

SYDNEY WESTERN CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	2016SYW218
DA Number	DA-962/2016
LGA	Liverpool City Council
Proposed Development	Demolition of existing structures and construction of a 12-storey residential flat building above 2 levels of basement carpark comprising 106 residential apartments and 126 car spaces. Liverpool City Council is the consent authority and the Sydney Western City Planning Panel has the function of the determining authority
Street Address	9-15 Northumberland Street Liverpool LOTS 9, 10 & 11 DP 38602, LOT A DP 164111
Applicant/Owner	NORTHUMBERLAND VENTURES PTY LTD
Date of DA Lodgement	14 October 2016
Number of Submissions	Nil
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	The development has a CIV of \$26,156,450
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • <i>List all of the relevant environmental planning instruments: Section 4.15 (1)(a)(i)</i> <ul style="list-style-type: none"> • State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development. • State Environmental Planning Policy No.55 – Remediation of Land. • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment. • Liverpool Local Environmental Plan 2008. • <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: Section 4.15(1)(a)(ii)</i> • No proposed instrument relates to the site or proposed development. • <i>List any relevant development control plan: Section 4.15(1)(a)(iii)</i>

	<ul style="list-style-type: none"> • Liverpool Development Control Plan 2008. <ul style="list-style-type: none"> - Part 1 – General Controls for all Development. - Part 4 – Development in the Liverpool City Centre. • <i>List any relevant planning agreement that has been entered into under section 7.14, or any draft planning agreement that a developer has offered to enter into under section 7.14: Section 4.15(1)(a)(iv)</i> <ul style="list-style-type: none"> • No planning agreement relates to the site or proposed development. • <i>List any coastal zone management plan: Section 4.15(1)(a)(v)</i> <ul style="list-style-type: none"> • The subject site is not within any coastal zone management plan. • List any relevant regulations: Section 4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> • Consideration of the provisions of the Building Code of Australia.
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> 1. Recommended conditions of consent 2. Architectural plans 3. Landscape plans 4. Survey plan 5. Design Excellence Panel Comments 6. Statement of Environmental Effects with clause 4.6 variation 7. Site Isolation Documentation
Report prepared by	Development Assessment Section – Liverpool Council
Report date	26 March 2018

Summary of s4.15C matters Have all recommendations in relation to relevant s4.15C 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? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	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 (S7.11EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment? <i>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</i>	Yes

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

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

1.1 The proposal

The application proposes the demolition of existing buildings and the construction of a 12-storey residential flat building comprising of 106 residential apartments above 2 levels of basement carpark and 126 car spaces with associated landscaping and drainage works.

1.2 The site

The development site is comprised of 4 lots being Lots 9, 10 & 11 DP 38602 Lot A DP 164111 and is identified as 9-15 Northumberland Street.

1.3 The issues

The main issues identified in the assessment relate to the following:

1. Liverpool Local Environmental Plan (LLEP) 2008, Clause 7.4 – Building Separation in Liverpool City Centre, requires 9m building separation for parts of buildings between 12m and 25m above finished ground level. The proposal provides a zero side setback along the northern side property boundary for part of the building in order to marry up to an existing blank wall built to the same boundary on an adjoining site. Accordingly, the proposed development does not comply with this clause and seeks a variation of 100% to the development standard. The applicant has provided a written statement made in accordance with clause 4.6 of the LLEP 2008 in order to justify this non-compliance. As per the assessment below the variation to the development standard is considered acceptable in this case;
2. Inconsistencies with the Apartment Design Guide (ADG) relating to building separation and overshadowing. Through a series of amendments to the design of the building made by the applicant since lodgement of the DA the proposal is considered to have adequately addressed these inconsistencies and therefore is considered acceptable with regards to the ADG; and
3. Potential isolation of 10 Bathurst Street, Liverpool as a result of the development of the subject site. As per the assessment below, the applicant is considered to have adequately demonstrated that 10 Bathurst Street will not be isolated by the proposed development.

Notwithstanding the issues listed above, the proposal is considered an acceptable form of development in the circumstances and is worthy of support, subject to conditions.

1.4 Exhibition of the proposal

In accordance with the LDCP 2008, the application was not required to be notified. Notwithstanding this, no submissions have been received relating to the subject DA.

1.5 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 amendments made to the original proposal by the applicant, it is recommended that the DA be approved, subject to the recommended conditions of consent.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The site is located within the Liverpool CBD and is approximately 1km north-west of the Liverpool Railway Station. The development site is comprised of 4 lots being Lots 9, 10 & 11 DP 38602 and Lot A DP 164111, and is identified as 9-15 Northumberland Street, Liverpool. The site is a regular shaped allotment with a frontage to Northumberland Street of 60.5m, a site depth of 45.7m, and an area of 2,751.5m².

Property numbers 11-15 Northumberland Street currently feature single storey detached dwellings that are proposed to be demolished as part of the subject DA. No.9 Northumberland Street contains an Anglicare Family support office which is also proposed to be demolished.



Figure 1: Aerial Photograph with property numbers



Figure 2: Immediate Locality

2.1 The locality

The immediate locality consists of a range of development comprising of low and high density residential development. This is demonstrated in Figure 2 above.

Immediately to the north, west and south of the subject site are residential flat buildings ranging from 6 storeys to 10 storeys high. Immediately to the east of the subject site is Liverpool Pioneers Memorial Park.

Figure 3 below demonstrates the context surrounding the site.

The site is located within the Liverpool City Centre, approximately 1km North-West of Liverpool Train Station, and is 200m north of Westfield Shopping Centre and the Macquarie Street Shopping Mall. The site is located within an existing residential area, the immediate adjoining sites are zoned for High Density Residential and are undergoing high density urban transformation. The site is approximately 300m north-east of Liverpool Public and Private Hospitals and approximately 100m north and west of the subject site is the Hume Highway.



Figure 3: Context

2.2 Site affectations

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

1) Heritage

The development site is not listed as a heritage item under Schedule 5 of the LLEP 2008, however, it is located within the vicinity of a heritage item being item Number 89 known as the Plan of Town of Liverpool (Hoddle Grid 1827) and item Number 90 known as Liverpool Memorial Pioneers Park (Formerly St Luke's Cemetery and Liverpool Cemetery).

Item No.90 is located east of the subject site at the intersections of Northumberland Street, Macquarie Street and Lachlan Street. This is demonstrated in Figure 4 below.

Council's Heritage Officer has reviewed the proposed development with regards to its impact upon the adjoining heritage items and has raised no objection to its potential impacts. Accordingly, the development is considered acceptable with regards to heritage matters.

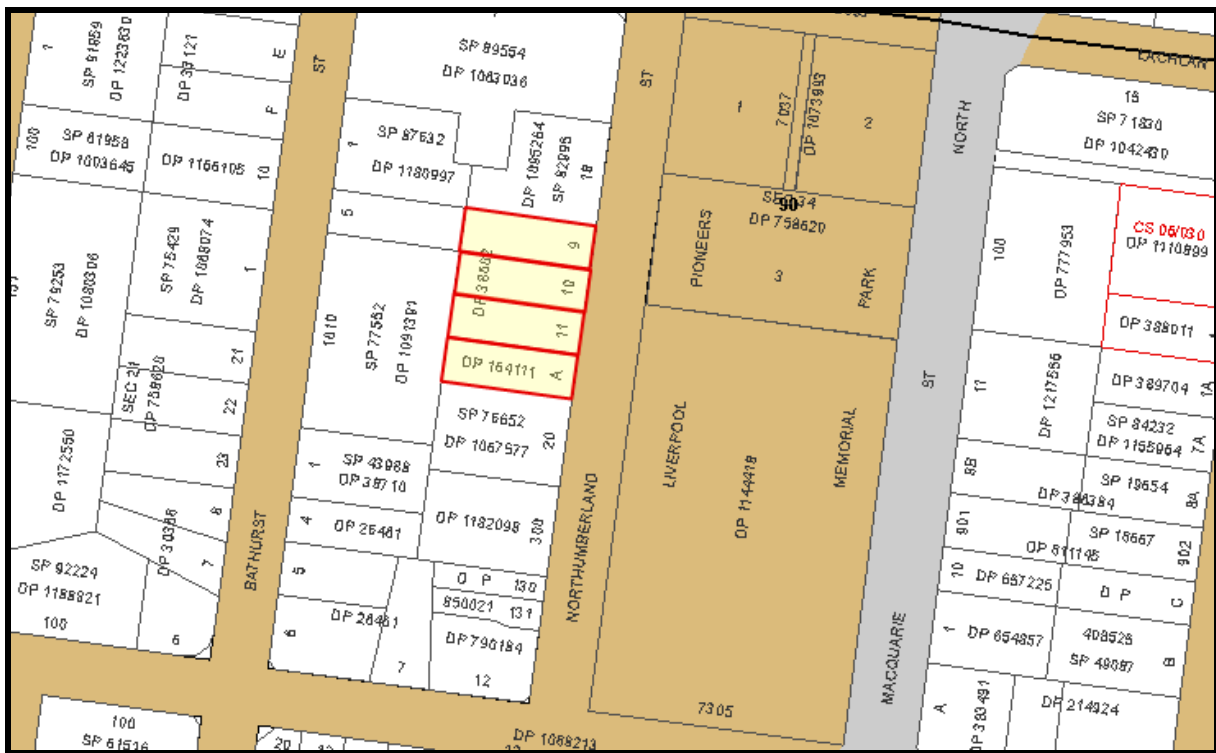


Figure 4: Heritage Affection

2) Flooding

The proposed development site is located within Brickmakers Creek catchment. The site is not affected by flooding under 1% Annual Exceedance Probability (AEP) event, however, it is affected by the Probable Maximum Flood (PMF) event. The proposal was reviewed by Council's flooding engineers and considered satisfactory subject to the imposition of a water quality management condition.

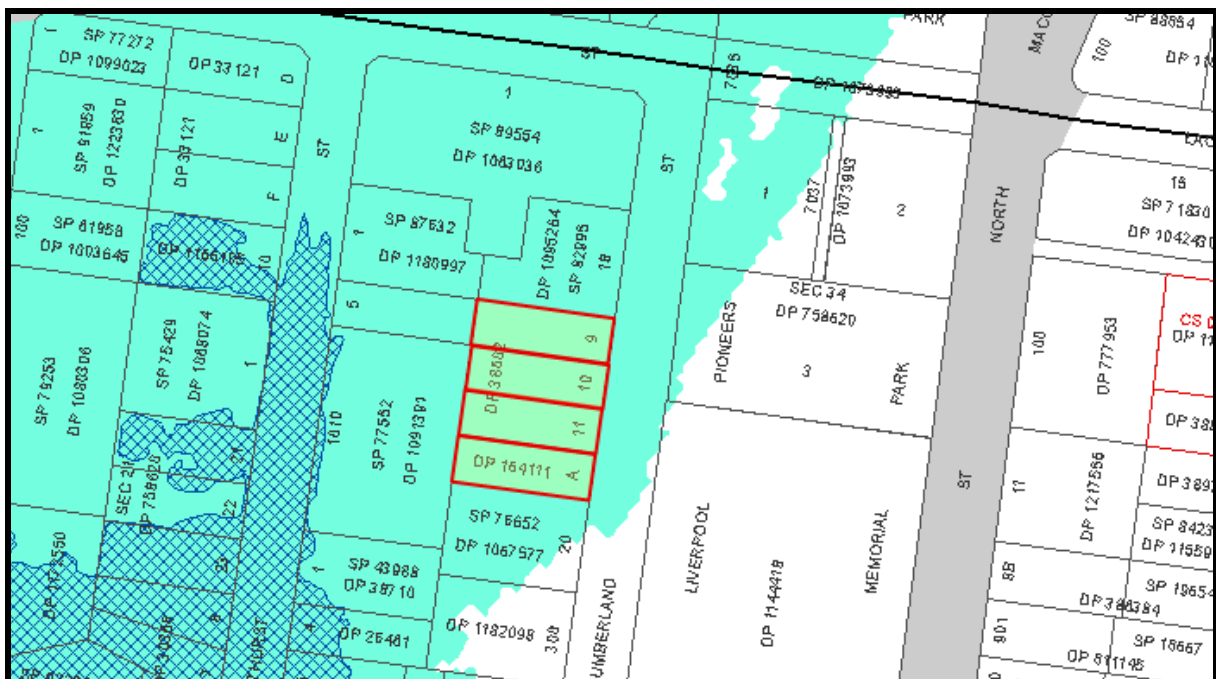


Figure 5: Flooding Affectation

3. BACKGROUND

3.1 Issues Identified in Initial Assessment

The original DA was lodged seeking consent for the construction of a ten storey residential flat building contain a total of 103 apartments above two levels of basement parking. The original proposal presented to the streetscape as represented in Figure 6 below.



Figure 6: Superseded building design, originally submitted with the DA

Following on from a preliminary assessment of the application, concerns were raised with the applicant regarding the following:

- 1) Non-compliance with Sun Access in Liverpool City Centre provisions;
- 2) Non-compliant FSR;
- 3) ADG non-compliant building depths;
- 4) ADG non-compliant building separation, internally and externally;
- 5) ADG non-compliant solar access;
- 6) ADG non-compliant private open space on balconies;
- 7) Sub-optimal Communal Open Space arrangement;
- 8) Non-compliant Communal Open Space;
- 9) Liverpool DCP 2008 non-compliant unit mix; and
- 10) Potential site isolation of 10 Bathurst Street.

In response to the concerns raised above the applicant provided amended plans that rectified all concerns except for the non-compliant building separation. The applicant has provided reasonable justification to support the non-compliant building separation in this case. Building separation is discussed in section 6.1 (a) of this report.

3.2 Pre-DA meeting with Design Excellence Panel

The proposal was presented to Councils Design Excellence Panel (DEP) on 16 June 2016 prior to the formal lodgement of the DA. The DEP did not raise major concerns with the proposal, however, made certain design recommendations including: addressing site isolation, compliance with ADG solar and ventilation requirements, compliance with maximum number of units per lift core, improving bulk and scale of the building, providing standard floor to ceiling heights and improving the streetscape interface.

The applicant amended the building design to address the DEP comments, as follows:

- The applicant is considered to have provided sufficient evidence that 10 Bathurst Street will not be unreasonably isolated by the proposal (See Section 3.4 of this report);
- The amended development proposal has been designed to fully comply with the ADG solar access and ventilation requirements;
- The amended development proposal has been designed to achieve compliance with the maximum number of units off a single lift core as per the ADG;
- The amended development proposal is considered to have been designed to mass the majority of the building height to the rear of the site and evenly distribute the street level height into two wings that would address the adjacent heritage park. This results in a large open courtyard and communal area that opens the building to the streetscape while connecting the adjoining RFB's along Northumberland Street and creating a consistent street edge. Accordingly, this is considered to reduce the overall bulk and scale of the development, which will also be softened by the retention of street trees in front of the site.
- The amended development proposal provides DEP recommended floor to ceiling heights of 3050mm with 200mm slabs.

This amended design was resubmitted to the DEP on 15 February 2018 for their consideration and comments. The amended design proposed a 14-storey building on the site with 106 units over 2 levels of basement parking for 126 space. The DEP provided the following comments in relation to this proposal:

- *The height of the built form to the western part (rear) of the site is out of context with the surroundings. The incongruity of this part of the building is exacerbated by the treatment of the façade facing the park, which has no apartments and thus lacks the finer-grain texture of the facades elsewhere in the design and in the immediate context. The Panel will not support this proposal in this form.*

Comment: The applicant has reduced the height of the rear portion of the building from 45m to 39m, as per the suggestions made by the DEP. This reduces the proposed building height from 14 stories to 12 stories. The RFB on the adjoining western site is 10 stories and thus the amended building height is considered to be in context with surrounding development. Apartments from the 13th and 14th stories have been transferred to the southern and northern wings of the building to provide more apartments on the building's façade, which responds to the local context.

- Any height of the proposal above the datum provided by the surrounding buildings should be shown to have no impact on overshadowing of the park.

