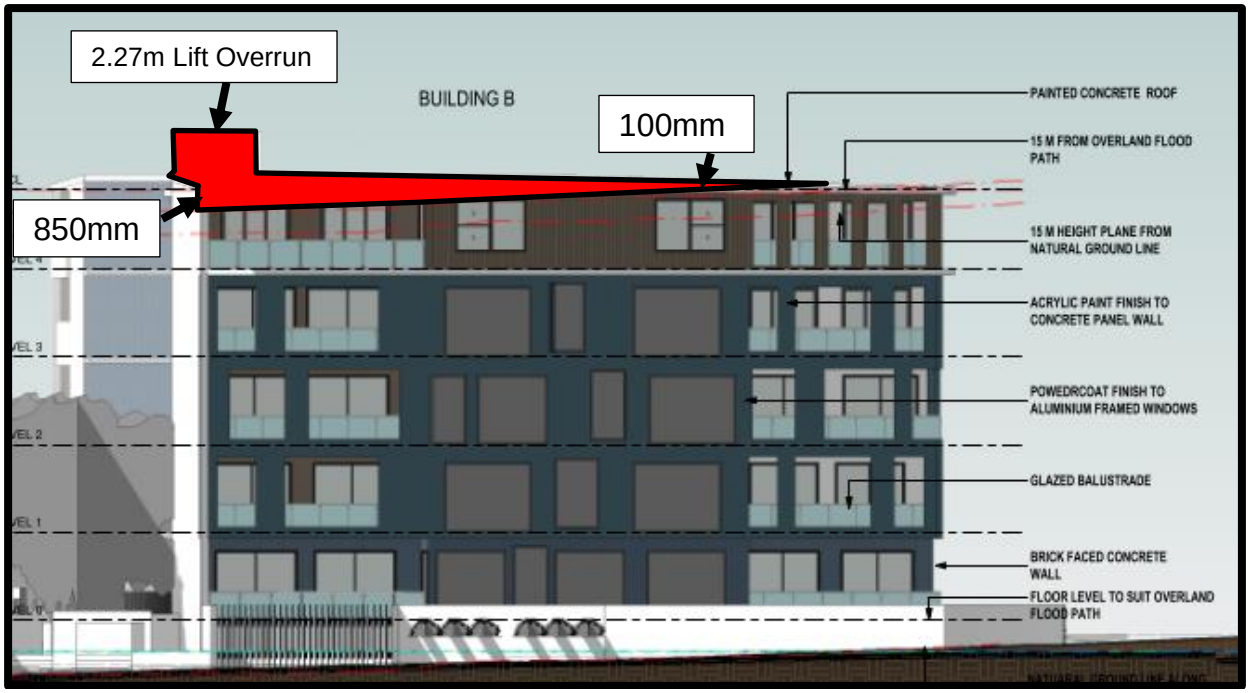

Figure 16: Height Exceedance from proposed FFL from south elevation Building B (post-fill)

