

SYDNEY SOUTH WEST PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	2016SYW231
DA Number	DA-1008/2016
LGA	Liverpool City Council
Proposed Development	Demolition of existing structures and construction of a 9-storey residential flat building above 2 levels of basement carpark comprising 94 residential apartments and 116 car spaces. Liverpool City Council is the consent authority and the Sydney South West Planning Panel has the function of the determining authority
Street Address	1-5 Bathurst Street Liverpool (Lot D-F DP 33121)
Applicant/Owner	SYNERGY DEVELOPMENT GROUP P/L
Date of DA Lodgement	28 October 2016
Number of Submissions	Nil
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	The development has a CIV of \$22,325,450
List of all relevant s79C(1)(a) matters	• <i>List all of the relevant environmental planning instruments: s79C(1)(a)(i)</i> • State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development. • State Environmental Planning Policy No.55 – Remediation of Land. • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment. • Liverpool Local Environmental Plan 2008. • <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii)</i> • No proposed instrument relates to the site or proposed development. • <i>List any relevant development control plan: s79C(1)(a)(iii)</i>

	• Liverpool Development Control Plan 2008. - Part 1 – General Controls for all Development. - Part 4 – Development in the Liverpool City Centre. • <i>List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv)</i> • No planning agreement relates to the site or proposed development. • <i>List any coastal zone management plan: s79C(1)(a)(v)</i> • The subject site is not within any coastal zone management plan. • List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 • Consideration of the provisions of the Building Code of Australia.
List all documents submitted with this report for the Panel's consideration	1. Recommended conditions of consent 2. Architectural plans 3. Landscape plans 4. Stormwater drainage plan 5. Survey plan 6. Access Design Statement 7. Access report 8. Traffic Report 9. Statement of Environmental Effects with clause 4.6 variation 10. Urban Design Statement 11. Waste Management Plan 12. BASIX Certificate 13. Design Excellence Panel Comments
Report prepared by	George Nehme – Principal Planner
Report date	31 August 2017

Summary of s79C matters Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <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 (S94EF)? <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
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1. EXECUTIVE SUMMARY

1.1 Reasons for the report

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

1.1 The proposal

The application proposes the demolition of existing buildings, tree removal and the construction of a 9-storey residential flat buildings containing 94 residential apartments over two levels of basement parking with associated landscaping and ancillary site works.

1.2 The site

The site is identified as 1-5 Bathurst Street Liverpool and is legally described as Lot D-F, DP 33121.

1.3 The issues

The main issues identified in the assessment relate to the non-compliance with the building separation under the ADG and the LLEP 2008. The applicant has provided reasonable justification to support the non-compliant building separation.

The extent of the building separation non-compliance under section 2F of the ADG varies from 1.3m (10.8%) to 11.3m (63%). The non-compliances are isolated to certain areas of the building, being the north-western corner of the building and the south-eastern façade of the building.

The proposed development provides a building separation of 6.7m from the adjoining building to the west, which does not comply with the minimum 9m building separation required pursuant to Clause 7.4 of the Liverpool Local Environmental Plan 2008. This represents a variation of 2.3m or 25.5%. Consequently the applicant has provided a clause 4.6 variation to justify the non-compliance. The clause 4.6 variation is attached to this report.

It is important to note that both approved buildings to the south and west have been constructed with non-compliant building separations.

The justifications to both variations are discussed in detail in this report.

1.4 Exhibition of the proposal

In accordance with the LDCP 2008, the application was not required to be notified.

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 consideration of the variation to the ADG and LLEP 2008 controls, it is recommended that the application 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 approximately 1.1km north-west of the Liverpool Railway Station. The development site is comprised of 3 lots being Lot D-F DP 33121. The site is a regular shaped corner allotment with an area of 2,744.3m² with two identifiable frontages. The development site has a 41.96m primary frontage to Lachlan Street and a 56.72m secondary frontage to Bathurst Street along with a 5.17m splay.

Existing development on site consists of two x 2 storey multi-unit developments and a single storey detached dwelling house. An aerial photograph of the development site is provided below.

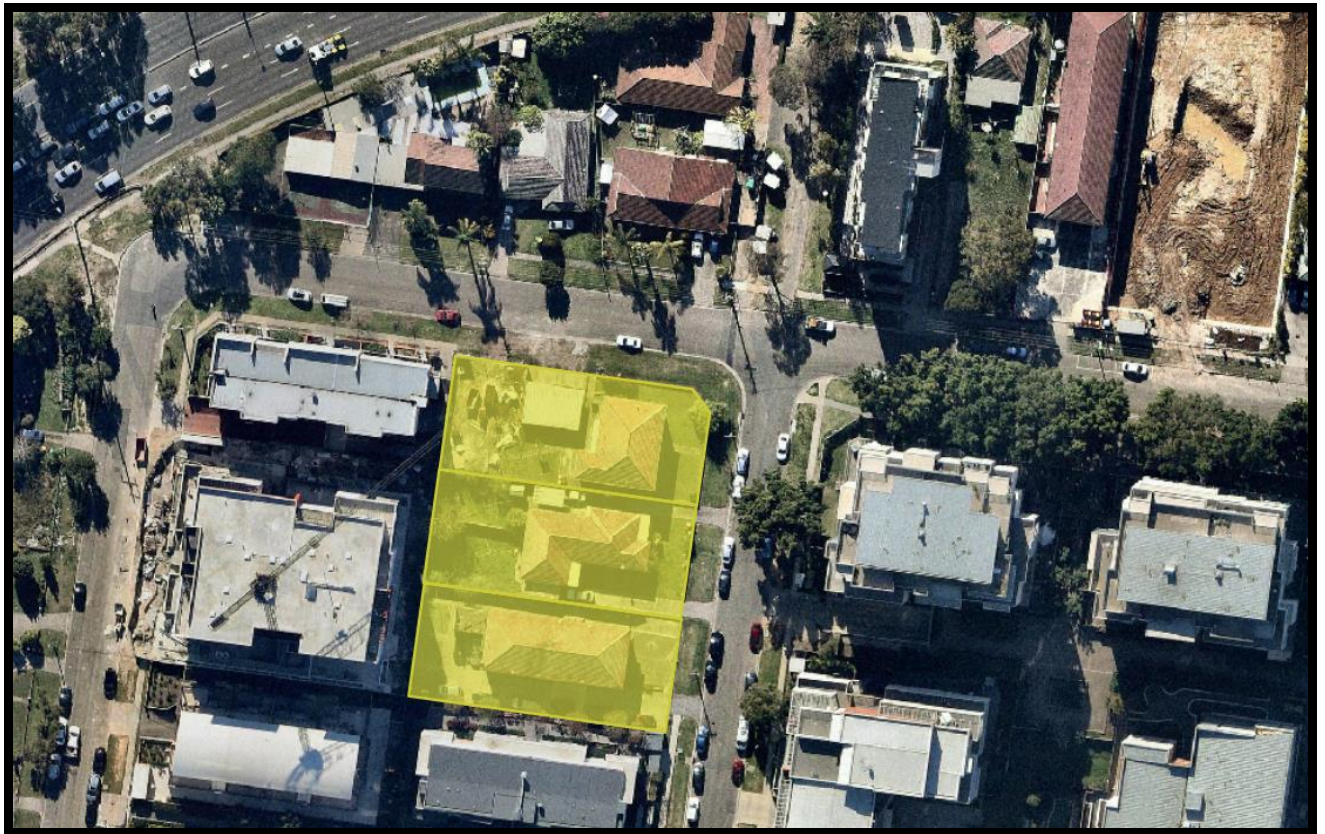


Figure 1: Aerial Photograph

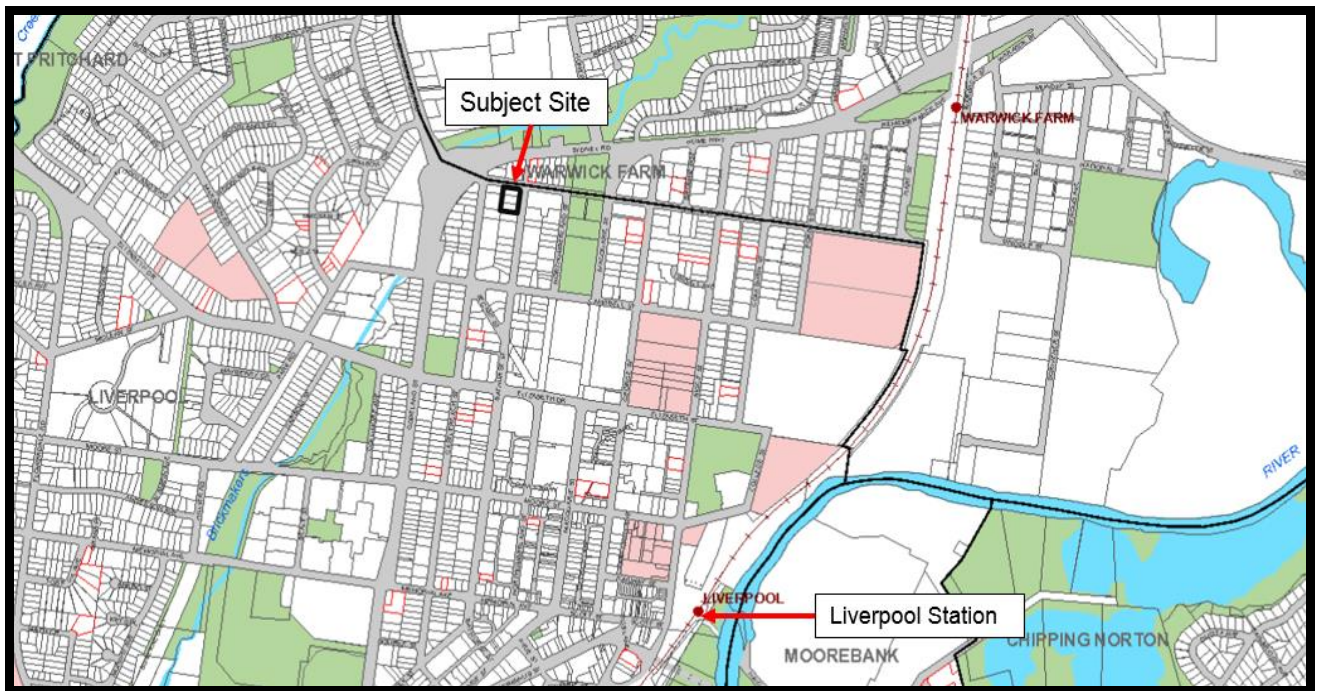


Figure 2: Context

2.1 The locality

The immediate locality consists of a range of development comprising of low and high density residential development.