Comment: The applicant has reduced the height of the building by 2 stories, which would reduce its overall shadowing of the adjacent park to the east. The shadows cast from the proposed 12-storey building is depicted in the following figure:

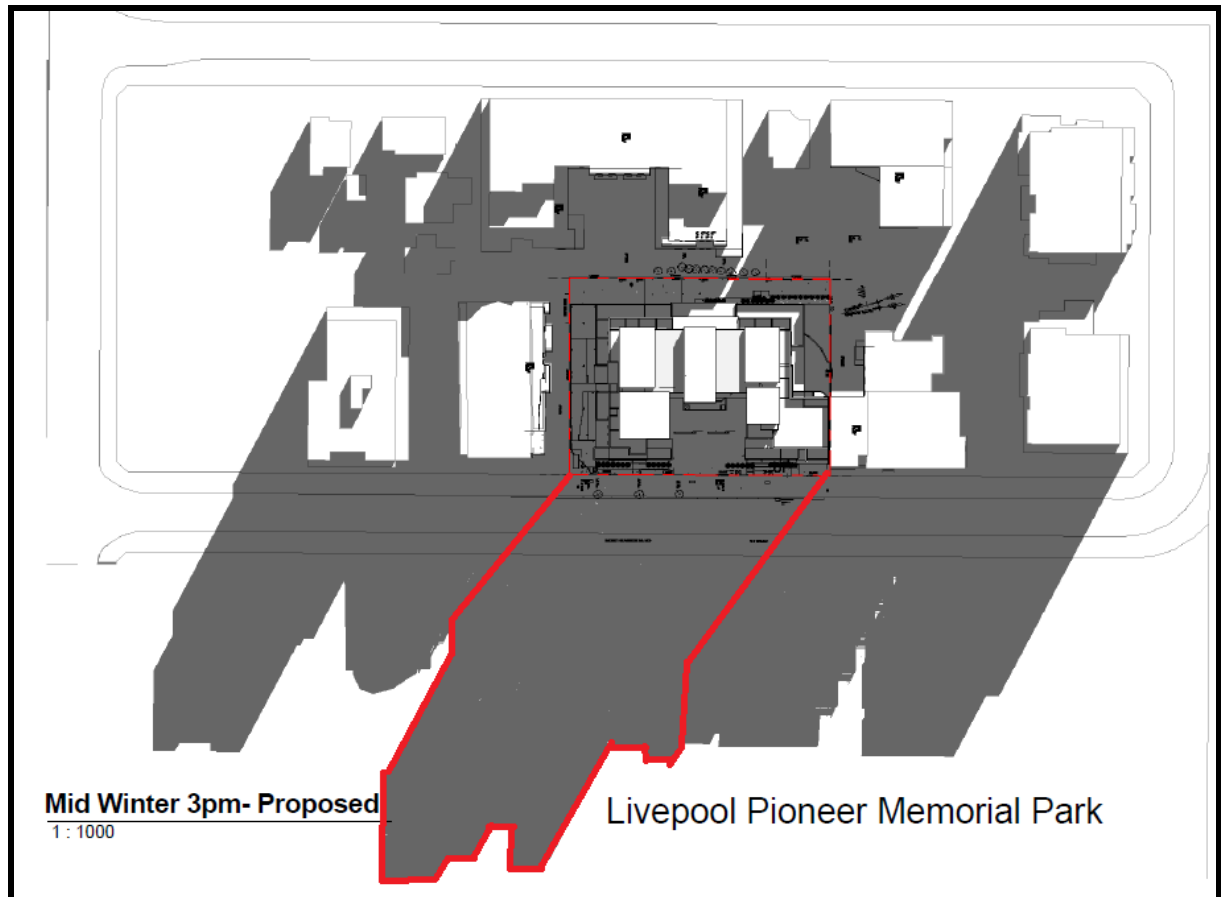


Figure 7: Shadow cast from proposal to Pioneer Park at 3pm mid-winter

The above diagram shows the proposed building's shadow upon Pioneer Park at 3pm mid-winter outlined in red. It is apparent that the proposed building casts a more extensive shadow than the adjoining buildings. Notwithstanding the comments from the DEP, it should be noted that the proposal is under LLEP 2008 building height of 45m by 6m, which equivalent to 2 stories and is under its maximum allowable FSR by approximately 200m².

The LLEP 2008 provides development standards in order to preserve solar access to Pioneer Park as per Clause 7.2 – Sun access in Liverpool City Centre. The proposal complies with this requirement, see Section 6.1 (e) of this report for further assessment.

Accordingly, the over shadowing of Pioneer Park from the proposed development is considered acceptable with regards to the provisions of the LLEP 2008 for sun access in the city centre and also considering that a larger development with additional overshadowing of Pioneer Park could be accommodated at the site as per the building height and FSR development standards.

It should be noted that there is no shadows cast onto Pioneer Park from any building along Northumberland Street, including the proposal, at 9am or 12pm mid-winter.

- *Site isolation – The Panel accepts that the proponent has attempted to buy the site immediately to the west. An example scheme shows that this site can be developed in isolation.*

Comment: Noted.

- *Attempts should be made to modify the western (rear) part of the building to take better advantage of the eastern aspect towards the park. Lift lobbies and excessive common circulation should not occupy all of this façade. In addition, behind the DCP setback from the park, there may be opportunities to add additional floors to the front “wings” and reduce the overall building height. The smaller wing to the south east could come closer to the park.*

Comment: Apartments from the 13th and 14th stories have been transferred to the southern and northern wings of the building to provide more apartments presenting to the park on the building’s façade. The applicant has amended the façade of the building to also include seating areas on all levels of the building to avoid common circulation areas directly addressing the streetscape. The applicant has not brought apartments on the southern wing closer to the property frontage to avoid creating non-compliances with Council’s DCP, which is considered acceptable.

- *No detailed discussion was held on the design of the individual apartments. Many of the apartments suffer from inefficient layouts. All apartments should comply with the apartment design standards in the ADG.*

Comment: All apartments have been designed to fully comply with the ADG.

It is considered that the applicant has adequately addressed the matters raised by the DEP in its meetings, dated 16 June 2016 and 15 February 2018. In that regard, the proposed development is considered to provide design excellence.

3.3 Planning Panel Briefing

A SSWPP briefing meeting was held on 22 May 2017. At the meeting the panel raised concerns regarding:

- Potential non-compliance with LLEP 2008, Clause 7.2 – Sun Access in Liverpool City Centre;
- ADG discrepancies: building separation, privacy, solar access, natural ventilation, POS and housing mix;
- Flood affectation;
- Potential isolation of 10 Bathurst Street, Liverpool;
- Overshadowing impact on adjoining property; and
- Comments from the DEP.

The proposal has been amended to comply with Clause 7.2 – Sun Access in Liverpool City Centre of the LLEP 2008, components of the ADG including: privacy, solar access, natural ventilation, POS depths and housing mix, and is now considered to adequately address flooding, site isolation and the comments from the DEP. However, the proposal maintains non-compliant building separation and still significantly over shadows the adjoining southern

neighbour. Notwithstanding this, justification for the non-compliant building separation and overshadowing impacts has been provided by the applicant and are considered to be acceptable in this circumstance. This is discussed further within section 6.1 (a) of this report.

Based on the amended plans provided, it is considered that the proposal provides a development that adequately addresses the concerns raised by the panel and is worthy of support in this case.

3.4 Site Isolation – 10 Bathurst Street, Liverpool

Both the SSWPP and the DEP raised concern for the potential of number 10 Bathurst Street, Liverpool to be isolated by the subject proposal. The subject site is outlined in red and 10 Bathurst Street is outlined in yellow in the following figure, Figure 8.



Figure 8: Potentially isolated site outlined in yellow, subject site outlined in red

In considering potential site isolation a consent authority is to be satisfied that the planning principles established by the NSW Land and Environment Court in the proceedings of *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 have been satisfactorily addressed. The considerations of the planning principles are as follows:

“Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.

Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the

development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.

Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.”

In response to the comments above the applicant supplied Council with a series of correspondence outlining an attempt to purchase the rear adjoining site at No.10 Bathurst Street, Liverpool, see Attachment No.7. A summary of the attempted negotiations is provide as follows:

- The applicant engaged an independent valuation to be conducted for No.10 Bathurst Street, Liverpool by CPB Complete Property Buyer. The date of the valuation is 17th June 2017;
- An offer was then made to the owner of No.10 Bathurst Street, Liverpool dated 18th June 2017. Attached to the offer was the independent valuation prepared by CPB Complete Property Buyer;
- The applicant waited 7 days to obtain a response to their offer from the owner of 10 Bathurst Street, Liverpool;
- No response has been received by the applicant to date.

Having regard to the above, it can be determined from the evidence provided that reasonable attempts have been made to purchase No.10 Bathurst Street in order to incorporate it into the development site.

In the second matter of *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251, Commissioner Tuor extended the above principles to deal with development of isolated sites and established the following:

“The key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non-compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.

To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.

The subject application may need to be amended, such as by a further setback than the minimum in the planning controls, or the development potential of both sites

reduced to enable reasonable development of the isolated site to occur while maintaining the amenity of both developments.”

In response to the second part of the principle the applicant has provided Council with an indicative building envelope for No.10 Bathurst Street demonstrating that a residential flat building may be constructed in accordance with the requirements of the ADG. Figure 9 below indicates the indicative building envelope provided.

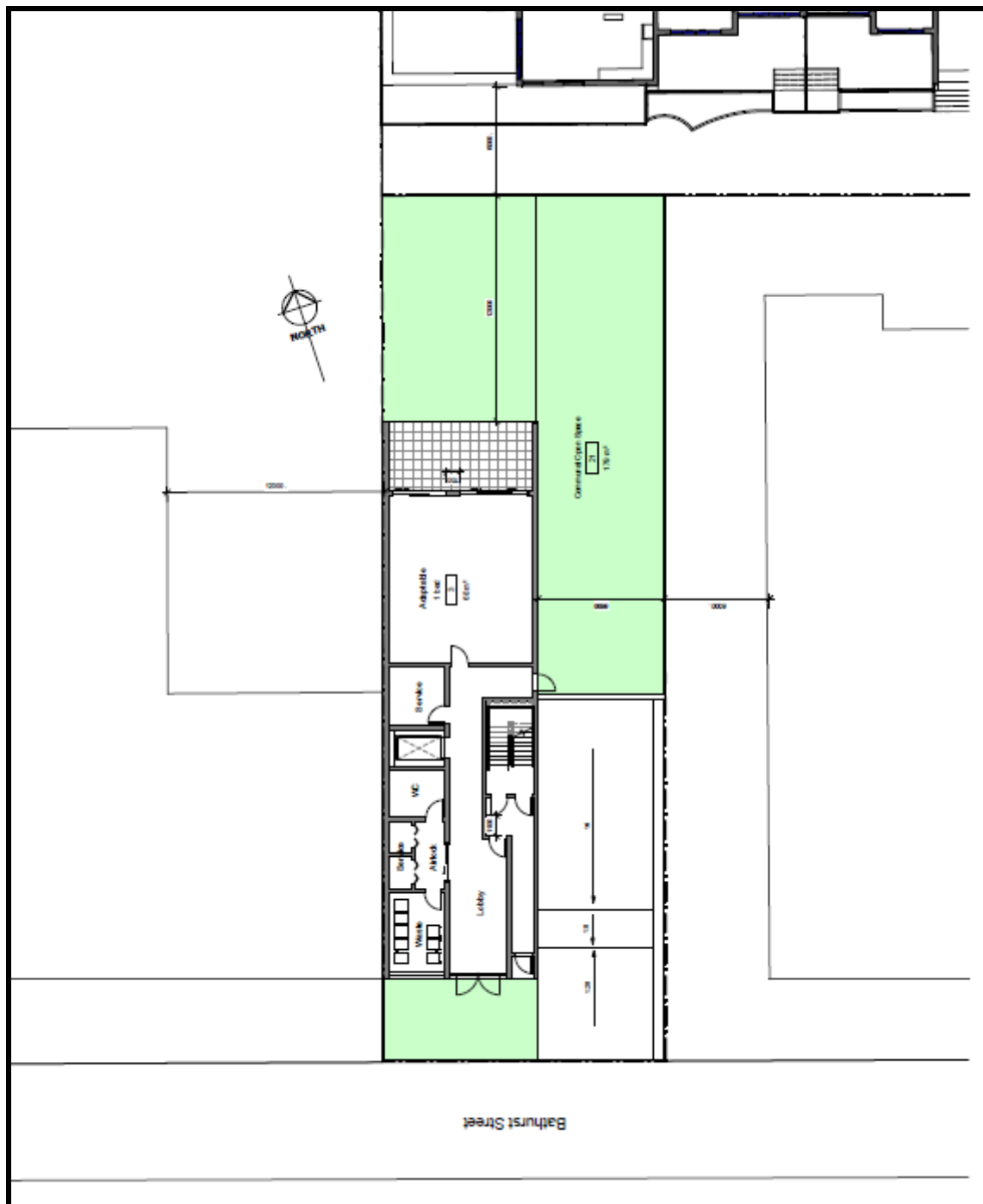


Figure 9: Potential Building Envelope of No.10 Bathurst Street

The indicative building envelope was presented to Council's DEP, dated 15 February 2018, who were satisfied that a suitable building generally in accordance with the ADG can be constructed on this site.

It is important to note that the endorsement of the indicative building envelope of No.10 Bathurst Street, does not mean a building of this nature will be approved as any future DA will need to be assessed on its merits.

Comment: Based on the assessment above and the provision of supporting information including: offers, an independent valuation and sketch plans, it is considered that the site will not be unreasonably isolated by the proposal in accordance with the planning principles applied by the courts.

It is considered that 10 Bathurst Street has been impacted, in an orderly development sense, by the development of the adjoining northern and southern sites fronting Bathurst Street and not by the development of the subject site as proposed. Notwithstanding this, the applicant has provided investigative information that can demonstrate the development 10 Bathurst Street in the future and in accordance with the ADG.

In this regard, it is considered that the applicant has adequately demonstrated that 10 Bathurst Street, will not be isolated by the proposal.

The applicant's site isolation documentation has been provided as Attachment No.7 of this report.

4. DETAILS OF THE PROPOSAL

The application proposes the demolition of existing buildings, tree removal and the construction of a 12-storey residential flat buildings containing 106 residential apartments over two levels of basement parking for 126 car parking spaces with associated landscaping and ancillary site works.

Further details are as follows:

Building Design

- Construction of a 12-storey residential flat building comprising:
 - 40 x 1 bedroom units;
 - 55 x 2 bedroom units; and
 - 11 x 3 bedroom units.
- The building has been redesigned to provide a 'U' shape building with the wings of the building addressing the site frontage and providing a large courtyard addressing Pioneer's Park.
- The building has been redesigned so that the majority of the building height is at the rear of the building in an attempt to increase internal solar amenity and decrease overshadowing to the southern neighbour and the park adjacent to site.