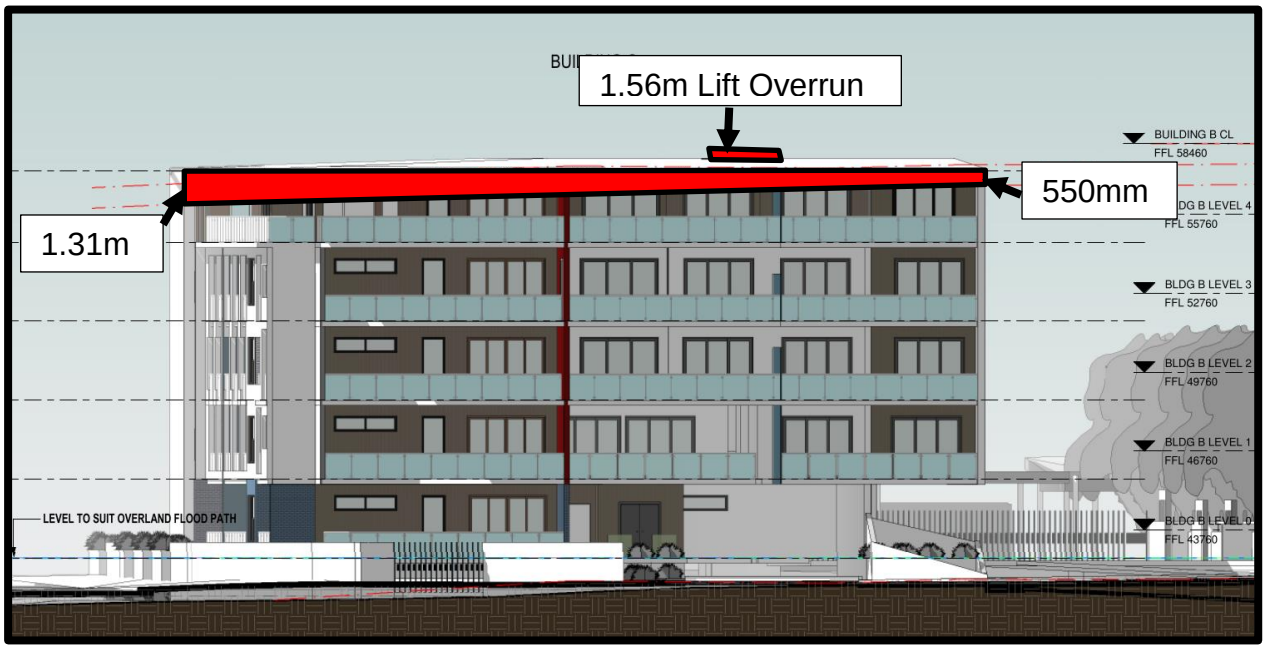

Figure 17: Height Exceedance from existing NGL from south elevation Building C (pre-fill)

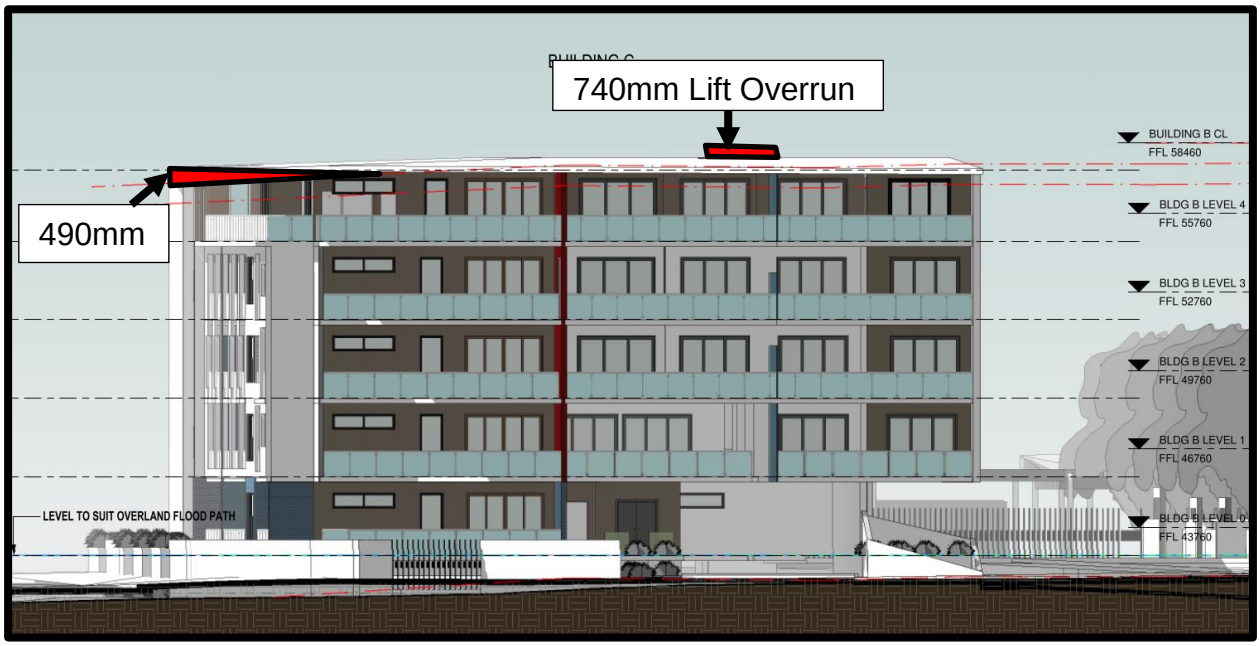

Figure 18: Height Exceedance from proposed FFL from south elevation Building C (post-fill)