Immediately to the east, west and south of the subject site are residential flat buildings ranging from 5 storeys to 9 storeys in height. Immediately to the north of the subject site across Lachlan Street are a mixture of low density detached dwellings and high density residential development ranging from 5-6 storeys in height.

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



Figure 3: Locality

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.

Council's Heritage Officer has reviewed this aspect of the proposal and the comments are summarised as follows;

Comment: *The proposed development would not encroach into the physical curtilage of the street grid. The buildings are aligned to the street geometry and a landscaped setting is provided on both frontages.*

With regards to the potential impact of the proposed building on listed item No.90 Council's Heritage Officer has noted that the proposed development would not generally encroach into the physical or visual curtilage of the park.

Further comments from Council's Heritage Officer stipulate that the building design includes expressed elements to modulate the scale and visual impact, including an expressed base consisting of the ground and parts of the first floor, the central portion is divided into two elements using materials and screen walls and the top element is expressed using materials, colour and an over-sailing roof. These are sufficient response to the impact of the proposal on the heritage significance of the Liverpool Pioneers Park and the street grid.

The site does not have indications based on the last uses that it maintains a likelihood of archaeological finds or relics. A protective Recommendation would be an appropriate management tool for this issue as well as the potential for historical archaeology.

Given the above, it is considered that the proposed development is in accordance with the objectives of Clause 5.10 pertaining to Heritage Conservation. Conditions of consent have also been recommended that have been included in conditions of consent.

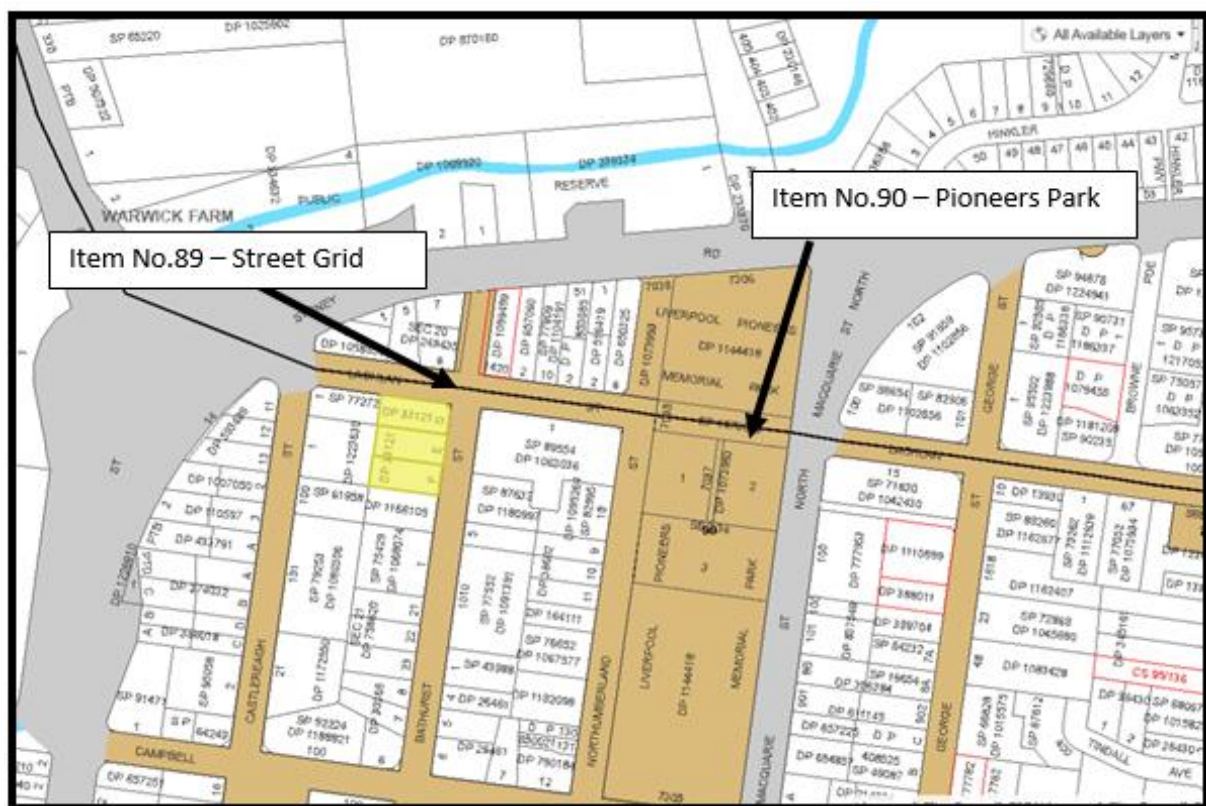


Figure 4: Heritage Affection

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 conditions of consent.

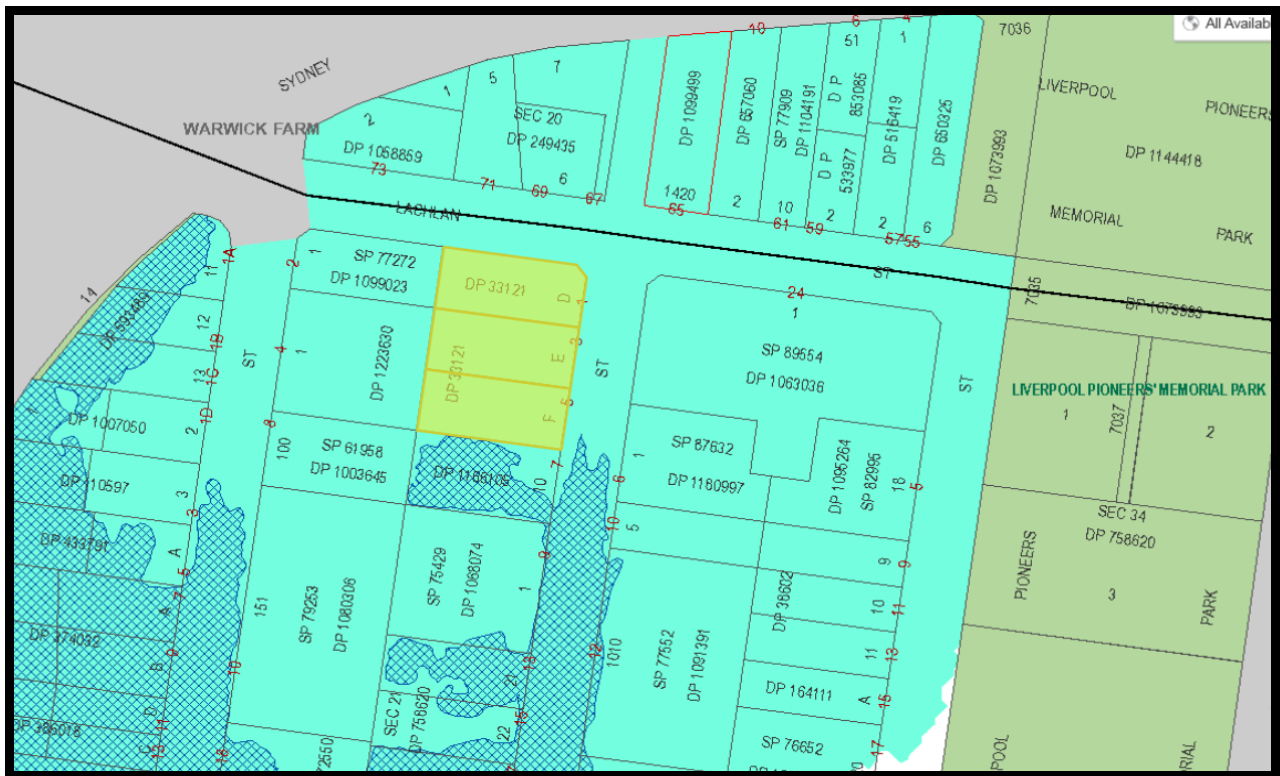


Figure 5: Flooding Affection

3. BACKGROUND

3.1 Issues Identified in Initial Assessment

Following on from a preliminary assessment of the application, concerns were raised regarding the following;

- 1) Non-compliant FSR
- 2) Non-compliant Communal Open Space
- 3) Non-compliant deep soil zones
- 4) Non-compliant POS on balconies
- 5) Non-compliant building separation under ADG and the LLEP 2008.

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. The justification is discussed in detail in this report.