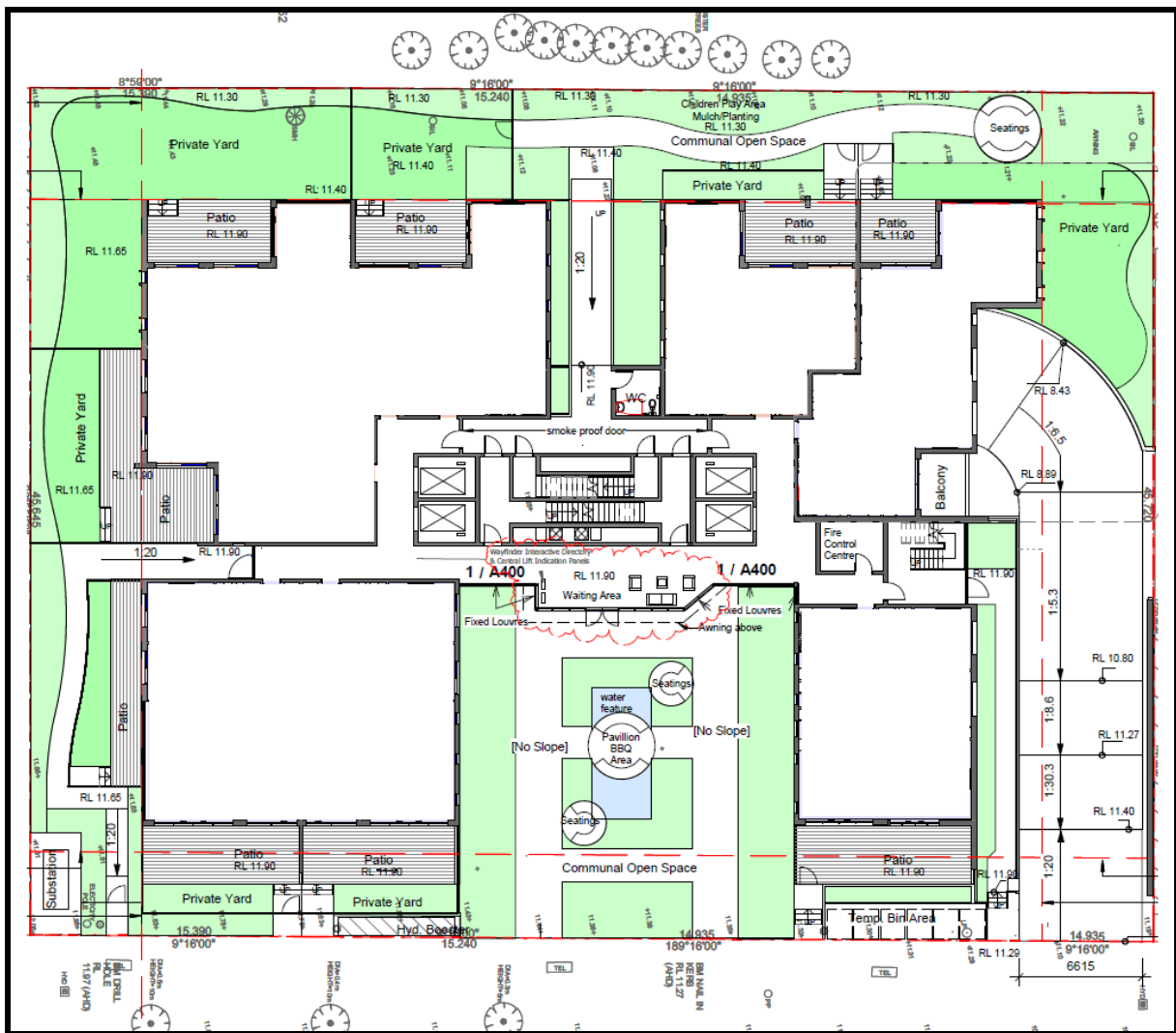


Figure 10: Ground Floor Plan of proposal

- The building has been redesigned since the pre-DA stage to ensure a maximum of 8 apartments are provided off a single circulation core.
- The building is broken into block A and B.
- Block A includes 54 units.
- Block B includes 52 units.
- The proposal includes COS at the ground floor and at the ninth storey.
- The building is built to the northern side boundary on the northern elevation from the third to the eighth storey.

Vehicular and Pedestrian Access

- Vehicular access is provided from Northumberland Street at the north-eastern corner of the site.
- Pedestrian access is provided at multiple locations from Northumberland Street.

Parking Provisions

- The development provides for a total of 126 car parking spaces comprising of:
 - 112 spaces (including 3 accessible spaces) allocated to the residential units;
 - 11 spaces allocated to visitors;
 - 3 spaces designated as a service bay/car wash bay;
 - 49 bicycle spaces; and
 - 6 motor cycle spaces.

Site Servicing

- Garbage storage has been provided within basement level 2 to accommodate garbage, recycling and temporary storage of bulky items. The proposal will also include waste chutes from the circulation core on each level to the basement waste storage area.
- Two service/car wash bays are provided within the basement level.

Ancillary Works

- Demolition of existing structures and tree removal;
- Landscaping works; and
- Drainage work.



Figure 11: Building Perspective from Pioneer's Park looking north-west



Figure 12: Building Perspective of residential block including surrounding RFB's

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

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

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development;
- State Environmental Planning Policy No.55 – Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Infrastructure) 2007;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment; and
- Liverpool Local Environmental Plan 2008.

Draft Environmental Planning Instruments

- N/A

Development Control Plans

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

Contributions Plans

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

5.2 Zoning

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

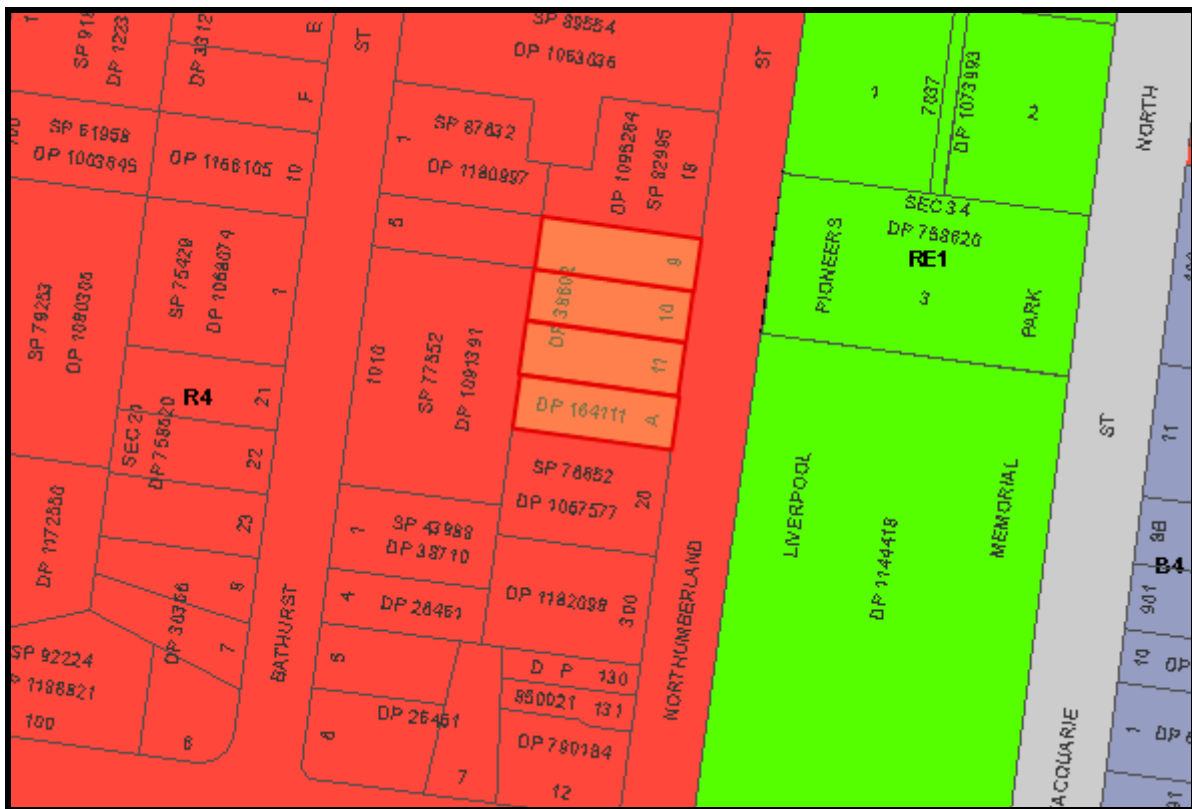


Figure 13: Zoning Map

5.3 Permissibility

The proposed development is defined as a *Residential flat building*, which is a permissible land use within the R4 High Density Residential zoning.

6. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000* as follows:

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

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

The proposal has been evaluated against the provisions of SEPP 65 which aims to improve the design quality of residential flat development. SEPP 65 requires the consent authority to consider the development against 9 key design quality principles and against the guidelines of the ADG. The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP 65. The following table provides an assessment of the proposal in accordance with the 9 key design quality principles of SEPP 65, as follows:

Design Quality Principle	Comment
Principle One – Context and Neighbourhood Character	
<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p><i>The proposal is for a residential flat development. Located on near the fringe of the city centre precinct, the proposed development is considered likely to bring increased streetscape amenity to the local community. The development incorporates an active street frontage design that is considered to contribute to the community by generating a point of visual interest that interacts and compliments the adjacent heritage parkland.</i></p> <p><i>The development site is located in a highly serviced area with access to medical services, a variety of public transport services, educational services, employment opportunities, commercial/retail services, recreation facilities and community uses. Accordingly, the proposed intensification of the site, from three dwellings to 106 residential apartments, will facilitate the increased accessibility of services to future occupants of Liverpool City Centre.</i></p> <p><i>As the building has been amended significantly by the applicant to mass building heights to the rear of the site and create an open courtyard to the streetscape, it is considered to appropriately respond to the neighbourhood and streetscape character; both existing and desired.</i></p>
Design Principle 2 – Built form and scale	
<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the</p>	<p><i>The bulk of the proposed development is consistent with the controls set out in the LEP 2008 and LDCP 2008. The building is situated within the site boundaries and is partly setback off Northumberland Street unlike some adjoining developments. This provides the opportunity to reduce building scale at street edges. This is complimented by the limiting the building height to 8 storey for the first 9m of the site and keeping the 12 storey building component massed at the</i></p>

Design Quality Principle	Comment
<p>manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><i>rear of the site.</i></p> <p><i>The height of the building less than that identified in the LLEP 2008, being 12 storeys overall.</i></p> <p><i>Building mass is also articulated and stepped to mask the perceived bulk of the development and reduce the buildings intrusion onto the adjacent parkland.</i></p>
Design Principle 3 – Density	
<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p><i>This application proposes an FSR 3.43:1 for this site and is less than the maximum densities set out in the LLEP 2008.</i></p> <p><i>The proposed density will benefit the public by enabling the proposed building to respond to the future character of the town centre and The yield will facilitate a high-quality design outcome at the site. In this location, a well-designed residential flat development is likely to attract greater investment to the locality.</i></p> <p><i>High densities are also considered to be sustainable within this area as they are supported by the site's proximity to employment, CBD, transport and public open space.</i></p>
Design Principle 4 – Sustainability	
<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of</p>	<p><i>The development is designed to respond to the requirements of BASIX and the SEPP 65 Apartment Design Guide.</i></p> <p><i>Apartment layouts are optimally designed for a passive response to solar design principles and cross ventilation as outlined in the Apartment Design Guide.</i></p> <ul style="list-style-type: none"> - <i>All corner and cross through apartments are naturally ventilated.</i> - <i>Minimum 60% of apartments are</i>

Design Quality Principle	Comment
materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation	<i>cross-ventilated;</i> <ul style="list-style-type: none"> - <i>Minimum 70% of apartments have the required solar access in winter;</i> - <i>The development includes adequate amounts of deep soil zones.</i>
Design Principle 5 – Landscape	
<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, and respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p><i>Existing street planting will be retained and complimented through additional planting within the site boundaries along Northumberland Street.</i></p> <p><i>Some apartments have been provided with private open space in excess of SEPP 65 requirements. Communal open space will incorporate barbecue facilities, open style pergola structures and seating. The landscaped communal open space also incorporates a mix of active and passive landscape spaces.</i></p> <p><i>The proposed landscape plans has been reviewed by Council's Tree officer who, has supported the planting selections and use of species.</i></p>
Design Principle 6 – Amenity	
<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and</p>	<p><i>The development provides the following mix of units:</i></p> <ul style="list-style-type: none"> - <i>37.7% one bedroom apartments</i> - <i>51.9% two bedroom apartments</i> - <i>10.4% three bedroom apartments</i> <p><i>10% of units in total are designed to the Universal Design standards, including the 10% requirement for adaptable housing.</i></p> <p><i>Apartments comply with storage</i></p>

Design Quality Principle	Comment
<p>degrees of mobility.</p>	<p><i>requirements and additional storage cages are located in the basement carparking levels. These levels also have the capacity to accommodate parking for bicycles.</i></p> <p><i>Communal open spaces will provide passive and active recreational opportunities including: raised garden beds and benches for seating, grassed, paved and planted surfaces, shaded, sunny and feature-lit areas.</i></p> <p><i>Balcony sizes generally exceed those required by the Apartment Design Guide to ensure quality private open space for residents.</i></p> <p><i>Interior corridors have access to daylight and natural ventilation, with views out of the building to improve both amenity and sustainability.</i></p>
Design Principle 7 – Safety	
<p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p><i>The building design openly addresses the street and has been carefully designed to ensure safe access to and egress from the buildings by ensuring direct sight lines to the residential lobbies from the street.</i></p> <p><i>The thresholds between public, communal and private areas are clearly defined to ensure a sense of ownership between the public and private domains.</i></p> <p><i>Ground floor apartments will provide lighting to the COS areas at night with passive surveillance of the street and opportunity for night-time activation.</i></p> <p><i>Apartments overlook communal open spaces providing passive surveillance to improve safety and the development has been designed to avoid blind corners and hidden spaces.</i></p> <p><i>Access to each building and individual apartments will be coordinated with a</i></p>

Design Quality Principle	Comment
	<p>security key system.</p> <p><i>Secure parking for residents is located within the basement with clear and direct lift access to the apartments. The entrance to the parking area is minimised to maximise street activation and surveillance</i></p>
Design Principle 8 – Housing Diversity and Social Interaction	
<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><i>The proposed development provides housing choice through varied apartment sizes. The communal open spaces and public street interface will encourage social interaction amongst residents and the community.</i></p> <p><i>The ground floor apartments and the interface between the streetscape have been carefully designed to enhance street activation.</i></p> <p><i>The proposed development will create opportunities for families in the surrounding suburbs to move into the area when their family needs change.</i></p> <p><i>The provision of one bedroom apartments in the development will provide for a more affordable entry point into the housing market.</i></p> <p><i>10% of units are designed to be adaptable to the needs of people with disabilities and to facilitate intergenerational changes and changing lifestyles.</i></p> <p><i>Variety in sizing, aspect and outlook within apartment types will result in some price differentiation.</i></p> <p><i>Dedicated residential communal open spaces are provided on various levels to support the communal life of the building. These spaces typically have direct access from the circulation core.</i></p>

Design Quality Principle	Comment
Design Principle 9 – Aesthetics	
<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p><i>The street façade has been designed to give a consistent and pleasing appearance to Northumberland Street. The interplay of building materials, including a composition of white and grey paint or similar render, perforated copper, glass balustrade, and patterned pre-cast concrete panel assists in creating a visually varied façade without cluttering the overall building appearance.</i></p> <p><i>The amended building design creates a large open courtyard to the street elevation with the 12-storey building component massed to the rear of the site, which provides a clear vertical to horizontal relationship to the streetscape.</i></p> <p><i>These amended design response ensures an appropriate provision for the future desired character of the area as a high density residential development.</i></p>

Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential apartment development to be designed in accordance with the ADG. The following table provides an assessment of the proposal 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	<p>Complies</p> <p>Building depths are generally 18m.</p>
2F Building separation	
Note: Where applying separation to buildings on adjoining sites, apply half the minimum separation distance measured to the boundary. This distributes separation equally between	Noted.