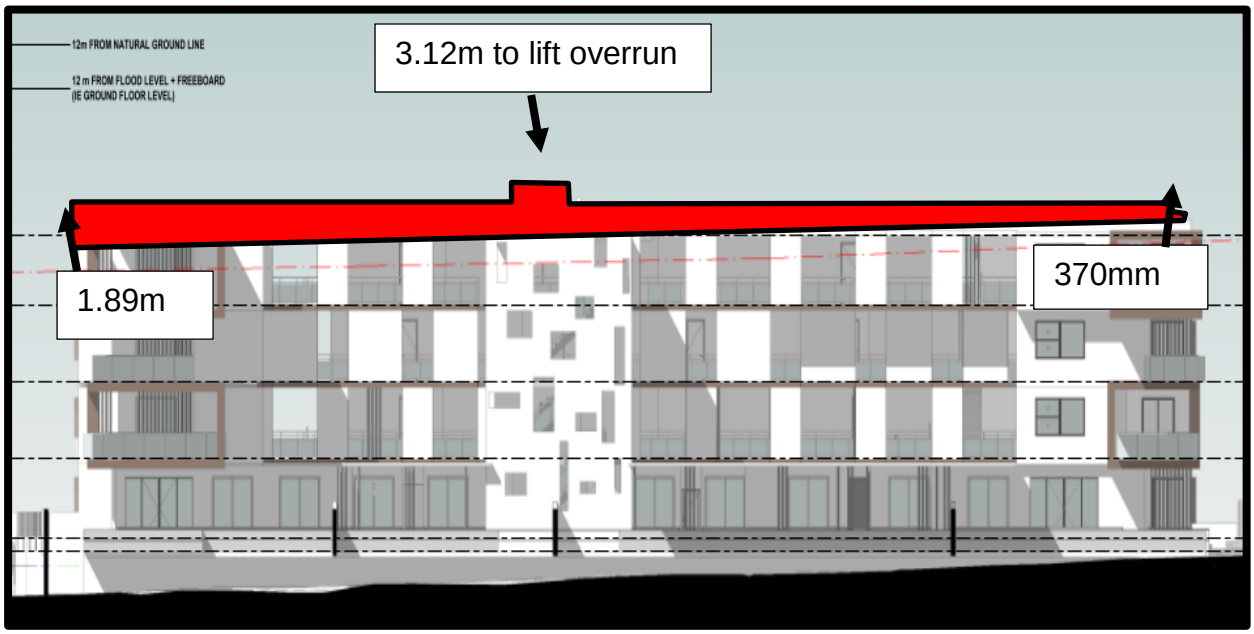

Figure 19: Height Exceedance from existing NGL from south elevation Building D (pre-fill)

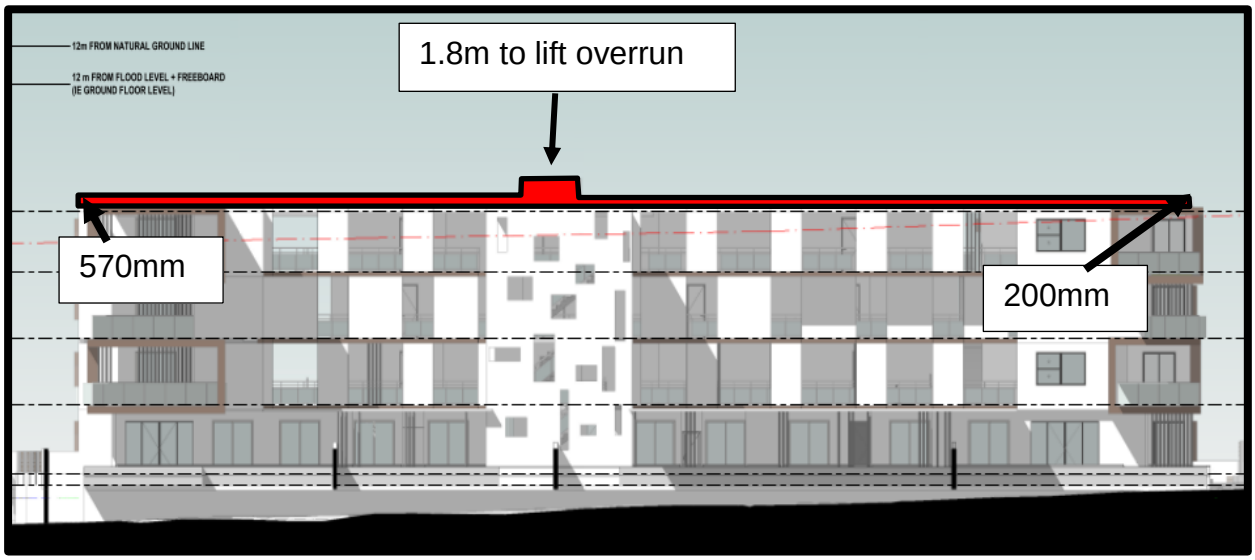

Figure 20: Height Exceedance from proposed FFL from south elevation Building D (post-fill)

- The maximum extent of the height exceedance occurs along the western portion of the Buildings B-D. The western portion of the building B directly adjoins the central communal open space area, while the western elevation of Building C is located directly adjacent to a proposed new road that is to be constructed and dedicated to Council and directly across the road from future public open space. As there is no residential development at the point where the height exceedance is at its worst along the western elevations, the exceedance will not create any additional overshadowing or privacy impacts on residential properties.