3.2 Related applications

a) Pre-DA meetings/Design Excellence Panel Briefing

The proposal was presented to Councils Design Excellence Panel on 21 July 2016 prior to the formal lodgement of the DA. The DEP did not raise major concerns with the application, however made certain design recommendations regarding deep soil locations, accessibility of ground floor open space, the provision of natural light to lift lobbies and compliance with

building separation and FSR. The proposal has taken on most of the DEP comments and have incorporated them into the design of the building.

The proposal does not comply with the ADG building separation. A justification to the building separation is provided further in this report. The DEP did not request to see the proposal again once it was lodged with Council.

3.4 Planning Panel Briefing

A SWPP briefing meeting was held on 13 April 2017. At the meeting the panel requested that Council address the non-compliant FSR, building separation, the overall design of the building and the placement of communal open space.

The proposal has been amended to address the non-compliant FSR, communal open space, deep soil zones. These issues have been addressed through the provision of amended plans.

The proposal maintains a non-compliant building separation. A justification for the non-compliant building separation has been provided with the proposal and is discussed further in this report.

Based on the amended plans provided, it is considered that the proposal provides for a development that addresses the concerns raised by Council and is worthy of support.

4. DETAILS OF THE PROPOSAL

The application proposes the demolition of existing buildings, tree removal and the construction of a 9-storey residential flat buildings containing 94 residential apartments over two levels of basement parking with associated landscaping and ancillary site works. Further details are as follows;

Building Design

- Construction of a 9-storey residential flat building comprising:
 - 11 x 1 bedroom units;
 - 71 x 2 bedroom units
 - 12 x 3 bedroom units
- Gross floor area of 8,223m²

Vehicular and Pedestrian Access

- Vehicular access is provided from Goulburn Street.
- Pedestrian access is provided from both Goulburn and Lachlan Street.

Parking Provisions

- The development provides for a total of 116 car parking spaces (including 13 accessible spaces) comprising of:
 - 107 spaces (including 10 accessible spaces) allocated to the residential units;
 - 9 spaces (including 1 accessible space) allocated to visitors; and

- 2 spaces designated as a service bay/car wash bay.
- A total of 6 parking spaces designated for motorcycles;
- Bicycle parking to accommodate 42 bicycles.

Site Servicing

- Several garbage storage areas have been provided within the basement level to accommodate garbage, recycling and temporary storage of bulky items. Waste management will be managed by a caretaker with garbage and recycling bins wheeled to the Bathurst Street frontage for collection twice a week.
- Two service/car wash bays are provided within the basement level.

Ancillary Works

- Demolition of existing structures and tree removal.

Perspective drawings of the proposed development are provided below.



Figure 6: Building Perspectives

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.

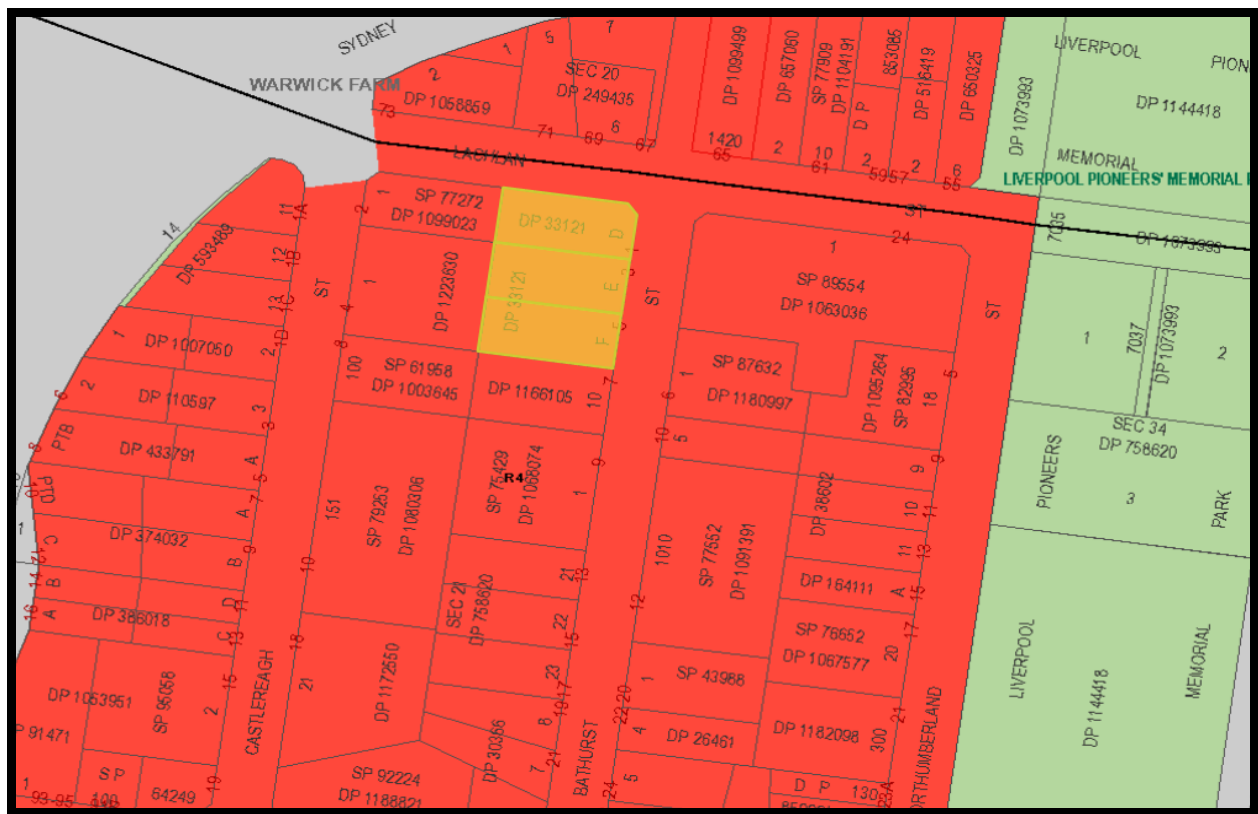


Figure 7: Zoning Map

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 79C of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000* as follows:

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

(a) State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development 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 does not contain numerical standards, but requires Council to consider the development against 9 key design quality principles; and against the guidelines of the associated Apartment Design Guidelines (ADG). The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP 65.

Design Quality Principle	Comment
Principle One – Context and Neighbourhood Character	
Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.	<i>The proposal is for a Residential flat development. Located on the fringe of the city centre precinct, the proposed development will bring services and amenity to the local community. The development incorporates active street frontage that will contribute to the community thus generating a point of interest. The development will assist to invigorate the existing area and generate increased pedestrian activity along Bathurst and Lachlan Street.</i> <i>A conceptual approach that dealt with the variety of scales within the site was established to create a cohesive development. The intention was to transition in scale incrementally in stepped forms from the fine grain contextual street edge to the south west to the larger scale mixed use development to the north east.</i> <i>Certain architectural elements are repeated throughout to unify the development as a whole, for example the street frontage base, with upturn solid balustrades embrace the development and assist in adding a material unity and a common language to both street frontages.</i> <i>The building addresses each street frontage and stand as distinct built forms and has been articulated to assist in breaking down the appearance of the built mass and relate back to the street character belonging to the development as a whole.</i>
Design Principle 2 – Built form and scale	
Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate	<i>The bulk of the proposed development is consistent with the controls set out in the LDCP 2008. It is situated within the site, setback off Bathurst and Lachlan Street. This provides opportunity to reduce scale at street edges where appropriate.</i> <i>The height of the building is in accordance</i>

Design Quality Principle	Comment
built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.	<i>with that identified in the LLEP 2008. The building height is to be a maximum 9 storeys plus plant room / roof structure.</i> <i>Building mass is articulated to achieve discrete built forms to reduce the perceived bulk of the development.</i>
Design Principle 3 – Density	
Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.	<i>This application proposes a density FSR 2.99:1 for this site, it is generally in accordance with densities set out in the LLEP 2008.</i> <i>The proposed density will benefit the public by enabling the proposed building to better respond to the future character of the town centre. The yield will allow for a high-quality design outcome and demonstrate investment in the precinct. In this location, a well-designed Residential flat development will attract greater investment to the area.</i> <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>
Design Principle 4 – Sustainability	
Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other	<i>The development is designed to respond to the requirements of BASIX and the SEPP 65 Apartment Design Guide.</i> <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> - <i>All corner and cross through apartments are naturally ventilated.</i>

Design Quality Principle	Comment
elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation	- <i>Outcomes of this development include:</i> - <i>Minimum 60% of apartments are cross-ventilated;</i> - <i>Minimum 70% of apartments have the required solar access in winter;</i> - <i>Collection of roof rainwater for maintenance and irrigation of gardens;</i> - <i>Provision of energy-efficient appliances;</i> - <i>Architectural details incorporating a range of projections and internal blinds for privacy and solar</i>
Design Principle 5 – Landscape	
Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, and respect for neighbours' amenity and provides for practical establishment and long term management.	<i>Street planting will be provided in accordance with guidelines and specifications of Liverpool City Council and enhanced through additional planting within the site boundary along Bathurst and Lachlan Street.</i> <i>Residents have been provided with private open space in excess of SEPP 65 requirements. Open space will incorporate barbecue facilities, open style pergola structure and timber seating. The landscaped communal open space also incorporates a mix of active and passive landscape spaces</i>
Design Principle 6 – Amenity	