Provisions	Comment
sites.	
<u>Up to four storeys (approximately 12m):</u> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms 	<p>Non-compliance: 11.3m separation to western neighbour between habitable rooms/ balconies from ground to level 3.</p> <p>Non-compliance: 10.2m separation to southern neighbour between habitable rooms/ balconies from ground to level 3.</p> <p>Compliance: 12m separation to northern neighbour between habitable rooms/ balconies from ground to level 1.</p> <p>Not applicable: 0m setback to northern neighbour, building built to boundary from level 2 to level 3.</p> <p>Notwithstanding above listed non-compliances, the development is considered to be acceptable with regards to building separation. This is discussed in further detail after this table.</p>
<u>Five to eight storeys (approximately 25m):</u> <ul style="list-style-type: none"> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms 	<p>Non-compliance: 14.3m separation to western neighbour between habitable rooms/ balconies from level 4 to level 7.</p> <p>Non-compliance: 13.2m separation to southern neighbour between habitable rooms/ balconies from level 4 to level 7.</p> <p>Not applicable: 0m setback to northern neighbour, building built to boundary from level 4 to level 7.</p> <p>Notwithstanding above listed non-compliances, the development is considered to be acceptable with regards to building separation. This is discussed in further detail after this table.</p>
<u>Nine storeys and above (over 25m):</u> <ul style="list-style-type: none"> • 24m between habitable rooms/balconies 	<p>Non-compliance: 20m separation to western neighbour between habitable rooms/ balconies at level 8 only.</p> <p>Compliance: 24m separation to western</p>

Provisions	Comment
<ul style="list-style-type: none"> • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms 	<p>neighbour between habitable rooms/ balconies from level 9 to level 11. 24m separation to southern and northern neighbour between habitable rooms/ balconies from level 8 to level 11.</p> <p>Notwithstanding above listed non-compliance, the development is considered to be acceptable with regards to building separation. This is discussed in further detail after this table.</p>
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.	<p>Complies</p> <p>A detailed site analysis plan has been provided.</p>
3B Orientation	
<p>Building types and layouts respond to the streetscape and site while optimising solar access within the development</p> <p>Overshadowing of neighbouring properties is minimised during mid-winter</p>	<p>Complies</p> <p>The building type is appropriate for the streetscape.</p> <p>Overshadowing of neighbouring properties has been minimized by the amended proposal.</p>
3D Communal and public open space	
<p>Communal open space has a minimum area equal to 25% of the site</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p>	<p>Complies</p> <p>Approximately 553.2m² of communal open space is provided at the ground level and 144.5m² at the ninth storey. This is equivalent to 697.7m² of COS at the site or which is 25.3% of the site area.</p> <p>The communal open space is considered achieve sufficient solar access between 9am and 3pm mid-winter to the various COS onsite.</p>

Provisions			Comment
Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting			The communal open space allows for a range of activities with BBQ facilities, rest areas and recreational spaces.
3E Deep soil zones			
Deep soil zones are to meet the following minimum requirements:			Complies
Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)	Proposal provided 193m ² of deep soil zone, which is 7% of the site area. The deep soil zones at the rear of the site have minimum dimensions of 6m.
Less than 650m ²	-	7%	
650m ² to 1500m ²	3m		
Greater than 1500m ²	6m		
Greater than 1500m ² with significant tree cover	6m		
3F Visual Privacy			
Minimum separation distances from buildings to the side and rear boundaries are as follows:			Complies
Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	6m setback to all boundaries. N/A to northern zero lots line proposed.
Up to 12m (4 storeys)	6m	3m	
12m to 25m (5-8 storeys)	9m	4.5m	9m setback to all boundaries. N/A to northern zero lots line proposed.
Over 25m (9+ storeys)	12m	6m	12m setback to all boundaries.
3G Pedestrian Access and Entries			
Building entries and pedestrian access connects to and addresses the public domain			Complies

Provisions	Comment
Access, entries and pathways are accessible and easy to identify	Pedestrian access and entries complies with the objectives of the ADG.
Large sites provide pedestrian links for access to streets and connection to destinations	
3H Vehicle Access	
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	Complies Vehicle access points are located to achieve safety and minimize conflict.
3J Bicycle and Car Parking	
For development in the following locations: <ul style="list-style-type: none">- on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or- on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street	Complies Bicycle and car parking is provided in accordance with the requirements of the LDCP 2008.
Parking and facilities are provided for other modes of transport	
Car park design and access is safe and secure	
Visual and environmental impacts of underground car parking are minimised	
Visual and environmental impacts of on-grade car parking are minimised	
Visual and environmental impacts of above ground enclosed car parking are minimised	
4A Solar and Daylight Access	
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney	Complies. 106 Units proposed.

Provisions		Comment
Metropolitan Area and in the Newcastle and Wollongong local government areas		76 units receive 2 hours sunlight or 72% of units. 7 units receive no sunlight or 7% of units.
In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter		
A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter		
4B Natural Ventilation		
All habitable rooms are naturally ventilated		Complies First 9 stories of the building includes 88 units. 59 units are naturally ventilated for first 9 stories. Accordingly, 67% of units for first 9 stories are naturally ventilated
The layout and design of single aspect apartments maximises natural ventilation		
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed		
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line		
4C Ceiling Heights		
Measured from finished floor level to finished ceiling level, minimum ceiling heights are:		Complies 3050mm floor to floor heights provided with 200mm slabs. This is consistent with the recommendations of the DEP.
Minimum ceiling height		
Habitable rooms	2.7m	
Non-habitable	2.4m	
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the	

Provisions			Comment
	apartment area		
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope		
If located in mixed use areas	3.3m from ground and first floor to promote future flexibility of use		
Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms			
Ceiling heights contribute to the flexibility of building use over the life of the building			
4D Apartment Size and Layout			
Apartment are required to have the following minimum internal areas:			Complies <ul style="list-style-type: none">All 1 bedroom units are $\geq 50\text{m}^2$.All 2 bedroom units are $\geq 70\text{m}^2$ and $\geq 75\text{m}^2$ with 2 bathroomsAll 3 bedroom units are $\geq 95\text{m}^2$.
Apartment Type	Minimum Internal Area		
Studio	35m ²		
1 bedroom	50m ²		
2 bedroom	70m ²		
3 bedroom	90m ²		
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each			
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			Complies Habitable rooms are provided with windows of sufficient glass areas.
Habitable room depths are limited to a maximum of 2.5 x the ceiling height			Complies Habitable rooms are generally limited to 2.5 x the ceiling height.
In open plan layouts (where the living, dining and kitchen are combined) the maximum			Complies

Provisions			Comment															
habitable room depth is 8m from a window			Kitchens are generally 8m from a window.															
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)			Complies Bedrooms are of sufficient size.															
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)			Complies Bedrooms have a minimum dimension of 3m.															
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none">- 3.6m for studio and 1 bedroom apartments- 4m for 2 and 3 bedroom apartments			Complies Sufficient widths are provided to living rooms/dining rooms.															
4E Private Open Space and Balconies																		
All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3 bedroom</td><td>12m²</td><td>2.4</td></tr></table> The minimum balcony depth to be counted as contributing to the balcony area is 1m			Dwelling Type	Minimum Area	Minimum Depth	Studio	4m ²	-	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3 bedroom	12m ²	2.4	Complies The development provides for sufficient balcony areas and with adequate depths.
Dwelling Type	Minimum Area	Minimum Depth																
Studio	4m ²	-																
1 bedroom	8m ²	2m																
2 bedroom	10m ²	2m																
3 bedroom	12m ²	2.4																
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			Complies More than 15m ² of private open space is provided to ground floor units.															
4F Common Circulation and Spaces																		
The maximum number of apartments off a circulation core on a single level is eight			Complies Double lift core provided. Maximum 7															

Provisions		Comment										
		apartments off one lift.										
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40		Complies From the 10 th to the 12 th storey there is a maximum of 4 units per lift core.										
4G Storage												
<div>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</div> <table><tr><td>Dwelling Type</td><td>Storage Size Volume</td></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3 bedroom</td><td>10m³</td></tr></table> <div>At least 50% of the required storage is to be located within the apartment.</div>		Dwelling Type	Storage Size Volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3 bedroom	10m ³	Complies Half of storage spaces provided in units. Applicant has provided storage in basement but not allocated to units. Storage to be imposed as condition.
Dwelling Type	Storage Size Volume											
Studio	4m ³											
1 bedroom	6m ³											
2 bedroom	8m ³											
3 bedroom	10m ³											
4H Acoustic Privacy												
Noise transfer is minimised through the siting of buildings and building layout	Noise impacts are mitigated within apartments through layout and acoustic treatments	Complies Bathrooms and kitchens have been clustered together where possible and also located near corridors where possible, which assist in mitigating noise levels to quieter rooms such as bedrooms. Acoustic building requirements shall be included at the construction stage in order to mitigate acoustic disturbances between apartments.										
4K Apartment Mix												
A range of apartment types and sizes is provided to cater for different household types now and into the future	The apartment mix is distributed to suitable locations within the building	Complies The proposal provides for 37.7% one bedroom units, 51.89% two bedroom units and 10.38% three bedroom units.										

Provisions	Comment
4L Ground Floor Apartments	
Street frontage activity is maximised where ground floor apartments are located	Complies The subject proposal is entirely residential, without the need to provide active street frontages through non-residential uses. The ground floor has an abundance of open areas, sun light and landscaping. Pedestrian footpaths are clearly visible and landscaped along the sides. Two entrances are available in addition to the main entry which includes a ramp for access for people with a disability.
Design of ground floor apartments delivers amenity and safety for residents	
4M Facades	
Building facades provide visual interest along the street while respecting the character of the local area	Complies The overall design including building façade has been supported by the DEP as per the amendment discussed in Section 3.2 of this report.
Building functions are expressed by the facade	
4N Roof Design	
Roof treatments are integrated into the building design and positively respond to the street	Complies The roof is not the dominant feature, a parapet wall style is used which minimises expressions of roof forms. The development is in accordance with these objectives.
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	Complies An aesthetically pleasing landscape design has been proposed which corresponds well with the built form. The landscape design is considered appropriate and is able to receive the required solar access. The DA has been reviewed by Council's Tree Officer who has raised no objections
Landscape design contributes to the streetscape and amenity	

Provisions	Comment
	to the landscape design.
4P Planting on Structures	
Appropriate soil profiles are provided	Complies
Plant growth is optimised with appropriate selection and maintenance	The DA has been reviewed by Council's Tree Officer who has raised no objections to the landscape design.
Planting on structures contributes to the quality and amenity of communal and public open spaces	
4Q Universal Design	
Universal design features are included in apartment design to promote flexible housing for all community members	Complies All above ground apartments are accessed by a lift and include wide corridors which is suitable for wheel chair access. A ramp is provided at the entry of the building, also allowing wheel chair access to Ground Floor apartments.
A variety of apartments with adaptable designs are provided	
Apartment layouts are flexible and accommodate a range of lifestyle needs	
4R Adaptive Reuse	
New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	Not Applicable The DA is for the development of a new building and not the adaptive reuse of an existing building.
Adapted buildings provide residential amenity while not precluding future adaptive reuse	
4S Mixed Use	
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Not Applicable The DA does not proposed a mixed use development.
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	
4T Awnings and Signage	
Awnings are well located and complement and	Complies

Provisions	Comment
integrate with the building design	Awnings are provided to entries for wet weather protection.
Signage responds to the context and desired streetscape character	Complies Building address signage is integrated into the building design.
4U Energy Efficiency	
Development incorporates passive environmental design.	Complies The development has been submitted with a BASIX certificate. This will also form a condition of consent.
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	
Adequate natural ventilation minimises the need for mechanical ventilation	
4V Water Management and Conservation	
Potable water use is minimised	Complies Potable water use is minimized and water efficient devices will be provided in accordance with the requirements of the BASIX certificate.
Urban stormwater is treated on site before being discharged to receiving waters	Complies This aspect has been reviewed by Council's Land Development Engineers who have raised no issues subject to conditions.
Flood management systems are integrated into site design	Complies The development will be conditioned to incorporate flood mitigation measures.
4W Waste Management	
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Complies Waste storage facilities are provided and will be maintained by the caretaker.
Domestic waste is minimized by providing safe and convenient source separation and recycling	

Provisions	Comment
4X Building Maintenance	
Building design detail provides protection from weathering	Complies The development is in accordance with these objectives
Systems and access enable ease of maintenance	
Material selection reduces ongoing maintenance costs	

Variation to 2F – Building Separation and Overshadowing

As indicated in the above table the development proposes a partial non-compliance with Section 2F – Building Separation for portions of the proposed building. The portions of the building where the non-compliances occur are detailed in the following figures:

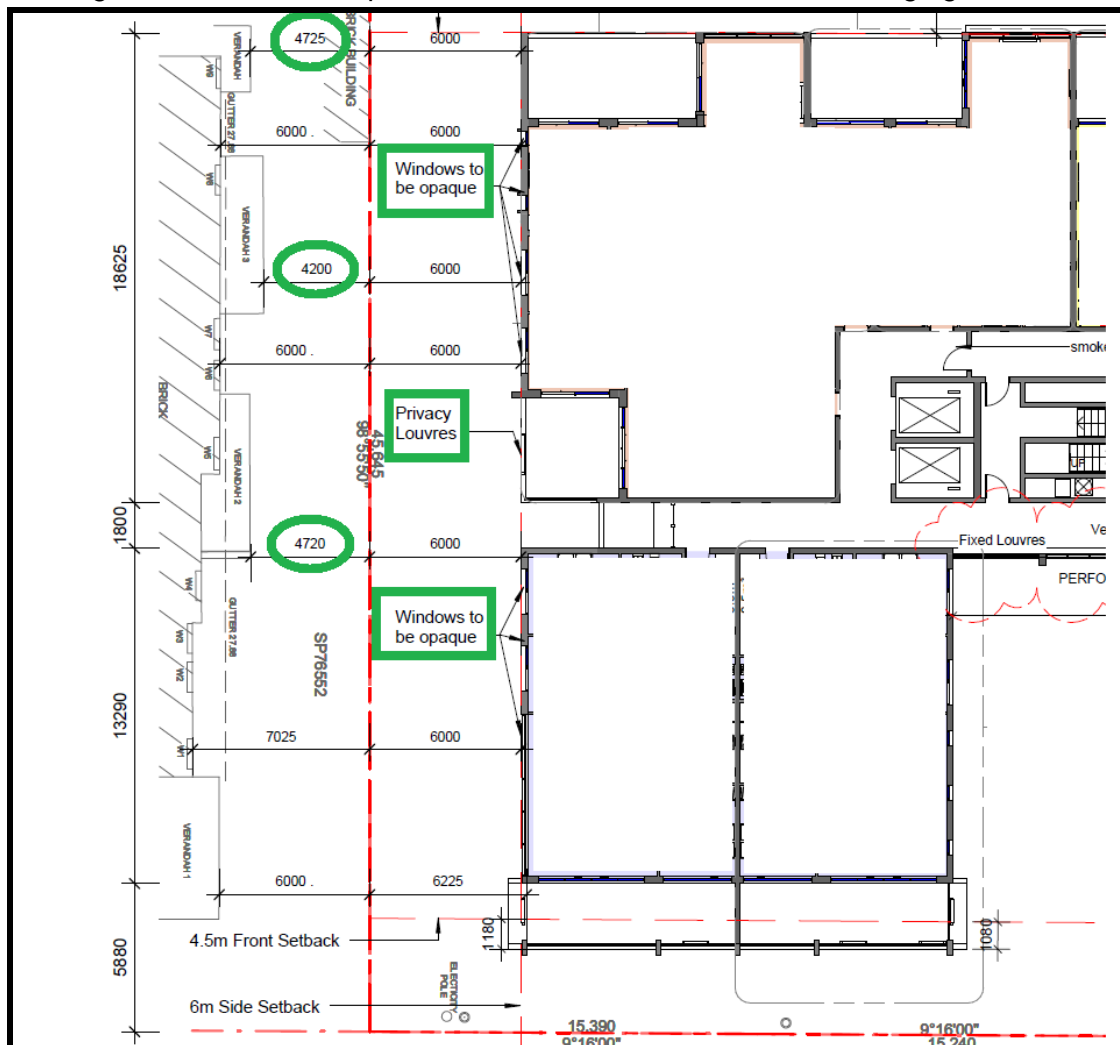


Figure 14: Areas of non-compliant building separation to Southern Neighbour from Ground to the Third Level. Green circles indicate non-compliance occurring on

neighbouring site. Green squares indicate additional visual privacy measures employed by applicant.

Figure 14 above indicates the areas of non-compliance with the minimum building separation distances from ground to the third level to the southern neighbour. The minimum required separation at these levels is 12m between habitable rooms. In accordance with the ADG, the applicant has provided a 6m setback to the side boundary, which is the required shared distance between sites. The neighbouring southern RFB provides 4.2m to 4.7m building setbacks to the side boundary from its balconies, which is less than the required shared separation distance. The southern building (DA-1831/2003) was approved before the introduction of the ADG. Accordingly, the applicant is seeking a variation to the 12m building separation requirement by proposing a minimum of 10.2m separation. The applicant has provided additional privacy measures to mitigate potential visual privacy impacts caused as a result of the 10.2m building separation proposed at these levels.