- The site where Buildings B and C are located are surrounded by roads to the north, south, east and west effectively creating an island effect. Given the location of these buildings, any additional overshadowing will be directly impact the surrounding road network and will not impact on the residential amenity of Building D or any other surrounding residential property.

- Similarly the maximum extent of the height exceedance to Building D occurs along the western portion of the building. The western elevation of Building D directly adjoins a proposed new road to the west and is directly across the road from future public open space. As there is no residential development at the point where the height exceedance

is at its worst along the western elevations, the exceedance will not create any additional overshadowing or privacy impacts on residential properties.

- As indicated in the figures above once the development site is filled to obtain flood free access the area of exceedance to the top of the parapets for B-D are limited to minor elements of the building and do not generate additional impacts on privacy or overshadowing.

- The area where the most significant exceedance occurs is at the lift overrun. The lift overrun is located at the centre of the roof and is not readily visible when viewed from street level. The height exceedance at the lift overrun does not generate additional overshadowing impacts on adjoining properties.

- The development provides a consistent floor to ceiling height of 2.8m, which exceeds the minimum 2.7m required by the ADG. The additional 100mm provides additional amenity for the units by enabling better solar access and cross-ventilation and enables a better urban design outcome.

- The proposed development has also been designed to cater for the approximate 2m cross fall across the site from Rynan Avenue to the west of the site nearest to the future public reserve. It is evident that post fill that the primary area of exceedance occurs along the western elevation of the buildings. This can also be attributed to the fact the buildings have been designed to cater for the slope of the site.

- The proposed buildings remain consistent with the expected number of storeys envisaged by the maximum height limits on the site. It envisaged that a 15m height limit will cater for a five storey building when considering the minimum 2.7m floor to ceiling height and 3m floor to floor height under the ADG. Similarly, it is envisaged that a 12m height limit will cater for a four storey building when considering the requirements of the ADG. As evident by the proposal, Buildings B and C are five storeys in height and Building D is four storeys in height.

- Notwithstanding the height exceedance the proposed development does not create any additional overshadowing or privacy impacts on the adjoining developments.

- The proposed development is considered to be of an appropriate bulk and scale and is consistent with the design principles and relevant standards and objectives of the ADG.

- It is important to note that the site directly south of the development site is located within a 12m height limit area. As such, when the site directly south is developed to the height permissible under the LLEP it will be of a form and scale that is fairly similar to that of building D.

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

The objectives of Clause 4.3 and assessment are as follows:

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

Comment: It is considered that the proposed development is consistent with the objectives of Clause 4.3 in that the proposed development encourages high quality urban form. Despite the non-compliance the proposed development achieves the required solar access to living areas, COS and POS as required by the ADG. The proposed development provides an appropriate transition from the 15m height limit to the 12m height limit south of the site.

4) Consistency with objectives of the zone – R1 General Residential

The objectives of the R1 General Residential Zone under the LLEP 2008 are as follows;

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that housing densities are broadly concentrated in locations accessible to public transport, employment, services and facilities.*
- *To facilitate development of social and community infrastructure to meet the needs of future residents.*

The proposed development provides housing needs for the community. The proposed development also provides an opportunity for the provision of a variety of housing types and densities in a developing area. Having regard to the above it is considered that the proposed development is consistent with the objectives of the R1 General Residential Zone.

5) Consistency with Clause 4.6 objectives

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

It is considered appropriate in this instance for the reasons stated above to apply a degree of flexibility when applying the maximum height development standard.

6) Recommendation

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

Discussion on variation under Clause 4.6 of LLEP 2008 development standards

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

Variation to Clause 4.4 Floor Space Ratio

Clause 4.4 of the LLEP 2008, stipulates that the maximum FSR permissible on the subject site is 1:1 and 0.75:1. The part of the development site containing Buildings B and C has a maximum FSR of 1:1. The part of the site containing Building D has a FSR of 0.75:1. The figure below indicates the applicable FSR's of the site.