Design Quality Principle	Comment
Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.	<i>The development provides the following mix of units:</i> - 12% one bedroom apartments - 75% two bedroom apartments - 13% three bedroom apartments <i>10% of units in total are designed to the Universal Design standards, including the 10% requirement for adaptable housing.</i> <i>Apartments comply with storage requirements within units. Additional storage cages are located in basement carpark and have the capacity to accommodate large items such as bicycles</i> <i>Communal open space will provide passive and active recreational opportunities. Raised garden beds and benches for seating; grassed, paved and planted surfaces; shaded, sunny and feature-lit areas will be provided.</i> <i>Balcony sizes generally exceed those required by the Apartment Design Guide to ensure quality private open space for residents.</i> <i>Interior corridors have access to daylight and natural ventilation, with views out of the building to improve both amenity and sustainability.</i>
Design Principle 7 – Safety	
Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and	<i>The address to the street 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> <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> <i>Ground floor apartments will provide lighting</i>

Design Quality Principle	Comment
appropriate to the location and purpose.	<i>to the area at night, passive surveillance of the street and opportunity for night-time activation.</i> <i>Apartments overlook communal open spaces providing passive surveillance to improve safety; the development is designed to avoid blind corners and hidden spaces.</i> <i>Access to each building and individual apartments will be coordinated with a security key system.</i> <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>
Design Principle 8 – Housing Diversity and Social Interaction	
Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.	<i>The proposed development provides housing choice. The communal open spaces and public interface will encourage social interaction amongst residents and the community.</i> <i>The ground floor address and the interface of buildings have been carefully designed to enhance street activation and frontage.</i> <i>The proposed development will create opportunities for families in the surrounding suburbs to move into the area when their family needs change.</i> <i>The provision of one bedroom apartments in the development will provide for a more affordable entry point into the housing market.</i> <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> <i>Variety in sizing, aspect and outlook within apartment types will result in some price</i>

Design Quality Principle	Comment
	<i>differentiation.</i> <i>Dedicated residential communal open spaces are provided on various levels to support the communal life of the building. These spaces typically have direct access from the lift lobby.</i>
Design Principle 9 – Aesthetics	
Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	<i>The intent of the aesthetics are:</i> - <i>To further develop and articulate the massing strategy for the site through the application of varying architectural languages</i> - <i>To respond to contextual opportunities and constraints including orientation, internal planning configuration, views to and from the site and to maximize residential amenity</i> - <i>To de-formalise the usual rigid and repetitive façades in multi-unit residential development through articulation and patterning of feature horizontal and vertical components and elements</i> - <i>To use materials and a colour palette that appropriately reflects the desired character of the proposed development and to breakdown the mass of the building yet maintain a limited palette for cohesion over the whole</i> <i>These design responses ensures an appropriate provision for the future desired character of the area as a residential development.</i>

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

Provisions	Comment
2E Building depth	
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	Complies Building depths are generally 18m.
2F Building separation	
Minimum separation distances for buildings are: Up to four storeys (approximately 12m): • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms	Partial non-compliance a) Set back from adjoining western buildings; • The majority of the western façade up to four storeys proposes a building separation from habitable rooms to habitable room ranging from 12m to 24m which complies. • A portion of the north-western corner of the building being units G.01, 1.11, 2.22 and 3.33, provide a building separation from balcony to balcony of 6.7m instead of 12m which does not comply. Note: The adjoining building to the west (i.e. No.2 Castlereagh Street) has been built with a setback to the adjoining boundary of 3.62m, which creates a further impost on the proposed development to comply with the building separation. • A portion of the north-western corner of the building being units G.01, 1.11, 2.22 and 3.33, provide a building separation from non-habitable room to balcony of 6.7m instead of 9m which does not comply. Note: The adjoining building to the west (i.e. No.2 Castlereagh Street) has been built with a setback to the

Provisions	Comment
Up to four storeys (approximately 12m): • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms	adjoining boundary of 3.62m, which creates a further impost on the proposed development to comply with the building separation. b) Set back from adjoining southern building; • The majority of the southern façade proposes a building separation from non-habitable rooms to habitable room ranging from 10.3m to 10.7m which complies. • The building separation proposed from balcony to balcony varies from 10.3m to 10.7m instead of 12m which does not comply. This is isolated to the southern facing wall of the balconies of units G.09, 1.21, 2.31, 2.32, 3.42 and 3.43. Note: The adjoining building to the south (i.e. No.7 Bathurst Street) has been built with a setback to the adjoining boundary of 4.345m, which creates a further impost on the proposed development to comply with the building separation. Discussion regarding the merits of the variation is provided below.
Five to eight storeys (approximately 25m): • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms	Partial non-compliance a) Set back from adjoining western buildings; • The majority of the western façade proposes a building separation from habitable rooms to habitable room ranging from 18m to 24m which complies. • Unit 4.44 on level 4 located at the north-western corner of the proposed building provides a building separation from balcony to balcony of 6.7m instead of 18m which does not

Provisions	Comment
Five to eight storeys (approximately 25m): • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms	comply. • Unit 4.44 on level 4 located at the north-western corner of the proposed building provides a building separation from non-habitable room to balcony of 6.7m instead of 12m which does not comply. Note: The adjoining building to the west (i.e. No.2 Castlereagh Street) has been built with a setback to the adjoining boundary of 3.62m, which creates a further impost on the proposed development to comply with the building separation. • The adjoining building to the west does not exceed a height of 5 storeys. As such the building separation distance is equitably split across boundaries, therefore a boundary setback of 9m is required and the proposal provides a 3.07m setback which does not comply. b) Set back from adjoining southern building; • Units on level 4 of the southern façade (units 4.53 and 4.54) have a building separation from non-habitable rooms to habitable room ranging from 10.3m to 10.7m instead of 12m which does not comply. • Units on level 5 of the southern façade (units 5.64 and 5.55) have a building separation from non-habitable rooms to habitable room ranging from 12-12.5m, which complies. • Units on level 4 of the southern façade (units 4.53 and 4.54) have a building separation from balcony to balcony ranging from 10m to 10.8m instead of 18m which does not comply.

Provisions	Comment
	- Units on level 5 of the southern façade (units 5.64 and 5.55) have a building separation from balcony to balcony ranging from 12-12.5m instead of 18m which does not comply. Note: The adjoining building to the south (i.e. No.7 Bathurst Street) has been built with a setback to the adjoining boundary of 4.345m, which creates a further impost on the proposed development to comply with the building separation. - The adjoining building to the south does not exceed a height of 6 storeys. As such the building separation distance is equitably split across boundaries above this height, therefore a boundary setback of 9m is required and the proposal provides a 5.5-6m setback to the southern boundary which does not comply Discussion regarding the merits of the variation is provided below.
Nine storeys and above (over 25m): • 24m between habitable rooms/balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms	Partial non-compliance - The adjoining building to the west does not exceed a height of 5 storeys. As such the building separation distance is equitably split across boundaries. Therefore a boundary setback of 9m is required and the proposal provides an 11m setback which complies. - The adjoining building to the south does not exceed a height of 6 storeys. As such the building separation distance is equitably split across boundaries above this height. Therefore a boundary setback of 9m is required, from non-habitable to habitable. The proposal provides a 5.5m south boundary setback which does not comply.

Provisions	Comment
	The adjoining building to the south does not exceed a height of 6 storeys. As such the building separation distance is equitably split across boundaries above this height, as such a boundary setback of 12m is required, from balcony to balcony. The proposal provides a 5.5m south boundary setback which does not comply. Discussion regarding the merits of the variation is provided below.
3A Site analysis	
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	Complies A detailed site analysis plan has been provided.
3B Orientation	
Building types and layouts respond to the streetscape and site while optimising solar access within the development	Complies The building type is appropriate for the streetscape.
Overshadowing of neighbouring properties is minimised during mid winter	Overshadowing of neighbouring properties is minimized.
3D Communal and public open space	
Communal open space has a minimum area equal to 25% of the site	Complies Approximately 690m² of communal open space is provided which equates to 25% of the site area.
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)	The communal open space will achieve sufficient solar access at 9am and 12pm mid-winter. The communal open space allows for a

Provisions			Comment												
Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting			range of activities with BBQ facilities, shade structures and open space provided.												
3E Deep soil zones															
Deep soil zones are to meet the following minimum requirements:			Complies												
<table><tr><th>Site Area</th><th>Minimum Dimensions</th><th>Deep Soil Zone (% of site area)</th></tr><tr><td>Less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m² to 1500m²</td><td>3m</td></tr><tr><td>Greater than 1500m²</td><td>6m</td></tr><tr><td>Greater than 1500m² with significant tree cover</td><td>6m</td></tr></table>			Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)	Less than 650m ²	-	7%	650m ² to 1500m ²	3m	Greater than 1500m ²	6m	Greater than 1500m ² with significant tree cover	6m	The development requires 192m ² of deep soil zones. The development provides 197m ² of deep soil zones which equates to 7.1%.
Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)													
Less than 650m ²	-	7%													
650m ² to 1500m ²	3m														
Greater than 1500m ²	6m														
Greater than 1500m ² with significant tree cover	6m														
3F Visual Privacy															
Minimum separation distances from buildings to the side and rear boundaries are as follows:			Partial Non-compliance												
<table><tr><th>Building Height</th><th>Habitable Rooms and Balconies</th><th>Non Habitable Rooms</th></tr><tr><td></td><td></td><td></td></tr></table>			Building Height	Habitable Rooms and Balconies	Non Habitable Rooms				a) Set back from western boundary (First 4 storeys); • Setback to the western boundary from balcony is 3.07m which does not comply.						
Building Height	Habitable Rooms and Balconies	Non Habitable Rooms													