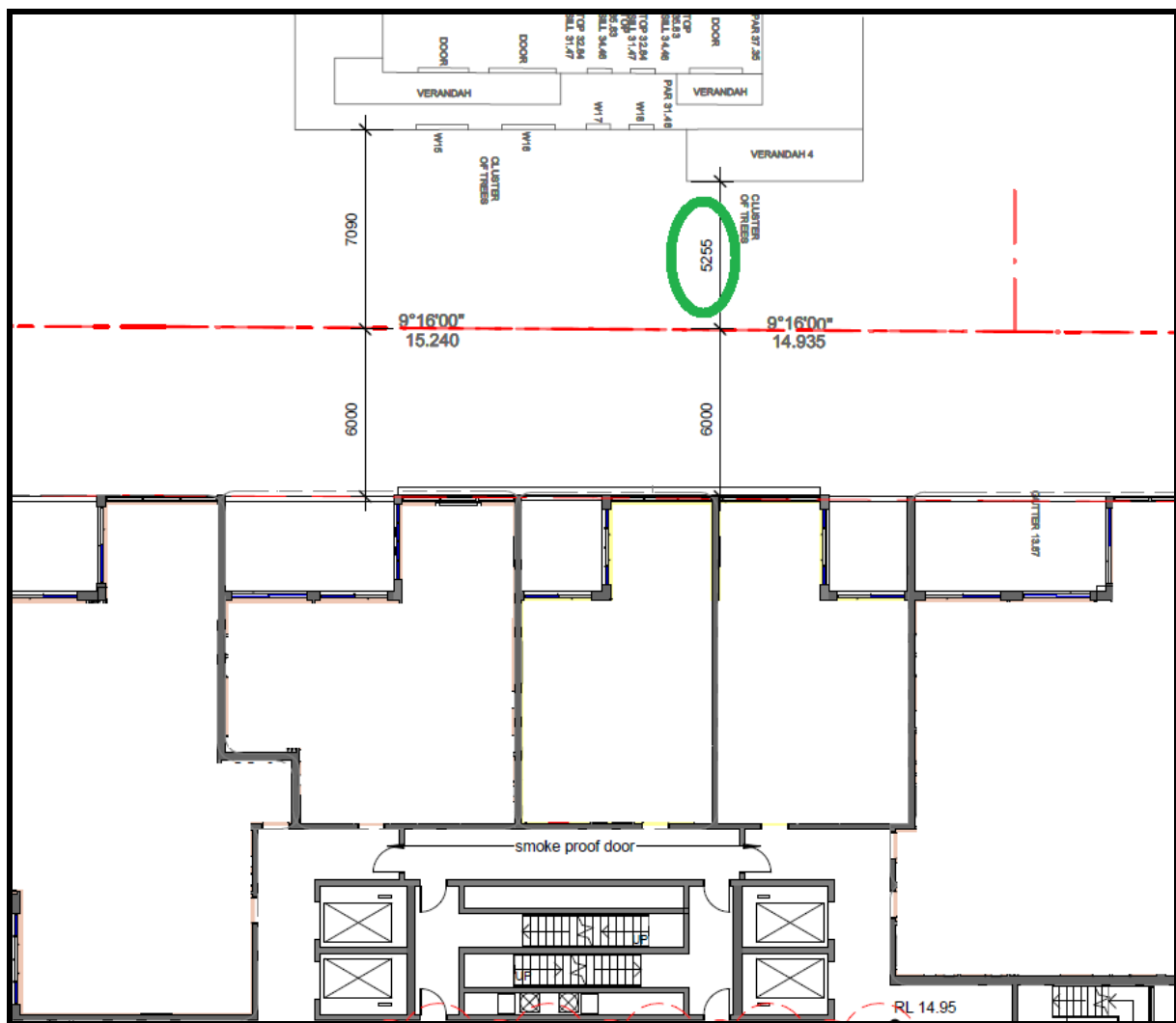


Figure 15: Areas of non-compliant building separation to Western Neighbour from Ground to the Third Level. Green circle indicates non-compliance occurring on neighbouring site.

Figure 15 above indicates the instances of non-compliance with the minimum building separation distances from ground to the third level to the western neighbour. The minimum

Architectural floor plan showing a fire compartment boundary (red dashed line) and various dimensions. The plan includes a staircase area at the bottom, labeled "smoke proof door". Dimensions are provided in feet and inches (e.g., 9°16'00", 15.240, 14.935) and feet (e.g., 7090, 5255, 9015, 9000, 31.48). The plan also shows a "VERANDAH" area at the top and a "CUTTER 13.87" label on the right side.

Figure 17 above indicates the areas of non-compliance with the minimum building separation distances from the fourth to the seventh level to the western neighbour. The minimum required separation at these levels is 18m between habitable rooms. In accordance with the ADG, the applicant has provided a 9m building setback to the rear boundary, which complies with the required shared separation distance between sites. The neighbouring western RFB provides a 5.3m building setback to the rear boundary from some

of its balconies and habitable rooms, which is less than the required shared distance. The western building (DA-1970/2003) was approved before the introduction of the ADG. Accordingly, the applicant is seeking a variation to the 18m building separation requirement by providing 14.3m of separation at these levels.

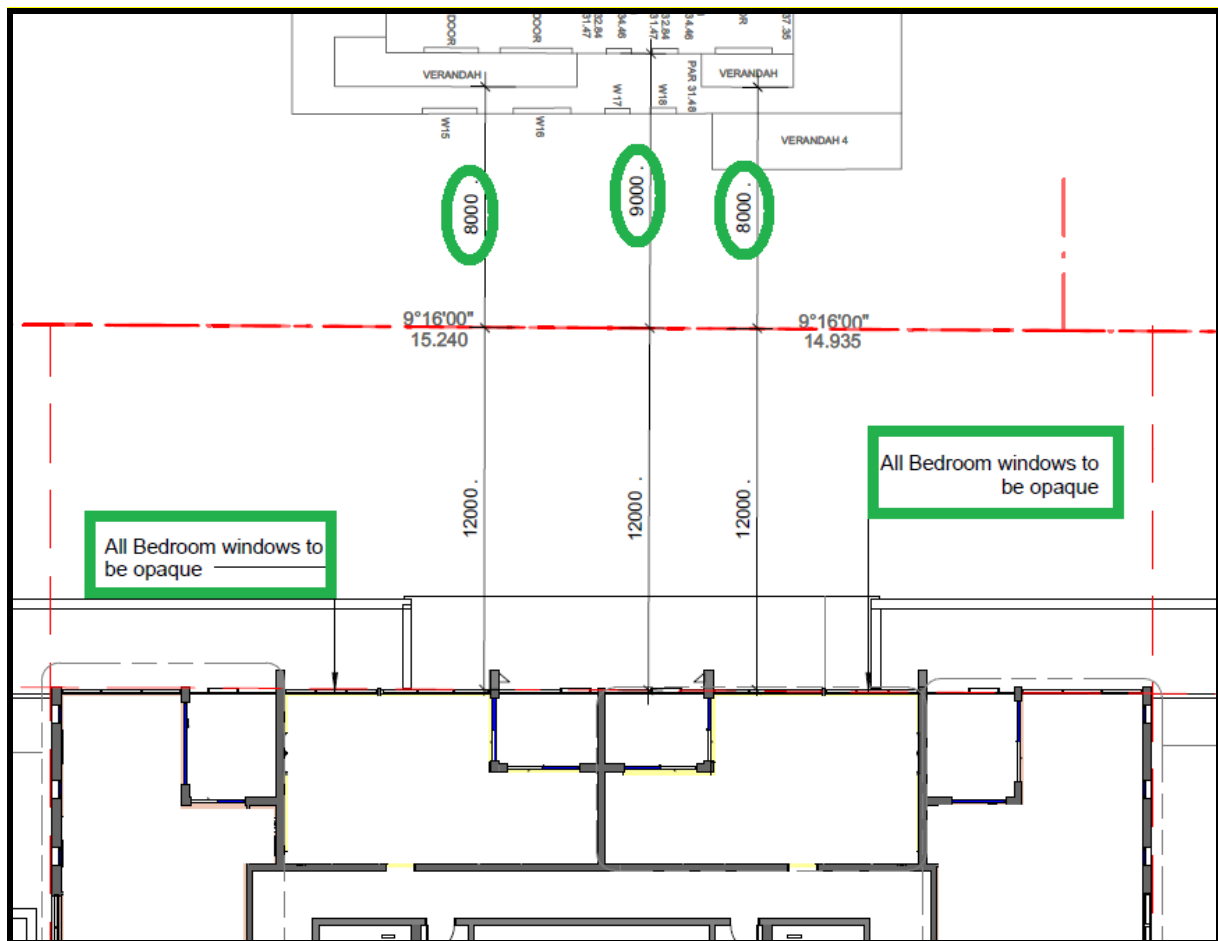


Figure 18: Areas of non-compliant building separation to Western Neighbour at the Eighth Level. Green circles indicate non-compliance occurring on neighbouring site. Green squares indicate additional visual privacy measures employed by applicant.

Figure 18 above indicates the areas of non-compliance with the minimum building separation distances at the eighth level, to the western neighbour. The minimum required building separation at this level is 24m between habitable rooms. In accordance with the ADG, the applicant has provided a 12m building setback to the rear boundary, which is the required shared separation distance between sites. The neighbouring western RFB provides 8m to 9m building separation to the rear boundary from its balconies and habitable rooms, which is less than the required shared distance. The western building (DA-1970/2003) was approved before the introduction of the ADG. Accordingly, the applicant is seeking a variation to the 24m building separation by providing 20m. In this case the applicant has provided additional privacy measures to mitigate potential visual privacy impacts caused as a result of the 20m building separation proposed at the eighth storey.

Summary: It is apparent from the assessment of building separation above that the non-compliances stem from development on the adjoining southern and western sites before the implementation of the ADG. To address this the applicant has provided the shared distances

required by the ADG within their site and has provided additional visual privacy measures to mitigate any potential impacts to future occupant amenity. It should be noted that the proposal does comply with FSR and building height requirements and is not considered to be an over development of the site with regards to the LLEP 2008.

The aims of section 2F – Building Separation of the ADG are as follows:

- Ensure new development is scaled to support the desired future character with appropriate massing and spaces between buildings.
- Assist in providing residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook.
- Provide suitable areas for communal open space deep soil zones and landscaping.

From the assessment of the amended development proposal, it is considered to be consistent with the aims for building separation listed above, with exception of sunlight and daylight access.

In order to sufficiently assess the extent of overshadowing that will be cast on the adjoining southern RFB by the development of the subject site, the applicant has provided the following figures for consideration:

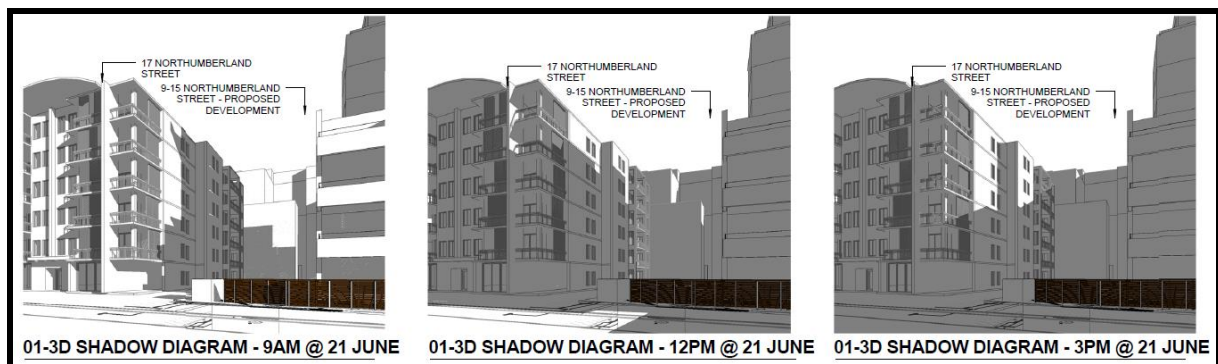


Figure 19: Over shadowing from building with fully compliant separation and beyond shared distances on the subject site

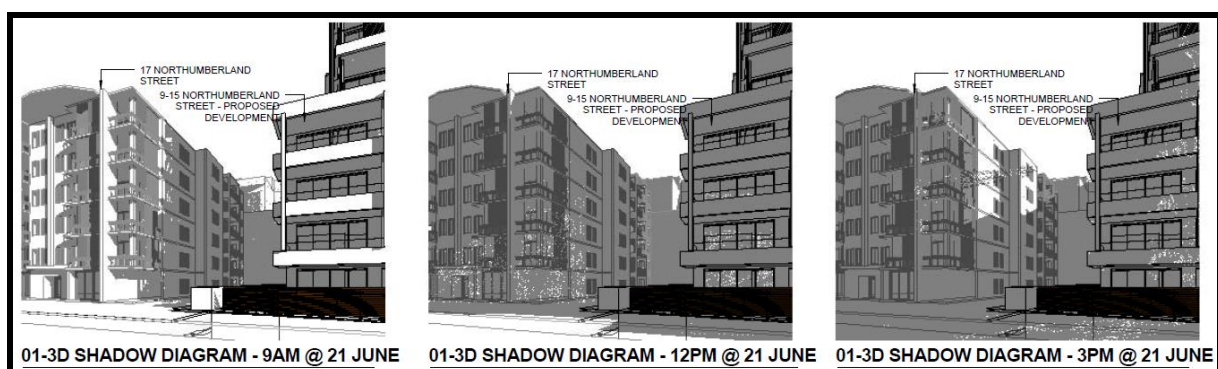


Figure 20: Over shadowing from building with proposed variation to building separation

Figure 19 above demonstrates the over shadowing on the northern elevation of the adjoining southern RFB from the proposed development if it was fully compliant with the ADG building

separation requirements and provided increased setbacks within the subject site. Figure 20 shows the overshadowing on the northern elevation of the adjoining southern RFB from the proposed development with the shared distances as per the ADG.

It is evident from these figures that complying with the building separation requirement and going beyond the recommended shared distances within the subject site would result in a limited increase in solar access the southern building. A building separation compliant development at the site would allow solar access to two additional windows on the top level of the southern building at 12pm, mid-winter.

Considering the limited gain in daylight access experienced by the southern neighbour as a result of compliant separation distances within the site, it is considered unreasonable to request that the applicant amend the proposal to exceed shared distance requirements and reduce the proposed building onsite. It should be noted that the building is under the maximum allowable building height and FSR development standards and is therefore of a scale that is considered to be consistent with the desired future character of the locality.

Accordingly, the proposed variations to building separation to the neighbouring western and southern neighbour are considered acceptable in this circumstance, as well as the overshadowing that is likely to occur on the adjoining southern building as a result of the proposed development.

For the reasons detailed above the development is considered acceptable with regards to SEPP 65 and the ADG.

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

The objectives of SEPP 55 are:

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

Pursuant to the above SEPP, Council must consider:

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

Clause 7 of SEPP 55 states:

- (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*
 - (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*

- (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.*

For the purposes of this Clause, the “land concerned” is:

- (a) *land that is within an investigation area,*
- (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
- (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
- (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

The DA was referred to Council's Environmental Health Section for assessment regarding potential contamination at the site. Council's Environmental Health Section requested that a Preliminary Site Investigation (PSI) in contamination at the site be carried out by the applicant. A PSI prepared by Environment Investigation Australia (report no: E23091 AA_Rev0) dated 12 April 2017, was submitted by the applicant. Council's Environmental Health Section reviewed this investigation and provided the following comments:

“The PSI was undertaken in accordance with OEH ‘Guidelines for Consultants reporting on Contaminated Sites’.

The primary objectives of this PSI is to provide a qualitative assessment of the environmental conditions of the site by appraising the potential for site contamination on the basis of field observations, historical land uses, anecdotal and documentary evidence.