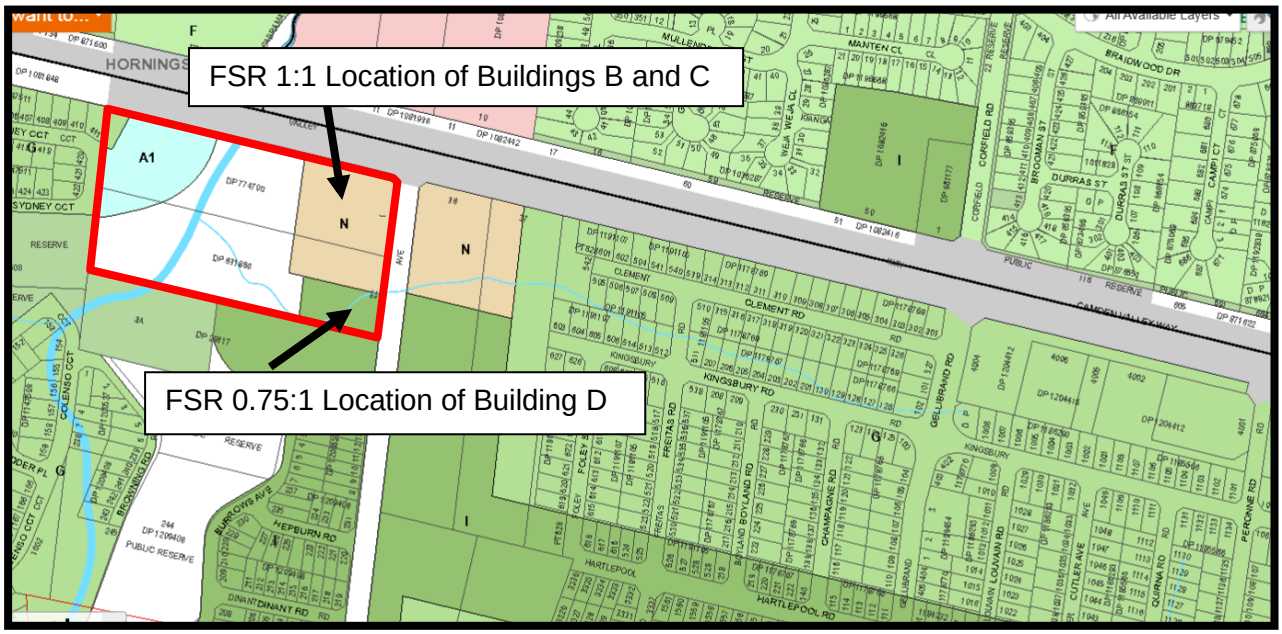

Figure 21: Surrounding FSR

As indicated in the assessment table above the development provides for a Gross Floor Area of (GFA) 12,129m² overall which equates to an FSR of 0.94:1, which complies with the LLEP 2008. The GFA overall is inclusive of the approved Building A in addition to the proposed Buildings B-D. However once the roads that are to be dedicated to Council are constructed the resultant Lots that contain Buildings B-D generate a non-compliance with the applicable FSR. On future Lot 2 containing Buildings B-C the resultant FSR post dedication of roads is 1.79:1 instead of 1:1, which exceeds the allowable FSR on future Lot 2 by 2,785m².

Similarly on future Lot 5 containing Building D the resultant FSR post dedication of roads is 0.94:1 instead of 0.75:1, which exceeds the FSR on future Lot 5 by 425.5m². Consequently the applicant has provided a clause 4.6 variation to justify the non-compliance. The clause 4.6 variation is attached to this report.

The submitted written request to vary Clause 4.4 (Floor Space Ratio) has been assessed against the provisions of Clause 4.6; the objectives of the Clause being varied; and the objectives of the R1 zone, are discussed below:

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

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

(1) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(3) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) the consent authority is satisfied that:

(iii) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(iv) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

7) Circumstances of the development

The application seeks consent for Demolition of existing structures, removal of trees, subdivision into four lots, construction of three residential flat buildings and construction of a road to be dedicated to Council.

8) Written request addressing why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the contravening of the development standard

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

- *The maximum permitted FSR has been distributed across the entire development site and the form of development and resultant yield across the site is consistent with the intended density under the LEP. However, the proposal results in a technical non-compliance as each part of the site is to be subdivided to allow for the construction of the residential flat buildings and the construction and dedication of the proposed roads.*

- *It is a reasonable expectation and widely accepted practice that density can be extracted out of land which is dedicated as part of either a development application process or voluntary planning agreement. In the case of the subject site, the density that is afforded to the site collectively is allocated to proposed buildings A, B, C and D and the technical non-compliance with the FSR control results from the necessary land subdivision.*

- *On "planning grounds" and in order to satisfy that the proposal meets objective 1(b) of Clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve "a better outcome for and from development", it is noted that the proposed variation to the maximum FSR is a technical non-compliance arising from the subdivision of the site into smaller parcels of land. It is considered that applying flexibility to the FSR controls in this instance will allow for the permitted density to be provided across the development site and the associated subdivision will assist with realising the intended development form in the area. Specifically, the subdivision proposed will allow for the construction of the proposed apartments and the dedication of a local road to Council that will ultimately assist with access and redeveloping the adjoining property to realise the intended development outcome at the site and the area.*

- *The level of density provided across the development as a whole, is commensurate with the level of activity that is to be expected as a result of the applicable FSR controls. Insistence on strict compliance with the FSR control would require the withdrawal of the subdivision aspect of the proposal and would result in a less desirable urban outcome.*

- *The site as a whole, has been designed to provide less than the maximum permitted gross floor area that has been afforded to the site. The density that was applied to the site was done so in light of the strategic context of the area and the ability of the local infrastructure,*

roads and services to accommodate that density. As the proposal relates to a technical non-compliance arising from subdivision of the site into smaller parcels of land, the level of density provided across the development site as a whole, is commensurate with the level of activity that was expected as part of drafting the FSR controls.