Provisions			Comment
Up to 12m (4 storeys)	6m	3m	- Setback from non-habitable portion of the western elevation to boundary is 3.07m, which complies. b) Setback from southern boundary (first 4 storeys); - Setback to the southern boundary from balcony varies from 5.5m to 6m which does not comply. - Setback from non-habitable portion of the southern elevation to the boundary varies from 5.5m to 6m which complies. c) Setback from western boundary (levels 5-8) - Setback to the western boundary from balcony is 3.07m, which does not comply. - Setback from the non-habitable portion of the western elevation to boundary is 3.07m, which does not comply. d) Setback from southern boundary (levels 5-8) - Setback to the southern boundary from balcony varies from 5.5-6m which does not comply. - Setback from the non-habitable portion of the southern elevation to the boundary varies from 5.5m-6m which complies. e) Setback from western boundary (level 9) - Setback from the non-habitable portion of the western elevation is 11.7m which complies. f) Setback from southern boundary (level
12m to 25m (5-8 storeys)	9m	4.5m	
Over 25m (9+ storeys)	12m	6m	

Provisions	Comment
	9) • Setback to the southern boundary from balcony varies from 5.5-6m which does not comply. • Setback from the non-habitable portion of the southern elevation to the boundary varies from 5.5m-6m which presents a partial non-compliance..
3G Pedestrian Access and Entries	
Building entries and pedestrian access connects to and addresses the public domain	Complies
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: - 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	

Provisions		Comment
Visual and environmental impacts of on-grade car parking are minimised		
Visual and environmental impacts of above ground enclosed car parking are minimised		
4A Solar and Daylight Access		
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas		Complies 76% of the units will receive a minimum of 2 hours of solar access during mid-winter. 13% of apartments in the building receive no direct sunlight between 9am and 3pm at mid-winter
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 65% of all units are naturally cross ventilated. All cross-through apartments do not exceed 18m in depth.
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 Floor to floor heights of 3m have been provided, to ensure that 2.7 floor to ceiling heights can be accommodated.
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,	

Provisions		Comment
	where its area does not exceed 50% of the apartment area	
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	
If located in mixed use areas	3.3m from ground and first floor to promote future flexibility of use	
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 - 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 bathrooms - All 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 room depths are limited to a maximum of 2.5 x the ceiling height		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: - 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 size and 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 The maximum number of units off a circulation core is 5.															
For buildings of 10 storeys and over, the maximum number of apartments sharing a			Not applicable															

Provisions		Comment										
single lift is 40												
4G Storage												
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><td>Dwelling Type</td><td>Storage Size Volume</td></tr><tr><td>Studio</td><td>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> At least 50% of the required storage is to be located within the apartment.		Dwelling Type	Storage Size Volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3 bedroom	10m ³	Complies Sufficient storage space is provided within each unit and within the basement.
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		Complies										
Noise impacts are mitigated within apartments through layout and acoustic treatments		The development is in accordance with the objectives.										
4K Apartment Mix												
A range of apartment types and sizes is provided to cater for different household types now and into the future		Complies										
The apartment mix is distributed to suitable locations within the building		A range of apartment types are provided and located throughout the building. The proposal provides for 12% one bedroom units, 76% two bedroom units and 12% three bedroom units										
4L Ground Floor Apartments												
Street frontage activity is maximised where ground floor apartments are located		Complies										
Design of ground floor apartments delivers amenity and safety for residents		The development is in accordance with these objectives.										
4M Facades												
Building facades provide visual interest along the street while respecting the character of the		Complies										

Provisions	Comment
local area	The overall design including building façade has been endorsed by the Design Excellence Panel.
Building functions are expressed by the facade	
4N Roof Design	
Roof treatments are integrated into the building design and positively respond to the street	Complies The development is in accordance with these objectives.
Opportunities to use roof space for residential accommodation and open space are maximised	
Roof design incorporates sustainability features	
4O Landscape Design	
Landscape design is viable and sustainable	Complies The development is in accordance with these objectives.
Landscape design contributes to the streetscape and amenity	
4P Planting on Structures	
Appropriate soil profiles are provided	Complies The development is in accordance with these objectives.
Plant growth is optimised with appropriate selection and maintenance	
Planting on structures contributes to the quality and amenity of communal and public open spaces	
4Q Universal Design	
Universal design features are included in apartment design to promote flexible housing for all community members	Complies The development is in accordance with these objectives.
A variety of apartments with adaptable designs are provided	
Apartment layouts are flexible and accommodate a range of lifestyle needs	
4R Adaptive Reuse	
New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	Not Applicable The DA is for the development of a new building and not the adaptive reuse of an
Adapted buildings provide residential amenity	

Provisions	Comment
while not precluding future adaptive reuse	existing building.
4S Mixed Use	
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Not Applicable The DA does not proposed a mixed use development.
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	
4T Awnings and Signage	
Awnings are well located and complement and integrate with the building design	Complies Awnings are provided to entries for wet weather protection.
Signage responds to the context and desired streetscape character	Complies Building address signage is integrated into the building design.
4U Energy Efficiency	
Development incorporates passive environmental design	Complies The development is in accordance with these objectives.
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	
Adequate natural ventilation minimises the need for mechanical ventilation	
4V Water Management and Conservation	
Potable water use is minimised	Complies Potable water use is 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

Provisions	Comment
	who have raised no issues subject to conditions.
Flood management systems are integrated into site design	Complies The development incorporates flood mitigation measures.
4W Waste Management	
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Complies Waste storage facilities are provided and will be maintained by the caretaker.
Domestic waste is minimized by providing safe and convenient source separation and recycling	
4X Building Maintenance	
Building design detail provides protection from weathering	Complies The development is in accordance with these objectives
Systems and access enable ease of maintenance	
Material selection reduces ongoing maintenance costs	

Variation to 2F – Building Separation and 3F Visual Privacy

As indicated in the above table the development proposes a partial non-compliance with regards to Section 2F – Building Separation and 3F – Visual Privacy for portions of the proposed building.

The portions of the building where the non-compliance is generated is detailed in the figure below.

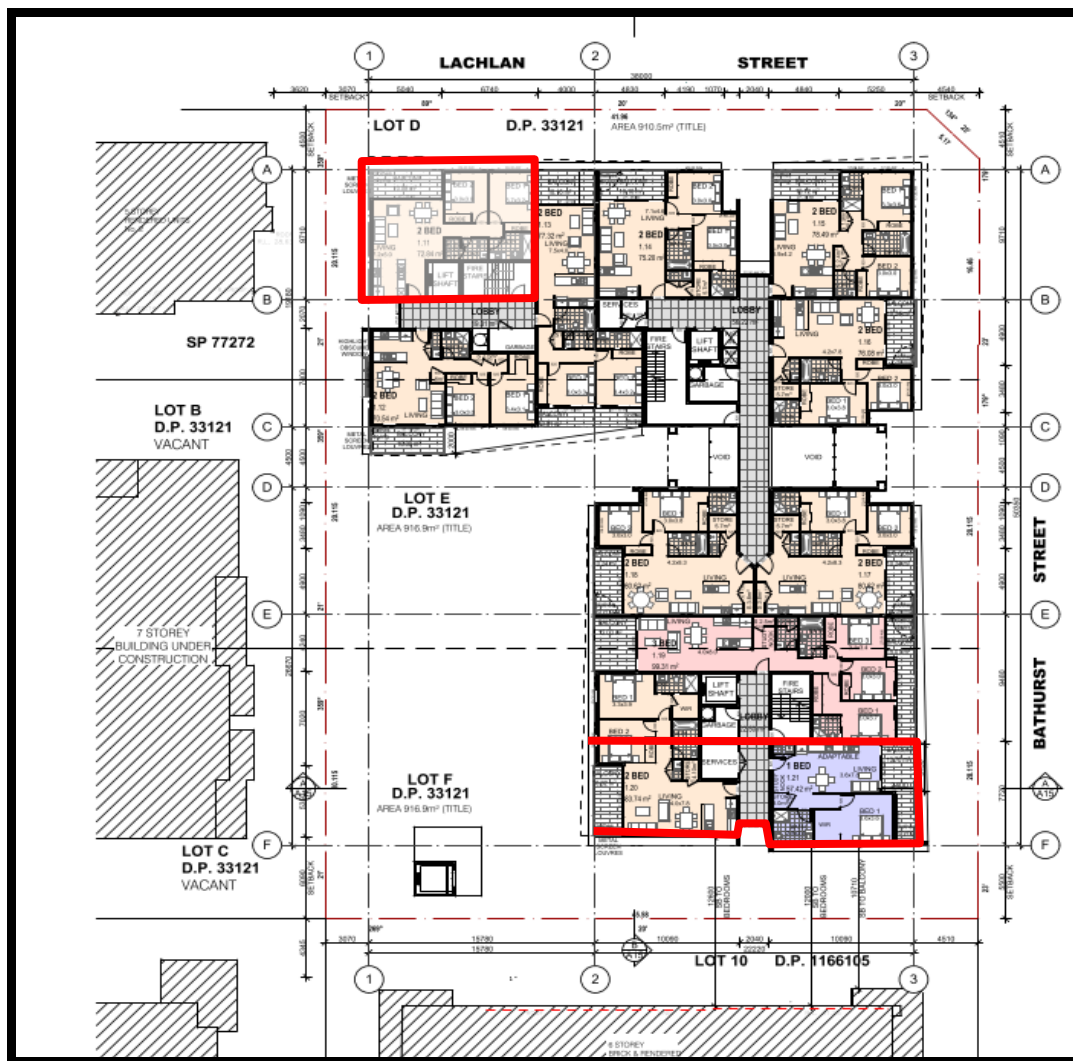


Figure 8: Area of non-compliance

The variation to Section 2F and 3F is worthy of support in this instance for the following reasons;

- 1) The portions of the building where the non-compliances occur have been designed in a manner to alleviate potential privacy and acoustic impacts on the adjoining buildings. This has been done through the utilisation of predominately well-designed solid walls with the implementation of louvered privacy screens for all balconies.
- 2) The proposed design still enables adjoining buildings to receive the required solar access pursuant to the ADG.
- 3) The proposal is considered to be of an appropriate bulk and scale and has demonstrated compliance with the applicable height and FSR controls.
- 4) The extent of the non-compliance is limited to a small portion of the western façade and certain building elements of the south/south-eastern façade. The majority of the building has demonstrated compliance with the applicable building separation under the ADG.
- 5) As indicated above the proposal has incorporated appropriate building elements to alleviate the privacy and amenity impacts. Imposing strict numerical compliance with the building separation and visual privacy would primarily result in the reduction of

unit yield but present as the same design outcome. It is on this basis that imposing compliance with the building separation and visual privacy is considered unnecessary.