The PSI includes scope of works comprising of the following:

- *Review of relevant topographical, geological and hydrogeological maps;*
- *Review of historical aerial photographs and NSW LPI records;*
- *Review of records from Liverpool City Council such as S149 certificates;*
- *Review of notices under contaminated land and NSW POEO Register; and*
- *Detailed site walkover inspection.*

Historical aerial photographs were obtained and reviewed (dated 1930 to 2012).

Land titles search was undertaken (dated 1841 to current).

On 22 March 2017, an on-line search of the contaminated land public record of NSW Environment Protection Authority (EPA) Notices was conducted. This search confirmed that

the NSW OEH had no regulatory involvement in relation to the area of investigation, or properties in proximity to the site (≤500 m).

The assessment identified potential contaminants of concern, however the risk is unlikely to low likelihood. The report concludes that following implementation and completion of recommendations provided in section 6 of the report, the subject premises will be suitable for the proposed development.”

Given the above, SEPP 55 considerations have been addressed and the land is considered suitable for its continued use for residential purposes.

(c) 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.

(d) 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 taken into account:	Planning principles are to be applied when a consent authority determines a development application.
(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	The proposal provides soil and erosion control measures.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The proposal provides a stormwater management system that will connect to the existing system. A Stormwater concept plan also outlines proposed sediment and erosion control measures.
d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments),	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices	The proposal includes a Stormwater Concept plan. There is no evidence that

of, the Department of Urban Affairs and Planning),	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 is considered appropriate for the site.

Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The site is not affected by acid sulphate soils.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The site contains flood affected land. This aspect has been reviewed by Council's Floodplain Engineers who have raised no issues subject to conditions.
(4) Industrial discharges	Not applicable. The site has been used for residential purposes.
(5) Land degradation	An erosion and sediment control plan aims to manage salinity and minimise erosion and sediment loss.
(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	A Stormwater Concept Plan proposes connection to existing services.
(10) Urban development areas	The site is not identified as being located within the South West Growth Centre within the Metropolitan Strategy. The site is not identified as being an Urban Release Area under LLEP 2008.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	A drainage plan proposes stormwater connection to existing services.
(13) Wetlands	Not applicable.

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

(e) Liverpool Local Environmental Plan 2008

(i) Permissibility

The proposed development is for a *residential flat building*, which is defined as follows:

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

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

(ii) Objectives of the zone

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

- *To provide for the housing needs of the community within a high density residential environment.*

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

The proposed development would meet and satisfy the above stated objectives. Specifically, the building will provide a total of 106 dwellings (a mix of, 1, 2, 3 bedroom units and a number of adaptable units) and the site is located in an area identified for urban renewal and transformation, in close proximity to Liverpool Railway Station, retail and commercial facilities.

(iii) Principal Development Standards

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

Clause	Provision	Comment
Clause 2.7 Demolition Requires Development Consent	The demolition of a building or work may be carried out only with development consent.	Complies Consent is sought for the demolition of existing buildings.
Clause 4.3 Height of Buildings	Maximum height of 45m	Complies Natural ground = 11.05 AHD Top of building = 50.8 AHD A maximum height of 39.75m is proposed.
Clause 4.4 Floor Space Ratio	Maximum FSR of 3.5:1	Complies FSR of 3.43:1 is proposed, which equates to a GFA = 9432.1m ² . Site area = 2751.5m ²
Clause 7.2 Sun Access in Liverpool City Centre	Land within 9m of the public right of way on the western side of Northumberland Street opposite Liverpool Pioneers' Memorial Park between Lachlan and Campbell Streets shall have a maximum height of 30m	Complies Building height is under 30m for the first 9m of the site from the front property boundary.
Clause 7.4 Building Separation in Liverpool City Centre	Development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least: <ul style="list-style-type: none"> - 9 metres for parts of buildings between 12 metres and 25 metres above ground level 	Partial non-compliance – considered acceptable The proposed development provides no building separation (0m side setback) to the adjoining northern building from the third storey of the proposal to a height of 25m. This is not for the entire depth of the building and applies only to unit typologies A205, A206 and A404, which extends between 4m to 18m from the front property boundary. This is a variation of 100% Applicant has lodged a Clause 4.6 Variation

	<p>(finished)</p> <ul style="list-style-type: none"> - 12 metres for parts of buildings between 25 metres and 35 metres above ground level (finished) 	<p>report. See Clause 4.6 discussion below. All other parts of the building fully comply with building separation in Liverpool City Centre.</p>
Clause 7.14 Minimum Building Street Frontage	<p>Development consent must not be granted to development for the purposes of any of the following buildings, unless the site on which the buildings is to be erected has at least one street frontage to a public street (excluding service lanes) of at least 24 metres:</p> <ul style="list-style-type: none"> - any residential flat building. 	<p>Complies Street frontage exceeds 24m.</p>
Clause 7.8 Flood Planning	<p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> (a) is compatible with the flood hazard of the land, and (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and (c) incorporates appropriate measures to manage risk to life from flood, and (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and (f) is consistent with any relevant floodplain risk management plan adopted by the Council in accordance with the Floodplain Development Manual. 	<p>The proposed development site is located within Brickmakers Creek catchment. The site is not affected by flooding under 1% Annual Exceedance Probability (AEP) event. However, it is affected by the Probable Maximum Flood (PMF) event.</p> <p>The proposal was reviewed by Council's flooding engineers who raised no concern with the proposal subject to conditions of consent.</p>

(iv) Other Relevant LLEP 2008 Clauses

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

- **Clause 5.10 Heritage Conservation**

The development site is not listed as a heritage item under Schedule 5 of the LLEP 2008, however, it is located within the vicinity of a heritage item being item Number 89 known as the Plan of Town of Liverpool (Hoddle Grid 1827) and item Number 90 known as Liverpool Memorial Pioneers Park (Formerly St Luke's Cemetery and Liverpool Cemetery). Item No.90 is located east of the subject site at the intersections of Northumberland Street, Macquarie Street and Lachlan Street.

Council's Heritage Officer has reviewed the proposal and has raised no objection to the development with regards the surrounding heritage items or its effect on heritage conservation.

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

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

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

Comment: The development provides a residential flat building which aligns with the street.

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

Comment: The proposed development has been designed to maximise the ability for sunlight to reach buildings and the pedestrian areas.

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

Comment: The development is highly unlikely create pedestrian or traffic conflicts on the Hume Highway

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

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

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

Comment: Not relevant.

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

Comment: Not relevant.

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

Comment: Not relevant.

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

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

The matters set out in Clause 7.5 have been carefully considered in consultation with the DEP. Consequently, the application has been through amendments to improve the design quality in line with provisions of the LLEP 2008 and the comments provided by the DEP.

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

Clause 4.6 of LLEP 2008 – variation to development standards

As identified in the compliance table above, the proposal is compliant with the majority of provisions prescribed by LLEP 2008 with the exception of Clause 7.4 – Building Separation in Liverpool City Centre.

Variation to Clause 7.4 Building Separation in Liverpool City Centre:

Clause 7.4 of the LLEP 2008, stipulates that:

“Development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least:

(a) 9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished) on land in Zone R4 High Density Residential”

The proposed development provides no building separation (0m side setback) to the adjoining northern building from the third storey of the proposal to a height of 25m. This is not for the entire depth of the building and applies only to unit typologies A205, A206 and A404, which extends between 4m to 18m from the front property boundary into the site. This is demonstrated in the following figures:

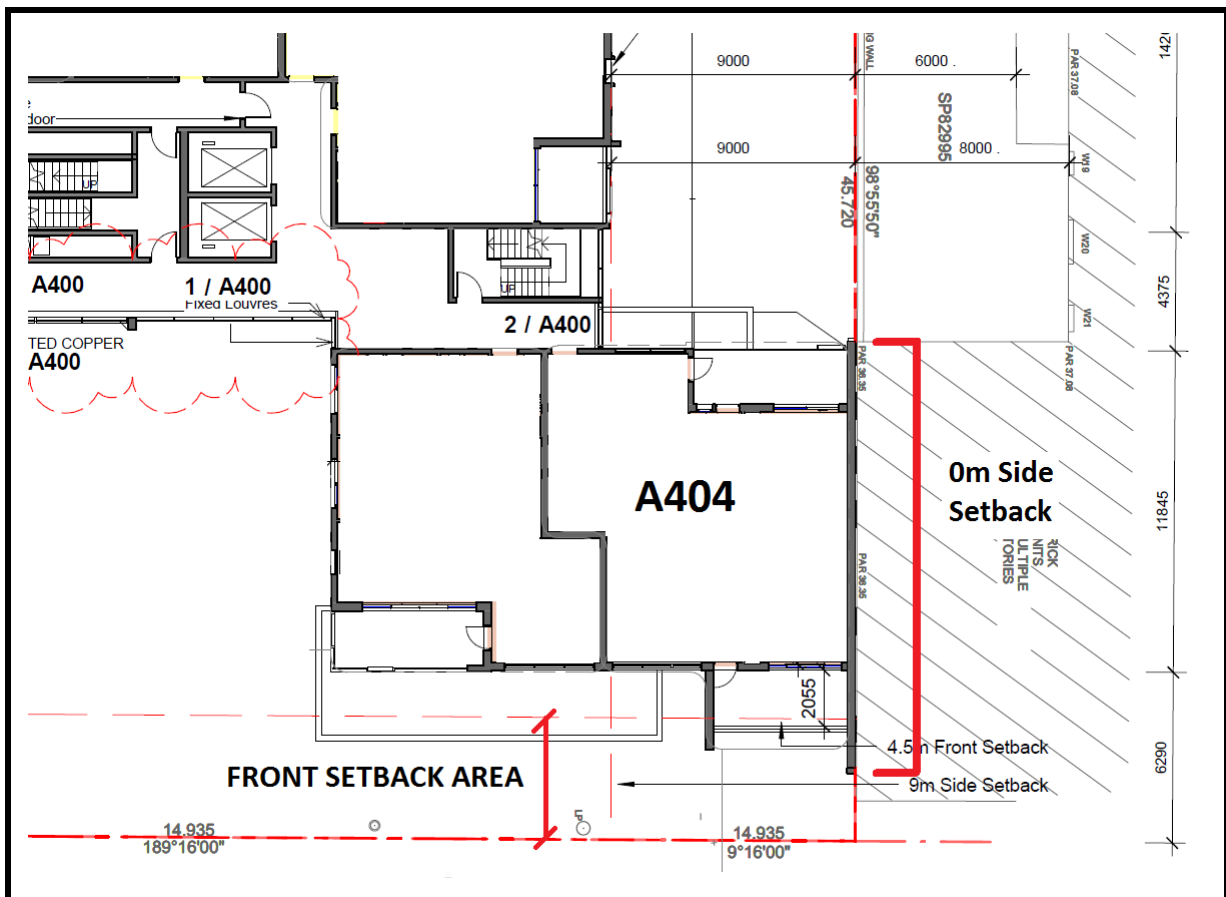


Figure 21: Floor plan showing Zero Side Setback to Northern Boundary

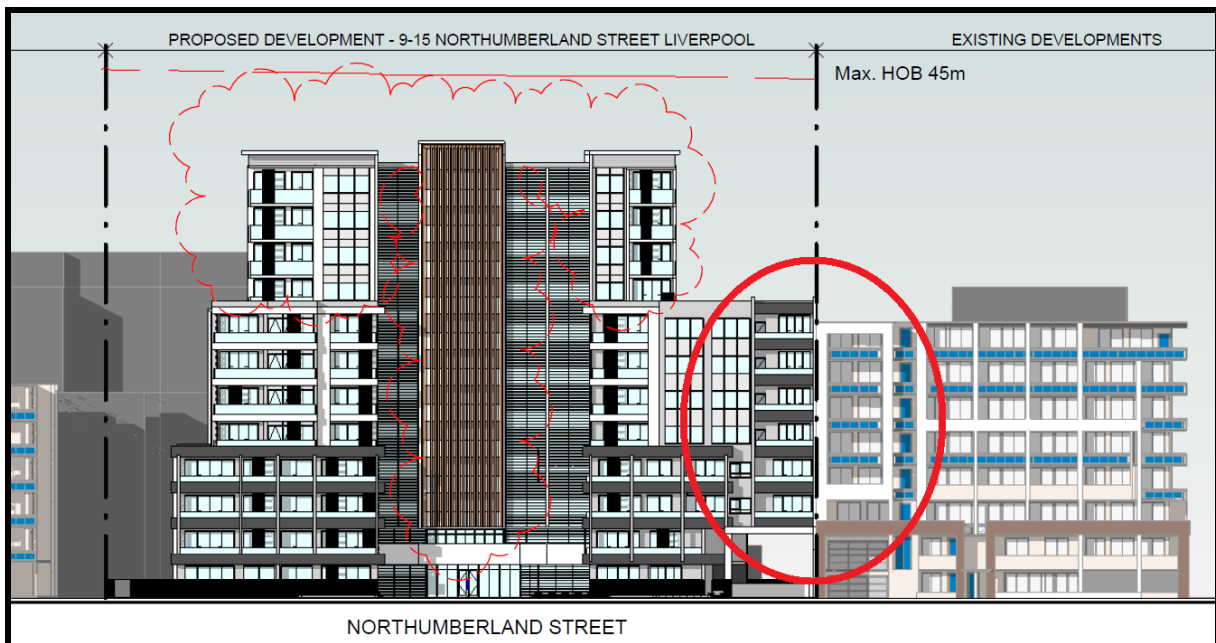


Figure 22: Elevation Plan showing Zero Side Setback to Northern Boundary circled in red

Due to the situation demonstrated in the figures above the proposal does not comply with the minimum 9m building separation required as per Clause 7.4 of LLEP 2008 and is seeking a variation of 100% from this development standard.

Resultantly, the applicant has provided a clause 4.6 variation to justify the non-compliance. The clause 4.6 variation is attached to this report. It should be noted that where the building is stepped away from the zero side setback proposed it is fully compliant with Clause 7.4 of LEP 2008 and the ADG.

The submitted written request to vary Clause 7.4 to accommodate the zero setback has been assessed against the provisions of Clause 4.6, the objectives of Clause 7.4 and the objectives of the R4 zone. This is 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.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

1) Circumstances of the development

The application proposes the demolition of existing buildings, tree removal and the construction of a 12-storey residential flat building containing 106 residential apartments over two levels of basement parking with associated landscaping and ancillary site works within the Liverpool City Centre area.

The development is proposing a zero setback for part of the building on the northern side boundary to connect to a building on the adjoining lot, which also provides a zero side setback. See figures 21 and 22 above.

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 follows:

“The proposed non-compliance occurs as a means of achieving a better development outcome because it enables the development to achieve the following.

- Adopt an appropriate Urban Form, and Quality Common Open Space: The proposal provides for a suitable 0m setback along the length of the 0m setback provided by the building to the north-east that mitigates the adverse impact of a blank wall of that adjoining development and presents a cohesive streetscape appearance. This also facilitates the common open space at the upper levels.

Strict compliance to the height through increased separation would expose the blank wall of the adjoining development which would present poorly to the street.

- Compliance with Apartment Design Guide: The ADG permits a 0m separation between blank walls- noting that the ADG is a contemporary planning document that has recently been adopted (June 2015) and reflects the understanding that development can adopt a 0m setback where blank walls are provided. The LLEP 2008 is outdated in this regard and the ADG should take precedence particularly in circumstances where this improved Urban Design outcome is achieved.”

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

- Currently on the northern site boundary is a large blank wall presenting to the street and adjoining parkland from a neighbouring RFB. The proposed development has been designed to provide a zero-setback to the northern boundary in order to marry up to this blank wall and cover it from view.
- Marrying up to the existing blank wall is considered to provide a consistent built form presentation to Northumberland Street and create a defined street edge. This is considered to be consistent with the desired character of a high density residential environment.
- The ADG provides that, *“Consider zero side setbacks where the desired character is for a continuous street wall, such as in dense urban areas, main streets or for podiums within centres.”*
- Due to the location of the zero side setback, being on the northern site boundary and in the front portion of the site, it is not considered that this component of the building would increase over shadowing within the site and to adjoining sites/buildings.
- As the proposal seeks to connect to an existing blank wall on the adjoining northern site, there is not considered to be any increased potential for visual privacy impacts to occur. In accordance with 3F – Visual Privacy of the ADG, the apartments located on the zero side setback will have sufficient separation between habitable spaces both to the neighbouring site and internally.
- Council’s DEP have reviewed the design on two separate occasions and supported the building being built to the northern side boundary to connect to an adjoining building.