- *The development could be configured to provide a road that consisted of a right of way across two separate lots, rather that the creation of a lot that was to be dedicated as a road. In this instance there would be no numerical non-compliance. That being said, there is no difference between the resultant density and form of development as proposed, to that which does not include subdivision. As such, the proposal represents a form of development across the site that is consistent with the level of density afforded to the site.*

- *Despite the technical non-compliance proposed, in relation to Lots 1, 2 and 5 there are no adverse environmental impacts on adjoining properties, future adjoining properties or the public domain.*

- *The permitted density is comfortably accommodated across the site and despite the technical non-compliance, the proposal will result in a development that will sit comfortably within the desired future built form context.*

- *The proposal is consistent with the objectives as it provides housing that is compatible with the needs of the community and adds to the variety of housing types by proposing a suitable range of residential apartment types in an area that is currently dominated by detached dwellings. The density of housing is compatible with the future provision of public transport to the Edmondson Park Urban Release Area and the proposal will not hinder the development of social and community infrastructure.*

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

- As indicated in the LLEP assessment table above when taking into account the entire developable site area of 12,817m² the proposed development provides a compliant FSR.

- The non-compliant FSR is directly the result of the roads that have been constructed and dedicated to Council as part of the development proposal. The area of road to be dedicated to Council equates to 4,014m².

- Notwithstanding that the road construction and dedication is a requirement of the Liverpool Development Control Plan Part 2.11, given the nature of the proposed development as a high density residential development, the location of the development site on the corner and being the first site off Rynan Avenue the proposal may have been able to obtain direct access off Rynan Avenue to each building without the need for the construction of the roads without affecting adjoining sites.

  However by providing the roads the proposal contributes to creating a safe and efficient street network, enables the creation of a connected suburb, encourages pedestrian walkability and also enables safe and direct vehicular and pedestrian connections to future public open space directly west of the site. This is considered consistent with the objectives of the zone and the DCP and contributes to an improved and connected urban environment, not only for the development but for the locality as a whole.

- The proposed development remains consistent with the envisaged bulk and scale of development for the site.

- The proposed development remains consistent with the majority of standards and the objectives of the ADG and has been designed to minimise overshadowing, privacy impacts on adjoining properties, while still maintaining appropriate amenity for the development itself through the provision of generous POS, satisfactory solar access to living areas and POS and satisfactory natural ventilation.

- By providing the high density urban form the proposal also contributes to the availability of housing choice within the locality. This is achieved through the development itself by providing and appropriate apartment mix of 1, 2 and 3 bedrooms, but also for the locality by contributing to a range of available dwelling types within Edmondson Park.

9) Consistency with objectives of the development standard Clause 4.4 Floor Space Ratio

The objectives of Clause 4.4 and assessment are as follows:

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

Comment: It is considered that the proposed development is consistent with the objectives of Clause 4.4 in that the proposed development remains consistent with the intended bulk, scale and density envisaged for the site. The proposal remains consistent with the current and desired future character of the locality by maintaining consistency with the expected development form for the site. The proposal provides for an appropriate transition of heights and FSR from the higher density form of development adjoining Camden Valley Way to a reduced height and FSR moving south.

The proposal has been reviewed multiple times by the Design Excellence Panel and is considered to exhibit a good urban design outcome with limited impacts on adjoining properties while maintain consistency with the objectives and standards of the ADG.

The proposal has been designed to take advantage of the future public open space west of the site, while also contributing to an accessible, connected and walkable suburb.

The development has also been designed taking into consideration future development on adjoining sites by providing appropriate setbacks and building separation to enable similar built forms on adjoining sites to be constructed in accordance with the applicable development standards and controls of the LLEP, LDCP and ADG.

10) Consistency with objectives of the zone – R1 General Residential

The objectives of the R1 General Residential Zone under the LLEP 2008 are as follows;

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs*

of residents.

- *To ensure that housing densities are broadly concentrated in locations accessible to public transport, employment, services and facilities.*
- *To facilitate development of social and community infrastructure to meet the needs of future residents.*

The proposed development provides housing needs for the community. The proposed development also provides an opportunity for the provision of a variety of housing types and densities in a developing area. Having regard to the above it is considered that the proposed development is consistent with the objectives of the R1 General Residential Zone.