- 6) The adjoining buildings to the south and west have been constructed with a boundary setback 4.3m and 3.62m respectively. It would be considered onerous in this instance to impose on the proposed building additional building separation requirements for the sake of strict compliance.
- 7) The proposed development has been designed in response to the existing street pattern and is a design that is consistent with the street edge design envisaged by the DCP.
- 8) Requiring the southern portion of the building to be shifted further north to achieve strict compliance will result in an inferior design outcome as it will present as a bulkier building from Bathurst Street. Shifting the southern element further north to achieve compliance will have no additional benefits with regards to acoustic attenuation, privacy impacts or overshadowing.
- 9) The proposed development has incorporated a greater building setback from the southern boundary when compared to the adjoining building to the south.
- 10) The proposal is consistent with the bulk, scale and setbacks of the surrounding development.

It is considered that the partial non-compliance of building separation is worthy of support in this instance.

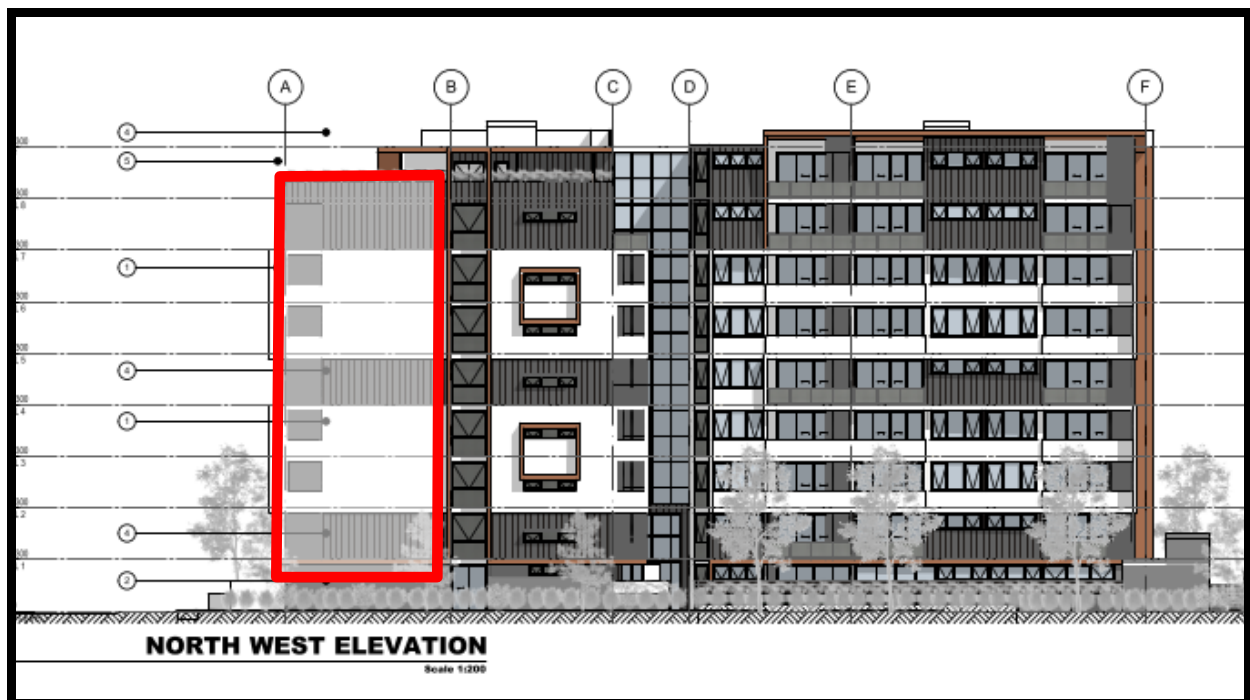


Figure 9: Façade treatment on western elevation



Figure 10: Façade treatment on southern elevation

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 subject site is not land within an investigation area. In addition, a search of Council's property records reveals no known activities likely to cause contamination have been undertaken on the site.

The site has been used continuously for residential purposes and as such the site is unlikely to contain any contaminated land as it has only been used for residential purposes and not a land use identified in Table 1 of the Contaminated Land Planning Guidelines. It is therefore considered that no further investigation is required and that the site is suitable for ongoing use as residential.

In addition, a condition of consent has been imposed requiring the development, including all civil works and demolition, must comply with the requirements of the Contaminated Land Management Act, 1997, State Environmental Planning Policy No. 55 – Remediation of Land, and Managing Land Contamination – Planning Guidelines (Planning NSW/EPA 1998). Additionally, all fill introduced to the site must undergo a contaminated site assessment.

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

(d) State Environmental Planning Policy (BASIX) 2004

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

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

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

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

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

(f) 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 buildings will provide a total of 94 dwellings (a mix of, 1, 2, 3 bedroom units and a number of adaptable units).

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 35m	Complies A maximum height of 27m is proposed.
Clause 4.4 Floor Space Ratio	Maximum FSR of 3:1 which equates to a GFA of 8,232.9m ² .	Complies A FSR of 2.99:1 is proposed, which equates to a GFA of 8,232.9m ² .
Clause 7.4 Building Separation in Liverpool City Centre	Development consent must not be granted to development for the purposes of a building on land in Liverpool city centre unless the separation distance from neighbouring buildings and between separate towers, or other separate raised parts, of the same building is at least: - 9 metres for parts of buildings between 12 metres and 25 metres above ground level (finished) - 12 metres for parts of buildings between 25 metres and 35 metres above ground level (finished)	Partial non-compliance 1) Building separation from western adjoining building • For parts of the building between 12m-25m (finished) a building separation of 6.7m is proposed, which does not comply. Note: The adjoining building to the west (i.e. No.2 Castlereagh Street) has been built with a setback to the adjoining boundary of 3.62m, which creates a further impost on the proposed development to comply with the building separation. • A building separation distance above the 25m (finished) height is not applicable as the western adjoining building does not exceed a height of 25m. 2) Building separation from southern adjoining building • For parts of the building between 12m-25m (finished) a building separation ranging from 10-12.5m is proposed, which complies. • A building separation distance above the 25m (finished) height is not applicable as the southern adjoining building does not exceed a height of 25m.
Clause 7.14 Minimum Building Street Frontage	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	Complies Both street frontages exceed 24m.

	least 24 metres: - any residential flat building.	
Clause 7.8 Flood Planning	(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development: (a) is compatible with the flood hazard of the land, and (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and (c) incorporates appropriate measures to manage risk to life from flood, and (d) will not significantly adversely affect the environment or cause 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.	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 who raised no concern with the proposal subject to conditions of consent.

(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 this aspect of the proposal and the comments are summarised as follows;

Given the above, it is considered that the proposed development is in accordance with the objectives of Clause 5.10 pertaining to Heritage Conservation. Conditions of consent have also been recommended that have been included in conditions of consent.

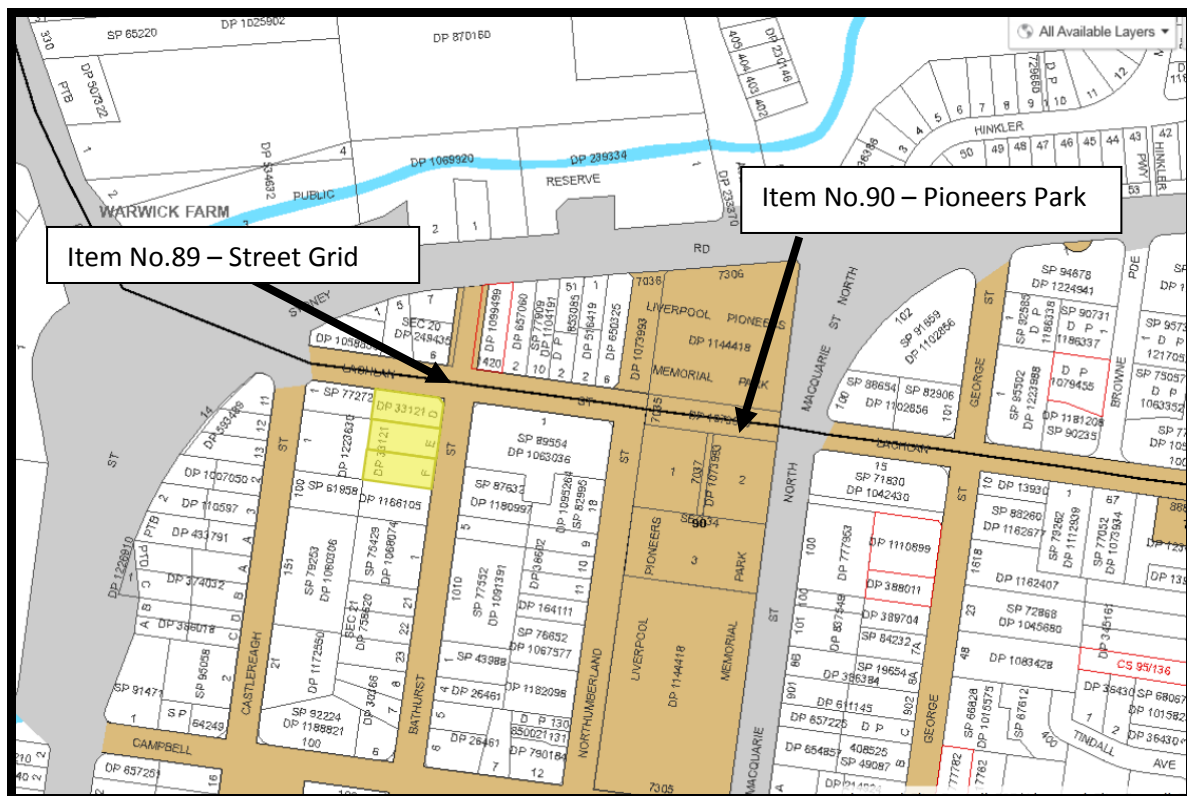


Figure 11: Heritage Map

- **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 will allow sunlight to reach buildings and the pedestrian areas.