Considering the above, compliance with the 9m building separation development standards is considered unnecessary in this circumstance. Furthermore, it is considered that the

proposed 100% variation would result in a better outcome for the development of the Northumberland streetscape and its urban relationship to the Pioneers Park as a contiguous street edge would be created. Where the development was to comply with Clause 7.4, it is considered that a disjointed urban form would be created with no benefit to solar access, privacy and streetscape presentation.

Accordingly, compliance with Clause 7.4 of LLEP 2008 is not considered necessary in this circumstance and there is sufficient environmental planning grounds to justify a 100% variation to the development standard.

3) Consistency with objectives of the development standard Clause 7.4 Building Separation in the Liverpool City Centre

The objectives of Clause 7.4 and assessment are as follows:

- (1) The objective of this clause is to ensure minimum sufficient separation of buildings for reasons of visual appearance, privacy and solar access.*

The applicant has provided the following comments addressing how the proposal meets the objectives of Clause 7.4, as follows:

“The proposal has been designed specifically to address and overcome constraints associated with the site - noting the adjoining development to the north adopts a 0m side setback with a blank wall. Therefore, the most appropriate contextual response is to match this and comply with separation elsewhere on the site- which is a preferred Urban Design outcome.

Further the proposal is compliant with the ADG separation that enables 0m between blank walls and the ADG is a contemporary planning document that has recently been adopted (June 2015) and reflects the understanding that development can adopt a 0m setback where blank walls are provided. The LLEP 2008 is outdated in this regard and the ADG should take precedence particularly in circumstances where this improved Urban Design outcome is achieved.

Therefore, the underlying objectives of the separation controls are reasonably satisfied as the proposal is responding to context on the adjoining site and there are no privacy or visual appearance issues that are generated by this urban design response. In addition, given they are on the north eastern corner there are no impacts in terms of solar access (i.e. overshadowing issues).”

In response to the comments raised above, Council has provided the following in relation to the objectives of Clause 7.4:

- The portion of the building where the variation occurs is not considered to cause any solar impacts, internally or externally.
- The portion of the building where the variation occurs is not considered to cause any privacy impacts, internally or externally, beyond a compliant development.
- The proposed variation will resolve an existing negative impact to the streetscape, by covering up large blank wall presenting to Northumberland Street. Furthermore, it is considered that it will create a street edge and uniformity in the built form addressing the heritage park.

For the reasons above, the proposed development is considered to be consistent with the objectives of Clause 7.4 of LLEP 2008.

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

The objectives of the R4 High Density Residential zone are as follows;

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

The proposed development, inclusive of the variation to Clause 7.4, is considered to maintain consistency with the majority of the R4 zone objectives. The development provides for the housing needs of the community within a high density residential environment. The proposal allows for a high concentration of housing with good access to transport, services and facilities within the Liverpool City Centre. The proposal prevents the fragmentation of land by consolidating 4 individual sites to allow for a suitably designed and high quality residential development.

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 to apply a degree of flexibility when applying the building separation development standard applicable to the subject site given above discussion. Despite the non-compliance the proposal provides for a suitably designed residential flat building with appropriate presentation to the street and the public domain. The proposal, inclusive of the variation to Clause 7.4, provides for appropriate internal amenity for future residents and does not detract from the amenity of the adjoining residents.

6) Recommendation

With considerations to the discussion above, the proposed variation to the Clause 7.4 “Building Separation in Liverpool City Centre” has satisfied the provisions of Clause 4.6 and is supported in this case.

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

No draft Environmental Planning Instruments applies 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 4 *Development in Liverpool City Centre*.

The tables 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 There are several non-significant trees located on site that will be removed as part of the proposal. The application was reviewed by Council's Tree Officer who raised no concern with the proposal.
Section 3. Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	Complies The landscape plan has been reviewed by Council's Tree Officer, who has raised no issues with the design. The Landscape Plan proposes a variety of planting along the street frontages, communal open space and podiums.
Section 4 Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	Not Applicable The development site is not identified as containing any native flora and fauna.
Section 5. Bush Fire Risk	Controls relating to development on bushfire prone land	Not Applicable The development site is not identified as being bushfire prone land.
Section 6. Water Cycle Management	Stormwater runoff shall be connected to Council's drainage system by gravity means. A stormwater drainage concept plan is to be submitted.	Complies 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.	Not Applicable The development site is not within close proximity to a water course.
Section 8. Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	Complies Conditions of consent will be imposed to ensure that erosion and sediment controls measures are implemented during the construction of the development.
Section 9. Flooding Risk	Provisions relating to development on flood prone land.	Complies The development site is affected by flooding. This aspect has been reviewed by Council's Floodplain Engineers, who have raised no issues subject to conditions.
Section 10. Contaminated Land Risk	Provisions relating to development on contaminated land.	Complies As discussed earlier within this report, the site is considered suitable for the development.

Development Control	Provision	Comment
Section 11. Salinity Risk	Provisions relating to development on saline land.	Not Applicable The development site is identified as containing a low salinity potential. Therefore, a salinity management response plan is not required.
Section 12. Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	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 Council's Heritage Officer has advised that the site does not have indications based on the last uses that it maintains a likelihood of archaeological finds or relics.
Section 17. Heritage and Archaeological Sites	Provisions relating to heritage sites.	Complies Conditions will be imposed to ensure that the proposal does not detract from surrounding heritage items.
Section 18. Notification of Applications	Provisions relating to the notification of applications.	Complies The application was not required to be notified.
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: <ul style="list-style-type: none"> - 1 space per two studio apartments - 1 space per one bedroom or two bedroom apartments - 1.5 spaces per three of more bedroom units - 1 space per 10 units or part thereof, for visitors - 1 space per 40 units for service vehicle (including removalist vans (and car washing bays, up to a maximum of 4 spaces per building). 	Complies The following parking is required: <ul style="list-style-type: none"> - 40 x 1 bedroom units requires 40 spaces - 55 x 2 bedroom units requires 55 spaces - 11 x 3 bedroom units requires 16.5 spaces A total of 111.5 spaces required for the residential units <ul style="list-style-type: none"> - 106 residential units requires 10.6 visitor spaces - 2 carwash/service bays are required. The following parking is provided: <ul style="list-style-type: none"> - 126 spaces for residential units and visitors - 3 carwash/service bays
	Provision is to be made for motorcycle parking at the rate of	Complies

Development Control	Provision	Comment
	1 motorcycle space per 20 car spaces	A total of 126 parking spaces (excluding the car carwash/service bays) are provided which equates to 6 motorcycle spaces. A total of 6 motorcycle spaces have been provided.
	Provide 2% of the total demand generated by a development, for parking spaces accessible, designed and appropriately signposted for use by persons with disabilities.	Complies A total 2.44 spaces of the 126 parking spaces shall be accessible spaces. A total of 3 accessible spaces have been provided.
	1 bicycle space per 200m ² of gross floor area.	Complies A total of 47 bicycle spaces are required.
	15% of this requirement is to be accessible to visitors	A total of 49 bicycle spaces are provided including half which are accessible to visitors.
Section 21. Subdivision of Land and Buildings	Provisions relating to the subdivision of land.	Not Applicable The DA does not propose the subdivision of land.
Section 22. and Section 23 Water Conservation and Energy Conservation	New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	Complies Conditions of consent will be imposed to ensure compliance with the BASIX commitments.
Section 25. Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Complies During Construction: A waste management plan has been submitted. Conditions of consent will be imposed to ensure that compliance with the WMP is achieved during construction. On-going Waste Management: The development includes a waste storage area on Basement Level 2 for waste collection and storage. The building has been designed to include waste chutes from the services cores on each level to the waste storage room on Basement Level 2. Bins will be wheeled to the front for collection and will be collected from Northumberland Street.
Section 26 Outdoor Advertising and Signage	Provisions relating to signage.	Not Applicable The DA does not propose any signage.
Section 27. Social Impact Assessment	A comprehensive social impact comment shall be submitted for residential flat buildings greater than 20 units.	A social impact comment was submitted as part of the proposal. This was assessed by Council's Community Planners, who supported the subject DA with regards to social matters.

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Development Control	Provision	Comment
Section 2 Controls for Building Form		
Building Form	Street building alignment and street setbacks applicable to the site is a 4-4.5m landscaped setback to Northumberland Street in this part of the city centre. Balconies may project up to 1.2m in high density residential zones.	Complies The proposal provides a minimum 4.5m setback to Northumberland Street. Balcony encroachment is a maximum of 1.2m.
	The external facades of buildings are to be aligned with the streets that they front.	Complies The external facades align with the streets.
	Minor projections into front building lines and setbacks for sun shading devices, entry awnings and cornices are permissible.	Complies Projections into the building setbacks are provided for the awnings.
Street Frontage Height	A street frontage height (SFH) of 15m-25m is required for Northumberland Street in this part of the city centre.	Complies A minimum SFH of 25m is provided and extends to 30m.
Building Depth and Bulk	Maximum floor plate size of 500m ² (GFA) and building depth of 18m (excluding balconies) is required above street frontage height (i.e Level 8)	Complies The building is broken into two blocks and the separate floor plates on each level do not exceed 500m ² and building depth of both floor plates do not exceed 18m in depth.
Side Setback	Residential uses up to 12m (i.e Ground floor, Level 1, Level 2 and Level 3) require a minimum side setback of: <ul style="list-style-type: none"> - 3m to non-habitable rooms. - 6m to habitable rooms. 	Partial non-compliance (Considered Acceptable) <ul style="list-style-type: none"> • Southern boundary side setback of 6m • Northern Boundary Side Setback of 6m (ground and first floor) • Northern Boundary Side Setback of 0m (second and third floor) – Non compliance <p>Comment: As discussed previously (Clause 4.6 Variation Assessment) despite the setback non-compliances the proposed building does not detract from the amenity of the adjoining residents. Appropriate solar access and acoustic privacy is provided through the building design. The proposal is also consistent with the majority of RFB's surrounding the development site which have non-compliant side setbacks and the provisions of the ADG.</p>
	Residential uses between 12-25m (i.e. Level 4, Level 5, Level 6 and Level 7) require: <ul style="list-style-type: none"> 4.5m to non-habitable rooms. - 9m to habitable rooms 	Partial non-compliance (Considered Acceptable) <ul style="list-style-type: none"> • Southern boundary side setback of 9m provided. • Northern Boundary Side Setback of 0m – Non compliance <p>Comment: As discussed previously (Clause 4.6 Variation Assessment) despite the setback non-</p>

Development Control	Provision	Comment
		complies the proposed building does not detract from the amenity of the adjoining residents. Appropriate solar access and acoustic privacy is provided through the building design. The proposal is also consistent with the majority of RFB's surrounding the development site which have non-compliant side setbacks and the provisions of the ADG.
	Residential uses between 25-45m (i.e. Level 8) require: <ul style="list-style-type: none"> - 6m to non-habitable rooms. - 12m to habitable rooms 	Complies <ul style="list-style-type: none"> • Northern Boundary Side Setback of 12m is provided. • Western boundary side setback of 12m provided.
Site Cover and Deep Soil Zones	Maximum site cover of 50%	Considered Acceptable Proposed site cover is 54%. The development is considered to achieve the intent of the site cover objective which involves enabling soft landscaping onsite and limit building bulk onsite. The development is considered to be consistent with the ADG and the amended design is considered to achieve the design advice of the DEP.
	The deep soil zone shall comprise no less than 15% of the total site area. It is to be provided preferably in one continuous block but otherwise with no dimension (width or length) less than 6m.	Considered Acceptable Proposal provided 193m ² of deep soil zone, which is 7% of the site area. While the proposal doesn't comply with the DCP it does comply with the ADG, which is considered to take precedence in this case. Accordingly, the provision of 7% of the site as deep soil zone is considered acceptable.
	Deep soil zones are to accommodate existing mature trees as well as allowing for the planting of trees/shrubs that will grow to be mature plants.	Complies The deep soil zones will include trees that will reach a mature height of ≥ 6m.
Landscape Design	Landscaped areas are to be irrigated with recycled water.	Complies Can be conditioned.
	Landscape species are to be selected in accordance with Council's schedule of Preferred Landscape Species.	Complies Suitable landscape species have been chosen. The landscape plan has been reviewed by Council's Tree Officer who has raised no issues.
	Remnant vegetation must be maintained throughout the site wherever practicable.	Complies Existing street trees in front of the site are to be retained
	A long-term landscape concept plan must be provided for all landscaped areas, in particular the deep soil landscape zone. The plan must outline how landscaped areas are to be maintained for the life of the development.	Complies Conditions can be imposed to ensure the long term maintenance of the landscaped areas.

Development Control	Provision	Comment
	Any new public spaces are to be designed so that at least 50% of the open space provided has a minimum of 3 hours of sunlight between 10am and 3pm on 21st June (Winter Solstice).	Not Applicable Public spaces are not proposed.
Planting on Structures	Areas with planting on structures are to be irrigated with recycled water.	Complies The landscape plan has been reviewed by Council's Tree Officer, who has raised no issues in regards to this aspect, subject to conditions.
	Design for optimum conditions for plant growth by: <ul style="list-style-type: none"> - providing soil depth, soil volume and soil area appropriate to the size of the plants to be established, - providing appropriate soil conditions and irrigation methods, and - providing appropriate drainage. - Design planters to support the appropriate soil depth and plant selection by ensuring planter proportions accommodate the largest volume of soil possible and soil depths to ensure tree growth, and providing square or rectangular planting areas rather than narrow linear areas. 	
	Increase minimum soil depths in accordance with: <ul style="list-style-type: none"> - the mix of plants in a planter for example where trees are planted in association with shrubs, groundcovers and grass, - the level of landscape management, particularly the frequency of irrigation, - anchorage requirements of large and medium trees, and soil type and quality. 	
	Provide sufficient soil depth and area to allow for plant establishment and growth. The following minimum standards are recommended: <ul style="list-style-type: none"> - Large trees (over 8m high) minimum soil depth 1.3m, minimum soil volume 150m³ - Medium trees (2 – 8m high), minimum soil depth 	

Development Control	Provision	Comment
	1m, minimum soil volume 35m ³ - Small trees (up to 2m high), minimum soil depth 0.8m, minimum soil volume 9m ³ - Shrubs and ground cover, minimum soil depth 0.5m, no minimum soil volume.	
Amenity		
Front Fences	Controls relating to front fences	Not Applicable Front fences are not proposed.
Safety and Security	Address 'Safer-by-Design' principles to the design of public and private domain, and in all developments (including the NSW Police 'Safer by Design' crime prevention through environmental design (CPTED) principles).	Complies The proposed development is considered to be satisfactory in relation to the safer by design principles.
	Ensure that the building design allows for passive surveillance of public and communal spaces, access ways, entries and driveways.	Complies The design of the development allows for passive surveillance of access ways and driveways.
	Avoid creating blind corners and dark alcoves that provide concealment opportunities in pathways, stairwells, hallways and car parks.	Complies The development does not create any blind corners or dark alcoves.
	Maximise the number of residential 'front door' entries at ground level.	Complies Front entrances are provided to the street frontage.
	Provide entrances which are in visually prominent positions and which are easily identifiable, with visible numbering.	Complies The front entrance is orientated to the street and are easily identifiable.
Awnings	Wet weather protection to be provided to all entrances	Complies Wet weather protection is provided to the entrances.
Vehicle Footpath Crossings	No additional vehicle entry points will be permitted into the parking or service areas of development along those streets identified within the LDGP2008.	Complies Only one vehicle entry point is proposed from Northumberland Street.
	In all other areas, one vehicle access point only (including the access for service vehicles and parking for non-residential uses within mixed use developments) will be generally permitted.	Complies The proposed development will involve one vehicle entry point, for all vehicles and service vehicles.
	Where practicable, vehicle access is to be from lanes and minor streets rather than primary street fronts or streets with high pedestrian priority routes identified in Figure 18 (marked yellow).	N/A The site does not adjoin a laneway or a minor street.
	Where practicable, adjoining	N/A

Development Control	Provision	Comment
	buildings are to share or amalgamate vehicle access points. Internal on-site signal equipment is to be used to allow shared access. Where appropriate, new buildings should provide vehicle access points so that they are capable of shared access at a later date.	The adjoining sites are already developed.
	Vehicle access ramps parallel to the street frontage will not be permitted.	N/A The development does not provide for a parallel access ramp.
	Ensure vehicle entry points are integrated into building design.	Complies The driveway entry is integrated into the building design.
	Vehicle entries are to have high quality finishes to walls and ceilings as well as high standard detailing. No service ducts or pipes are to be visible from the street.	Complies The vehicle entry will use the same materials as per the rest of the building.
Building Exteriors	Balconies and terraces should be provided, particularly where buildings overlook public spaces. Gardens on the top of setback areas of buildings are encouraged.	Complies The development provides for balconies and terraces to all floors.
	Articulate façades so that they address the street and add visual interest. Buildings are to be articulated to differentiate between the base (street frontage height), middle and top in design.	Complies The building facades are articulated through the provision of a wide variety of design elements such as windows with varying proportions, balconies, glazed and masonry balustrades and screens.
	Limit sections of opaque or blank walls greater than 4m in length along the ground floor to a maximum of 30% of the building frontage.	Complies The building frontage does not contain any blank walls.
	Highly reflective finishes and curtain wall glazing are not permitted above ground floor level.	Complies Highly reflective materials will not be used.
	A materials sample board and schedule is required to be submitted with applications for development over \$1million or for that part of any development built to the street edge.	Complies A colour schedule as well as 3D modelling has been provided which gives a clear indication of the colour and types of materials that will be used.
	Roof top structures, such as air conditioning, lift motor rooms, and the like are to be incorporated into the architectural design of the building.	Complies Roof top structures are incorporated within the internal design of the development and will not be visible from public view.