11) Consistency with Clause 4.6 objectives

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

It is considered appropriate in this instance for the reasons stated above to apply a degree of flexibility when applying the maximum height development standard.

12) Recommendation

With considerations to the discussion above, the proposed variation to the Clause 4.4 *"Floor Space Ratio"* has satisfied the provisions of Clause 4.6 and is supported in this circumstance.

6.2 Section 4.15(1)(a)(ii) - Any Draft Environmental Planning Instrument

There are no draft Environmental Planning Instruments that apply to the site

6.3 Section 4.15(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 2.11 – Land Subdivision and Development in Edmondson Park

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	Complies The site does not contain any significant vegetation.
Section 3. Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	Complies
Section 4. Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	Not Applicable The development site is not identified as containing any native flora and fauna.
Section 5. Bush Fire Risk	Controls relating to development on bushfire prone land	Not Applicable The site is not identified as bushfire prone land.

Development Control	Provision	Comment
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 This aspect 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.	Complies The site is within 40m of Cabramatta Creek. The proposal was referred to the department of Primary Industries – Water who have provided General Terms of Approval.
Section 8. Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	Complies Conditions of consent will be imposed to ensure that erosion and sediment controls measures are implemented during the construction of the development.
Section 9. Flooding Risk	Provisions relating to development on flood prone land.	Complies Subject property is affected by the 1%AEP flooding from Cabramatta Creek. However the portion of the land under subject development is generally free from the 1%AEP flood and partially affected by the PMF. The proposal has been reviewed by Councils Flooding Engineers and considered satisfactory.
Section 10. Contaminated Land Risk	Provisions relating to development on contaminated land.	Complies As discussed within this report, the applicants have provided contamination assessments and remedial action plans that will satisfy SEPP 55.
Section 11. Salinity Risk	Provisions relating to development on saline land.	Complies The site is identified as containing a low potential for saline soils. Conditions relating to erosion and sediment control measures will be implanted to prevent further spread of potentially saline soils.
Section 12. Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	Not Applicable The development site is not identified as containing the potential for acid sulphate soils to occur.
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 highly disturbed. As such, it is unlikely that it would contain Aboriginal Archaeology.
Section 17. Heritage and	Provisions relating to heritage sites.	Not Applicable The site is not identified as a heritage item or within the immediate vicinity of a heritage item.

Development Control	Provision	Comment
Archaeological Sites		
Section 18. Notification of Applications	Provisions relating to the notification of applications.	Complies The application was notified in accordance with the LDCP 2008. No submissions were received during the notification period.
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 one bedroom; - 1.5 spaces per two bedroom units; - 2 spaces per three or more bedroom dwelling; - 1 space per 4 units or part thereof, for visitors - One service bay	Complies **<u>Lot 2 (Buildings B and C</u>** Buildings B and C provide a common basement. In total 133 spaces are required inclusive of 22 visitors A total of 144 spaces are provided inclusive of 22 visitor spaces. 15 of the spaces have been designed as being accessible. **<u>Lot 5 (Building D)</u>** Building D requires 49 spaces to be provided inclusive of 7 visitor spaces. The proposal has provided 49 spaces within a basement for Lot 5. The plans provided have indicated that the basement has provided for only 5 visitor spaces instead of the required 7, however has provided 44 residential spaces instead of the required 42. As such a condition will be imposed requiring 2 of the residential spaces be converted to visitor spaces prior to the issue of CC. The basement for Building D has also catered for 4 accessible spaces.
Section 21. Subdivision of Land and Buildings	Provisions relating to the subdivision of land.	Not Applicable.
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 <u>During Construction:</u> A waste management plan has been submitted. Conditions of consent will be imposed to ensure that compliance with the WMP is achieved during construction. <u>On-going Waste Management:</u> The applicant has provided a Waste Management Plan based on Council's Waste Management Policy. The WMP has been reviewed and considered satisfactory.

Development Control	Provision	Comment
		A suitable bin storage area has been provided at grade and within the basement for Buildings B-D to enable the weekly collection of the bins from the development site. As indicated in the WMP the bins will be collected weekly from the street and is the responsibility of the caretaker.