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

Comment: The development will not 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 the Clause have been carefully considered in consultation with the expert independent DEP. Consequently, the application has been through amendments to improve the design quality in line with provisions of the LLEP 2008 and the comments provided by the DEP.

In conclusion, the overall development satisfies the LLEP 2008 design excellence provisions and demonstrates satisfactory design quality, which has been confirmed by the DEP.

Discussion on variation under Clause 4.6 of LLEP 2008 development standards

As identified in the compliance table above, the proposal is generally compliant with the

majority of provisions prescribed by LLEP 2008 with the exception of the following:

Variation to Clause 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 a building separation of 6.7m from the adjoining building to the west, which does not comply with the minimum 9m building separation required. This represents a variation of 2.3m or 25.5%. Consequently the applicant has provided a clause 4.6 variation to justify the non-compliance. The clause 4.6 variation is attached to this report.

The submitted written request to vary Clause 7.4, has been assessed against the provisions of Clause 4.6; the objectives of the Clause being varied; and the objectives of the R4 zone, are discussed below:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (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 9-storey residential flat buildings containing 94 residential apartments

over two levels of basement parking with associated landscaping and ancillary site works.

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

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

- *The closer separation distance will not compromise the visual appearance of the development or adjoining developments to the south or west.*
- *Privacy will not be affected by a departure from the numerical standard for building separation. high-mounted, obscure glass windows will be installed along the western aspect. These windows will ensure visual privacy is maintained to the adjoining balconies and habitable areas in the development to the west at 2 Castlereagh Street.*
- *Solar access will not be compromised by an exception to this standard.*
- *Spaces of habitation in the development itself will also have good solar access, with high-mounted windows designed to maximise sunlight exposure. The section of the building with the smallest separation distance also has uninterrupted access to northern sunlight in mid-winter.*
- *It is important to note that this section represents approximately 15% of the length of the exterior wall of the building along the western aspect. Overall, only 33% of the exterior wall is proposed to be built at a non-compliant separation distance along the western and southern aspects.*
- *The proposed separation distance of the development is consistent with the scale and nature of development along Bathurst Street and Lachlan Street, and Council's vision for this part of the City Centre which comprises of taller and denser building forms.*
- *The development is generally consistent with the objects of the Act, in respect to the following:*
 - *The site is located within an established urban environment and is presently used for residential purposes.*
 - *The development reflects orderly and economic use of the land, as that the proposed exception does not contribute to an unreasonable or quantifiable loss of amenity to adjacent land or contribute to an inconsistent streetscape profile. The delivery of new housing within an established urban environment located near public transport options without significant or unreasonable environmental impact is considered to be both orderly and economic use of urban land.*
- *The proposed development will not result in any significant adverse environmental impacts to surrounding area. The proposed separation distance of the development is generally consistent with the scale and nature of existing development along Bathurst Street and Lachlan Street. A departure from the numeric building separation development standard would not create any adverse environmental impacts (overshadowing, visual amenity or privacy) and would be generally consistent with the existing separation distances between similar built forms surrounding the site.*
- *Compliance with the development standard is considered unreasonable and unnecessary in the circumstances. The proposed building separation will not detract from the visual appeal of the building from the public domain, will improve the housing mix within the Liverpool City Centre, will not detract from the heritage*

significance of grid street pattern and does not cause any significant environmental impacts to its surrounds.

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

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

- 1) The portions of the building where the non-compliances occur have been designed in a manner to alleviate potential privacy and acoustic impacts on the adjoining buildings. This has been done through the utilisation of predominately well-designed solid walls with the implementation of louvered privacy screens for all balconies via conditions of consent.
 - 2) The proposed design still enables adjoining buildings to receive the required solar access pursuant to the ADG.
 - 3) The proposal is considered to be of an appropriate bulk and scale and has demonstrated compliance with the applicable height and FSR controls.
 - 4) The extent of the non-compliance is limited to a small portion of the western façade and the southern façade. The majority of the building has demonstrated compliance with the applicable building separation under the ADG.
 - 5) As indicated above the proposal has incorporated appropriate building elements to alleviate the privacy and amenity impacts. Imposing strict numerical compliance with the building separation would primarily result in the reduction of unit yield but present as the same design outcome. It is on this basis that imposing compliance with the building separation is considered unnecessary.
 - 6) The adjoining buildings to the south and west have been constructed with a boundary setback 4.3m and 3.62m respectively. It would be considered onerous in this instance to impose on the proposed building additional building separation requirements for the sake of strict compliance.
 - 7) The proposal is consistent with the bulk, scale and setbacks of the surrounding development.
- 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 proposed development is considered to be consistent with the objectives of clause 7.4, in that notwithstanding the building separation non-compliance, the development still provides the required amount of solar access to adjoining buildings as required by the ADG. The proposal has incorporated appropriate building elements along the western façade to alleviate potential privacy impacts on adjoining developments. The proposal provides for an aesthetically pleasing visual appearance despite the non-compliance. The incorporation of a variety of building elements and materials allows for a visually interesting façade. The

proposed development was also reviewed by Councils Design Excellence Panel and considered to exhibit design excellence.

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 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 3 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 the additional restrictions placed on this site by existing non-compliant development surrounding the site. 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 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 4.3 “*height of buildings*” has satisfied the provisions of Clause 4.6 and is supported in this circumstance.

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

No draft Environmental Planning Instruments applies to the site.

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

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

The 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 Landscape 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 Landscape 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. Pot sizes vary from 150mm to 100l and mature heights ranging from 0.4m to 25m in height.
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

Development Control	Provision	Comment
		conditions.
Section 10. Contaminated Land Risk	Provisions relating to development on contaminated land.	Complies As discussed within this report, the site is considered suitable for the development.
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 This aspect has been discussed in detail within Section 6.1(a)(iv) of this report.
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: - 1 space per two studio apartments - 1 space per one bedroom or two bedroom apartments - 1.5 spaces per three or more bedroom units - 1 space per 10 units or part thereof, for visitors - 1 space per 40 units for service vehicle (including removalist vans (and car washing bays, up to a maximum of 4 spaces per building).	Complies The following parking is required: - 11 x 1 bedroom units requires 11 spaces - 71 x 2 bedroom units requires 71 spaces - 12 x 3 bedroom units requires 18 spaces A total of 100 spaces required for the residential units - 94 residential units requires 9.4 visitor spaces - 2 carwash/service bays are required. The following parking is provided: - 107 spaces for residential units - 9 spaces for visitors - 2 carwash/service bays

Development Control	Provision	Comment
	Provision is to be made for motorcycle parking at the rate of 1 motorcycle space per 20 car spaces	Complies A total of 107 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 spaces of the 107 parking spaces shall be accessible spaces. A total of 8 accessible spaces have been provided.
	1 bicycle space per 200m ² of gross floor area. 15% of this requirement is to be accessible to visitors	Complies A total GFA of 8223.0m ² is provided, therefore 41 bicycle spaces (including 6 accessible to visitors) shall be provided. A total of 42 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: Three waste chutes are supplied at each core of the building adjacent to the lift shafts. Garbage discharges into 1100L mobile garbage bins (MGB). Recycling bins will be situated in the waste compartment on each residential level for collection of recyclable items. Full 240L recycling bins will be decanted into large 1100L MGBs using a bin lifter for collection by Council. Bins will be wheeled to the front for collection and will be collected twice weekly from Bathurst Street.
Section 26 Outdoor Advertising and Signage	Provisions relating to signage.	Not Applicable The DA does not propose any signage.

Development Control	Provision	Comment
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. The proposed development is considered to have a positive social impact as it allows for the provision of better street activation through the encouragement of casual surveillance, provides a mix of apartment types to suit a range of people including 11 adaptable units.