Development Control	Provision	Comment
Traffic And Access		
Pedestrian Access and Mobility	Main building entry points should be clearly visible from primary street frontages and enhanced as appropriate with awnings, building signage or high quality architectural features that improve clarity of building address and contribute to visitor and occupant amenity.	Complies The main entry point is orientated to the street and will be visible. The main entry is located after a large courtyard and communal area addressing the streetscape.
	The design of facilities (including car parking requirements) for disabled persons must comply with the relevant Australian Standards.	Complies The design of the car parking facilities is in accordance with Australian Standards. The application has been reviewed by Councils Traffic and Transport Section who have responded in support, subject to conditions.
	The development must provide at least one main pedestrian entrance with convenient barrier free access in all developments to at least the ground floor.	Complies Barrier free access is provided to the ground floor.
	The development must provide accessible internal access, linking to public streets and building entry points.	Complies Sufficient accessible internal access is provided to the street and building entry points. The accessible unit is located on the ground floor.
	Pedestrian access ways, entry paths and lobbies must use durable materials commensurate with the standard of the adjoining public domain (street) with appropriate slip resistant materials, tactile surfaces and contrasting colours.	Complies Durable materials will be used which include but limited to concrete footpath, paving and tiles.
Vehicular Driveways and Manoeuvring Areas	Driveways should be: <ul style="list-style-type: none"> - provided from lanes and secondary streets rather than the primary street, wherever practical, - located taking into account any services within the road reserve, such as power poles, drainage inlet pits and existing street trees, - located a minimum of 10m from the perpendicular of any intersection of any two roads, and - Located to minimise noise and amenity impacts on adjacent residential development. 	Complies A driveway is provided located on the north-eastern side of the development with access from Northumberland Street. The location of the driveway will not be in conflict with any services located within the road reserve. The location of the driveway is unlikely to create a noise and amenity impact on adjacent residential development. Furthermore, it is recommended that advisory notes are imposed advising the application to conduct a 'dial before you dig'.
	Vehicle access is to be integrated into the building design so as to be visually recessive.	Complies The vehicle access is visually recessive as it leads down to basement car parking.

Development Control	Provision	Comment
	All vehicles must be able to enter and leave the site in a forward direction without the need to make more than a three point turn.	Complies Minimum aisle widths are provided within the basement car parking area to sufficiently enable a three point turn. All vehicles will therefore be able to enter and exit the site in a forward direction.
	Design of driveway crossings must be in accordance with Council's standard Vehicle Entrance Designs, with any works within the footpath and road reserve subject to a Section 138 Roads Act approval.	Complies Conditions will be imposed regarding the approval of Section 138 Roads Act certificate and a driveway crossing application.
	Driveway widths must comply with the relevant Australian Standards.	Complies A suitable driveway width is provided which is in accordance with AS, as per the comments from Council Traffic Engineers.
	Car space dimensions must comply with Australian Standard 2890.1.	Complies Car space dimensions are in accordance with AS, as per the comments from Council Traffic Engineers.
	Driveway grades, vehicular ramp width/ grades and passing bays must be in accordance with the relevant Australian Standard, (AS 2890.1).	Complies The driveway grades, vehicular ramp width/grades are in accordance with relevant AS, as per the comments from Council Traffic Engineers.
	Access ways to underground parking should be sited to minimise noise impacts on adjacent habitable rooms, particularly bedrooms.	Complies Development is considered to be design to minimise noise impacts from vehicle access and basement car parking.
On Site Parking	Car Parking Requirements <ul style="list-style-type: none"> - 1 space per one bedroom or two bedroom apartments; - 1.5 spaces per three or more bedroom units - 1 space per 10 units for visitors - 1 space per 40 units for service vehicle 	As discussed above appropriate parking facilities are provided.
	Motorcycle Car Parking Spaces <ul style="list-style-type: none"> - 1 motorcycle space per 20 car spaces 	
	Accessible Car Parking Spaces <ul style="list-style-type: none"> - 2% of the total demand generated by a development. 	
	Bicycle Parking <ul style="list-style-type: none"> - 1 bicycle space per 200m² of LFA. 	

Development Control	Provision	Comment
	Car parking and associated internal manoeuvring areas provided over and beyond that required by the LDCP 2008 is to be calculated towards gross floor area.	N/A
	Car parking above ground level is to have a minimum floor to ceiling height of 2.8 so it can be adapted to another use in the future.	N/A Car parking above ground level is not provided.
	Onsite parking must meet the relevant Australian Standards	Complies Subject to conditions.
Environmental Management		
Energy Efficiency and Conservation	New dwellings are to demonstrate compliance with SEPP (BASIX), 2004	Complies The proposal is accompanied by a BASIX Certificate which is consistent with the aims and intent of the SEPP (BASIX), 2004. It is recommended that conditions are imposed to ensure compliance with the BASIX commitments.
Water Conservation	New dwellings are to demonstrate compliance with SEPP (BASIX), 2004	Complies The proposal is accompanied by a BASIX Certificate which is consistent with the aims and intent of the SEPP (BASIX), 2004. It is recommended that conditions are imposed to ensure compliance with the BASIX commitments.
Reflectivity	New buildings and facades should not result in glare that causes discomfort or threatens safety of pedestrians or drivers.	Complies The types of building materials used in the facade include painted rendered finish, face brick, glazing, aluminium framed windows and metal roofing. It is unlikely that these materials will result in an unacceptable level of glare on pedestrians and/or drivers.
	Visible light reflectivity from building materials used on the facades of new buildings should not exceed 20%.	Complies It is recommended that a condition is imposed to ensure compliance with this provision.
	Subject to the extent and nature of glazing and reflective materials used, a Reflectivity Report that analyses potential solar glare from the proposed development on pedestrians or motorists may be required	N/A A reflectivity report is not required given the materials used will not result in an unacceptable level of solar glare.
Wind Mitigation	To ensure public safety and comfort, the following maximum wind criteria are to be met by new buildings: <ul style="list-style-type: none"> - 10m/second in retail streets, - 13m/second along major pedestrian streets, parks and public places, and - 16m/second in all other streets. 	Complies It is unlikely the proposed development will impact upon the public safety in terms of wind.
	Site design for tall buildings	Complies

Development Control	Provision	Comment
	(towers) should: <ul style="list-style-type: none"> - set tower buildings back from lower structures built at the street frontage to protect pedestrians from strong wind downdrafts at the base of the tower, - ensure that tower buildings are well spaced from each other to allow breezes to penetrate city centre, - consider the shape, location and height of buildings to satisfy wind criteria for public safety and comfort at ground level, and - ensure useability of open terraces and balconies. 	<p>The proposed development has been designed in a 'U' shape and to set the tallest component of the building to be at the rear of the site. The building is likely to be the only building within at least 30m of the site that will be above 35m and will be the largest structure on the block at this stage.</p> <p>In this regard the development is considered to comply with site design for tall building.</p>
Noise	An acoustic report is required for all noise affected locations, as identified in figure 25.	<p>N/A</p> <p>The development site is not identified as a site requiring an acoustic report.</p>
	Sites adjacent to noise sources identified in figure 25 are to be designed in a manner that any residential development is shielded from the noise source by virtue of the location and orientation of built form on the site.	
	An 8m setback is to be provided to any habitable building located adjacent to the Hume Highway	
Waste	Provisions must be provided for the following waste generation: <ul style="list-style-type: none"> - General waste: 120L/week/dwelling. - Recycling: 120L/week/dwelling - Green waste: a communal waste bin of sufficient capacity to accept waste from landscape areas. 	<p>Complies</p> <p>On-going Waste Management: Waste chutes are supplied at each core of the building adjacent to the lift shafts. Garbage chutes discharges into 1100L mobile garbage bins (MGB) for each block of the RFB into Basement Level 2. Nine 240L recycling bins will be provided along with a large 1100L MGBs for recycling at Basement Level 2.</p> <p>Bins will be wheeled to the front for collection and will be collected weekly from Northumberland Street and by a private contractor.</p>
	In a development of more than six dwellings or where the topography, or distance to the street makes access difficult for individual occupants, a collection and storage area is required. The storage area must be located in a position which is: <ul style="list-style-type: none"> - Not visible from the street 	<p>Complies</p> <p>The following comments are made:</p> <ul style="list-style-type: none"> - The waste storage area will not be visible from the street. - It is also easily accessible for dwelling occupants. - The storage area will be managed by the body corporate - Water facilities can be conditioned.

Development Control	Provision	Comment
	<ul style="list-style-type: none"> - Easily accessible to dwelling occupants - Accessible by collection vehicles (or adequately managed by the body corporate to permit relocation of bins to an approved collection point), - Has water and drainage facilities for cleaning and maintenance; and - Does not immediately adjoin private open space, windows or clothes drying areas 	<ul style="list-style-type: none"> - The waste storage area does not immediately adjoin private open space, windows or clothes drying areas.
	The size and number of the waste bins shall be determined having regard to the need for either on-site access by collection vehicles or the requirement for bins to be wheeled to the street for collection by a contractor. If transferred to the street for collection, the body corporate or a caretaker must be responsible for the movement of bins to their collection point.	Complies The waste bins will be wheeled to the designated collection point for collection by a private contractor.
Controls for Residential Development		
Housing Choice Mix	To achieve a mix of living styles, sizes and layouts within each residential development, comply with the following mix and size: <ul style="list-style-type: none"> - studio and one bedroom units must not be less than 10% of the total mix of units within each development; - three or more bedroom units must not to be less than 10% of the total mix of units within each development, and 	Complies: The proposal provides for 37.7% one bedroom units, 51.89% two bedroom units and 10.38% three bedroom units
	For smaller developments (less than six dwellings) achieve a mix appropriate to the locality.	N/A
	For development built by (or on behalf of) the Department of Housing, an alternative mix of unit types may be approved, subject to housing needs being demonstrated by the Department.	N/A The development will not be built by the Department of Housing.
	For residential flat buildings and multi-unit housing, 10% of all dwellings (or at least one dwelling – whichever is greater) must be designed to be capable of adaptation for disabled or elderly residents. Dwellings must be	Complies 10 adaptable units are proposed.

Development Control	Provision	Comment
	designed in accordance with the Australian Adaptable Housing Standard (AS 4299-1995), which includes “pre-adaptation” design details to ensure useability is achieved.	
	Where possible, adaptable dwellings shall be located on the ground floor, for ease of access. Dwellings located above the ground level of a building may only be provided as adaptable dwellings where lift access is available within the building. The lift access must provide access from the basement to allow access for people with disabilities.	Complies Adaptable units are provided throughout various levels of the buildings. However, this is considered acceptable given that lift access is provided from the basement to the adaptable units on each level.
	The development application must be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Adaptable Housing Standard (AS 4299-1995).	Non-compliance It is recommended by way of condition, that an Access Report is submitted to the satisfaction of the PCA prior to issue of a CC, to confirm that the adaptable dwellings are capable of being modified to comply with AS 4299-1995.

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

No planning agreement relates to the site or proposed development.

6.6 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.

6.7 Section 4.15 (1)(a) (v) – Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates

There are no Coastal Zones applicable to the subject site.

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

(a) Natural and Built Environment

Built Environment

It is considered that the proposed development will have minimal impact on the built environment given that it is located within the City Centre which is zoned for high density residential. Therefore, it is considered to be consistent with the current and future character of the locality, especially as the building has been redesigned to comply with ADG.

The proposed scheme with two semi-detached blocks separated by a central communal open space area and common vertical circulation is considered to be an appropriate design, which is responsive to the location and the orientation of the site, and importantly adjacent parkland. The development satisfactorily addresses Northumberland Street with built form that would interact with this space. The proposal has been designed with adequate regard to the western, northern and southern adjoining sites and has been significantly redesigned since lodgement to reduce impacts to these properties where reasonable.

Natural 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 any adverse impact to the natural environment.

The proposed development was referred to Council's Tree officer who has raised no objections or issues with the proposal, subject to conditions of consent.

(b) Social Impacts and Economic Impacts

The development is likely to result in a positive social impact within the locality. The provision of communal open space in varied location throughout the site will promote social interaction among building occupants. The development provides bicycle parking which will encourage users to engage in outdoor activities and increased movement.

The development will result in a positive economic impact, through the provision of employment generated during the construction of the development and the on-going building maintenance. The development will result in increased housing availability within walking distance of an existing regional economic centre.

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

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

6.10 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
Building	The application is capable of complying with the BCA, subject to conditions.
Engineering	Engineering have reviewed the concept stormwater drainage plan, and have given their support of the application subject to conditions.
Heritage Advisor	The proposed development will not have an adverse on the surrounding heritage items No.89 and 90.
Flooding	The proposal was reviewed by Council's flooding engineers and considered satisfactory subject to conditions of consent.
Landscaping	Council's Tree Officer has reviewed the proposed landscaping plan, tree removal and the proposed retention of trees, with no issues raised, subject to conditions.
Traffic and Transport	The traffic and Transport support the application, subject to conditions.
Environmental Health	The proposal was reviewed by Council's environmental health section and considered satisfactory subject to conditions of consent.
Community Planning	No objections are raised with regards to the proposed development.

(a) Community Consultation

In accordance with the LDCP 2008, the application was not required to be notified. Notwithstanding this, no submissions were received with regards to the proposal.

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

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

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

7 SECTION 7.12 CONTRIBUTIONS

Section 7.12 of the Act is applicable to development in the Liverpool City Centre. The applicable contribution amount for the subject proposal is **\$542,274**.

8 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.
- The proposal provides an appropriate response to the site's context and satisfies the SEPP 65 design principles and the requirements of the ADG. The scale and built

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

- The development will be well located in relation to transport, employment, shopping, business and community services, as well as recreation facilities. It will deliver an efficient use of the site with well-designed high amenity dwellings.
- The proposed development will have positive impacts on the surrounding area, which are largely anticipated by the zoning of the site.

It is for these reasons that the proposed development is considered to be satisfactory and DA-962/2016 is recommended for approval, subject to conditions.

9 ATTACHMENTS

1. Recommended conditions of consent
2. Architectural plans
3. Landscape plans
4. Survey plan
5. Design Excellence Panel Comments
6. Statement of Environmental Effects with clause 4.6 variation
7. Site Isolation Documentation