CONTROLS	PROVIDED	COMPLIES
PART 2.11 – LAND SUBDIVISION AND DEVELOPMENT IN EDMONDSON PARK		
1.1 INDICATIVE LAYOUT To be in accordance with Figure 2.	The proposal has provided a road layout that is consistent with the Indicative Layout Plan (ILP)	Complies
1.2 DEVELOPMENT WITHIN SUB PRECINCTS	Development site maintains the level and access to fixed roads, the proposal will allow for the provision of drainage and services through conditions of consent and storm water design and does not create a detrimental impact on adjoining sub-precincts.	Complies
1.5 PUBLIC TRANSPORT	Proposed development does not impact the ability of Rynan Avenue to maintain the bus route	Complies
2.1 STREET NETWORK AND ACCESS Subdivision plans must indicate street type.	Submitted plans and SEE indicate street type. As stated above the proposal has been designed with a local road, which is an increase from the indicative laneway applicable to the site	Yes
2.3 STREETSCAPE AND TREES Minimum of two trees per six metres of frontage	Two trees per six metres of frontage proposed along Rynan Avenue and the proposed new road.	Yes
2.7 CONTAMINATION Potential for contamination to be assessed.	Contamination assessment submitted as discussed previously in the report. The contamination assessment concluded the subject site is suitable for residential development.	Yes
8. CONTROLS FOR CERTAIN SITES 8.5 Residential choice and mix for apartment buildings	Appropriate residential mix of apartments proposed. In total 34.2% 1 bedroom proposed, 54% 2 bedroom proposed and 11.*5 3 bedroom proposed.	Yes

The above assessment has found that the development is generally compliant with the LDCP 2008 and is satisfactory.

6.4 Section 4.15(1)(a)(iiia) - Any Planning Agreement or any Draft Planning Agreement

No planning agreement relates to the site or proposed development.

6.5 Section 4.15(1)(a)(iv) – The Regulations

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

6.6 Section 4.15(1)(b) – The Likely Impacts of the Development

(a) Natural and Built Environment

The impacts of the development on the natural environment have been assessed and the development is considered to be acceptable and unlikely to cause adverse impacts. Issues considered included, but were not limited to: soil contamination; earthworks; stormwater management; erosion and sediment control; and landscaping.

The impacts on the built environment have also been assessed and are also considered to be acceptable and unlikely to have significant negative impacts. Issues considered included, but were not limited to: the traffic impacts; adequacy of car parking; built form (height, bulk, scale); streetscape and visual impacts; overshadowing; compatibility with the future character of the locality; design; acoustic impacts; access; site layout; compliance with Building Code of Australia (BCA) and Australian Standards (AS); fire safety requirements; adequacy of site services; waste management; and potential impact on amenity of locality.

(b) Social Impacts and Economic Impacts

The proposal is unlikely to cause any adverse social impacts in the locality. Overall, the proposal is likely to contribute positively to the locality by providing required housing to the community and is acceptable with respect to any potential social impacts.

The potential economic impacts of the development in the locality are acceptable. The development is likely to have a minor but positive contribution to the local economy via the capital investment value associated with the proposal

6.8 Section 4.15(1)(c) – The Suitability of the Site for the Development

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

6.9 Section 4.15(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	Approved subject to conditions
Building	Approved subject to conditions
Environmental Health	Approved subject to conditions
Traffic	Approved subject to conditions

Floodplain engineering	Approved subject to conditions
Natural Resources - Landscaping	Approved subject to conditions

(b) External Referrals

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

DEPARTMENT	COMMENTS
NSW Office of Water	Comments received from the NSW Office of Water have advised the proposed development is not considered integrated development pursuant to the Water Management Act 2000.

(c) Community Consultation

Application was advertised from 8 June 2016 to 8 July 2016. No submissions were received during the advertising period. Due to the provision of amended plans the application was notified from 2 March 2018 to 19 March 2018. No submissions were received during the notification period.

6.7 Section 4.15(1)(e) – The Public Interest

The proposed development is consistent with the zoning of the land and would represent a quality development for the suburb. 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 4.15 of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.

    - Based on the assessment of the application and the consideration of the written request to vary the height of buildings and FSR development standard pursuant to Clause 4.6 of the LLEP 2008, it is considered the Clause 4.6 is well founded and worthy of support in this instance.

- 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 would be consistent with the desired future character of the area that is envisaged under the LLEP 2008 and LDCP 2008.

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

8 ATTACHMENTS

1) Recommended Conditions of Consent
2) Architectural Plans
3) Landscape Plans
4) Statement of Environmental Effects with Clause 4.6 Variation for Height
5) Clause 4.6 Variation for FSR
6) Design Excellence Panel (DEP) Minutes
7) Applicants Response to DEP Minutes
8) Engineering Plans
9) BASIX Report
10) Concept stormwater drainage and WSUD strategy
11) Concept stormwater drainage strategy
12) Geotechnical report
13) Fire Engineering certificate
14) Remediation action plan
15) Traffic impact assessment
16) Waste management plan
17) Aboriginal heritage due diligence assessment
18) Access report
19) Acoustic report buildings B and C
20) Acoustic report building D
21) BCA assessment report