LDCP 2008 Part 4: Liverpool City Centre

Development Control	Provision	Comment
Section 2 Controls for Building Form		
Building Form	Street building alignment and street setbacks applicable to the site is a 4-4.5m landscaped setback to Goulburn and Lachlan Street.	Complies The proposal provides a minimum 4.5m setback from both Bathurst and Lachlan Street.
	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 Castlereagh Street and Copeland Street	Complies A SFH of 25m is provided.
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 two separate floor plates on level 8 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: - 3m to non-habitable rooms. - 6m to habitable rooms.	Complies • Western Boundary Side Setback of 3.07m is provided to non-habitable rooms • Southern boundary side setback of 5.5m-6m
	Residential uses between 12-25m (i.e. Level 4, Level 5, Level 6 and Level 7) require: 4.5m to non-habitable rooms. - 9m to habitable rooms	Partial non-compliance • Western Boundary Side Setback of 3.07m is provided to non-habitable room which does not comply. • Southern boundary side setback of 5.5m-6m to non-habitable room. Comment: As discussed previously 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 Control	Provision	Comment
		development site which have non-compliant side setbacks.
	Residential uses between 25-45m (i.e. Level 8) require: - 6m to non-habitable rooms. - 12m to habitable rooms	Partial non-compliance • Western Boundary Side Setback of 3.07m is provided to non-habitable room which does not comply. • Southern boundary side setback of 5.5m to non-habitable rooms which does not comply. Comment: As discussed previously 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.
Site Cover and Deep Soil Zones	Maximum site cover of 50%	Complies Proposed site cover is 49%
	The deep soil zone shall comprise no less than 15% of the total site area. It is to be provided preferably in one continuous block but otherwise with no dimension (width or length) less than 6m.	Non Compliance The development requires 192m ² of deep soil zones. The development provides 197m ² of deep soil zones which equates to 7.1%. This provision of deep soil zone is consistent with the requirements of the ADG and is considered appropriate on merit in this instance.
	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 Landscape Office who has raised no issues.
	Remnant vegetation must be maintained throughout the site wherever practicable.	Complies Existing vegetation where practicable has been 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	Complies Conditions can be imposed to ensure the long term maintenance of the landscaped areas.

Development Control	Provision	Comment
	development.	
	Any new public spaces are to be designed so that at least 50% of the open space provided has a minimum of 3 hours of sunlight between 10am and 3pm on 21st June (Winter Solstice).	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 Landscape Officer, who has raised no issues in regards to this aspect, subject to conditions.
	Design for optimum conditions for plant growth by: - providing soil depth, soil volume and soil area appropriate to the size of the plants to be established, - providing appropriate soil conditions and irrigation methods, and - providing appropriate drainage. - Design planters to support the appropriate soil depth and plant selection by ensuring planter proportions accommodate the largest volume of soil possible and soil depths to ensure tree growth, and providing square or rectangular planting areas rather than narrow linear areas.	
	Increase minimum soil depths in accordance with: - the mix of plants in a planter for example where trees are planted in association with shrubs, groundcovers and grass, - the level of landscape management, particularly the frequency of irrigation, - anchorage requirements of large and medium trees, and soil type and quality.	
	Provide sufficient soil depth and area to allow for plant establishment and growth. The following minimum standards are recommended: - Large trees (over 8m high) minimum soil depth 1.3m, minimum soil volume 150m³ - Medium trees (2 – 8m	

Development Control	Provision	Comment
	high), minimum soil depth 1m, minimum soil volume 35m³ - Small trees (up to 2m high), minimum soil depth 0.8m, minimum soil volume 9m³ - Shrubs and ground cover, minimum soil depth 0.5m, no minimum soil volume.	
Amenity		
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 both street frontages.
	Provide entrances which are in visually prominent positions and which are easily identifiable, with visible numbering.	Complies The front entrance is orientated to the street and are easily identifiable.
Awnings	Wet weather protection to be provided to all entrances	Complies Wet weather protection is provided to the entrances.
Vehicle Footpath Crossings	No additional vehicle entry points will be permitted into the parking or service areas of development along those streets identified within the LDCP2008.	Complies Only one vehicle entry point is proposed from Castlereagh 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.

Development Control	Provision	Comment
	Where practicable, adjoining buildings are to share or amalgamate vehicle access points. Internal on-site signal equipment is to be used to allow shared access. Where appropriate, new buildings should provide vehicle access points so that they are capable of shared access at a later date.	N/A The 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 sun 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.
Traffic And Access		

Development Control	Provision	Comment
Pedestrian Access and Mobility	Main building entry points should be clearly visible from primary street frontages and enhanced as appropriate with awnings, building signage or high quality architectural features that improve clarity of building address and contribute to visitor and occupant amenity.	Complies The main entry point is orientated to the street and will be visible. The main entry will consist of a short accessible path leading to a single door and straight into the lobby area.
	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: - 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 south-eastern side of the development with access from Bathurst 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.
	Car space dimensions must comply with Australian Standard 2890.1.	Complies Car space dimensions are in accordance with AS.
	Driveway grades, vehicular ramp width/ grades and passing bays must be in accordance with the relevant Australian Standard, (AS 2890.1).	Complies The driveway grades, vehicular ramp width/grades are in accordance with relevant AS.
	Access ways to underground parking should be sited to minimise noise impacts on adjacent habitable rooms, particularly bedrooms.	N/A No habitable rooms are located adjacent to the access way.
On Site Parking	Car Parking Requirements - 1 space per one bedroom or two bedroom apartments; - 1.5 spaces per three or more bedroom units - 1 space per 10 units for visitors - 1 space per 40 units for service vehicle	As discussed above appropriate parking facilities are provided.
	Motorcycle Car Parking Spaces - 1 motorcycle space per 20 car spaces	
	Accessible Car Parking Spaces - 2% of the total demand generated by a development.	
	Bicycle Parking - 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: - 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: - set tower buildings back from lower structures built at the street frontage to protect pedestrians from strong wind downdrafts at the base of the tower, - ensure that tower buildings are well spaced from each other to allow breezes to penetrate city centre, - consider the shape, location and height of buildings to satisfy wind criteria for public safety and comfort at ground level, and - ensure useability of open terraces and balconies.	The proposed development is technically not considered to be a tower due its height of 27m
	A Wind Effects Report is to be submitted with the DA for all buildings greater than 35m in height.	N/A The development does not exceed 35m in height.
	For buildings over 48m in height, results of a wind tunnel test are to be included in the report	N/A The development does not exceed 48m in height.
Noise	An acoustic report is required for all noise affected locations, as identified in figure 25.	N/A The development site is not identified as a site requiring an acoustic report.
	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: - General waste: 120L/week/dwelling. - Recycling: 120L/week/dwelling - Green waste: a communal waste bin of sufficient capacity to accept waste from landscape areas.	Complies On-going Waste Management: Three waste chutes are supplied at each core of the building adjacent to the lift shafts. Garbage discharges into 1100L mobile garbage bins (MGB). Recycling bins will be situated in the waste compartment on each residential level for collection of recyclable items. Full 240L recycling bins will be decanted into large 1100L MGBs using a bin lifter for collection by Council. Bins will be wheeled to the front for collection and will be collected twice weekly from Bathurst Street
	In a development of more than six dwellings or where the	Complies The following comments are made:

Development Control	Provision	Comment
	topography, or distance to the street makes access difficult for individual occupants, a collection and storage area is required. The storage area must be located in a position which is: - Not visible from the street - Easily accessible to dwelling occupants - Accessible by collection vehicles (or adequately managed by the body corporate to permit relocation of bins to an approved collection point), - Has water and drainage facilities for cleaning and maintenance; and - Does not immediately adjoin private open space, windows or clothes drying areas	- 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. - 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: - 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 12% one bedroom units, 76% two bedroom units and 12% 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.

Development Control	Provision	Comment
	For residential flat buildings and multi-unit housing, 10% of all dwellings (or at least one dwelling – whichever is greater) must be designed to be capable of adaptation for disabled or elderly residents. Dwellings must be designed in accordance with the Australian Adaptable Housing Standard (AS 4299-1995), which includes “pre-adaptation” design details to ensure useability is achieved.	Complies 10 adaptable units are proposed.
	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 79C(1)(a)(iia) - Any Planning Agreement or any Draft Planning Agreement

No planning agreement relates to the site or proposed development.

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

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

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

There are no Coastal Zones applicable to the subject site.

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

(a) Natural and Built Environment

Built Environment

The 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.

The proposed scheme with two buildings separated by a central communal open space is considered to be an appropriate design which is responsive to the location and the orientation of the site, and importantly the northern and southern adjoining sites. The development satisfactorily addresses both Bathurst and Lachlan Street with built form that would activate these streets. The proposal has been designed with adequate regard to the western and southern adjoining sites without having any adverse impact on the development potential of these adjoining sites.

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.

This aspect was assessed by Council's Landscape 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 the communal open space area will promote social interaction and bonding among building occupants.

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

The development will result in a positive economic impact, through the provision of employment generated during the construction of the development and the on-going building maintenance

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

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

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

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

(a) Internal Referrals

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

Department	Comments
Building	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 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 conditions of consent.
Landscaping	Council's Landscape 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.

(a) Community Consultation

In accordance with the LDCP 2008, the application was not required to be notified.

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

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

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

7 CONCLUSION

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The proposal substantially complies with the provisions of the LDCP 2008. There are variations proposed to some development standards, however these are considered acceptable on merit.
- The proposal provides an appropriate response to the site's context and satisfies the SEPP 65 design principles and the requirements of the ADG. The scale and built form is consistent with the desired future character of the area that is envisaged under the LLEP 2008 and LDCP 2008.

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

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

8 ATTACHMENTS

1. Recommended conditions of consent
2. Architectural plans
3. Landscape plans
4. Stormwater drainage plan
5. Survey plan
6. Access Design Statement
7. Access report
8. Traffic Report
9. Statement of Environmental Effects with clause 4.6 variation
10. Urban Design Statement
11. Waste Management Plan
12. BASIX Certificate
13. Design Excellence Panel Comments