

SYDNEY WESTERN CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SSW001
DA Number	DA-1248/2016
LGA	Liverpool City Council
Proposed Development	Demolition of existing buildings, construction of a mixed use development consisting of two (2) residential apartment buildings above ground floor commercial space with basement parking and strata subdivision. Liverpool City Council is the consent authority and the Sydney South West Planning Panel has the function of determining the application.
Street Address	LOT 101 DP 601256, LOT 1 DP 230908 101 NUWARRA ROAD, MOOREBANK NSW 2170
Applicant/Owner	OAR2 PTY LTD
Date of DA Lodgement	21 December 2016
Number of Submissions	Four (4) objections
Recommendation	Approval, subject to conditions of consent
Regional Development Criteria (Schedule 4A of the EP&A Act)	The proposal was lodged for an affordable housing development that has a capital investment value of over \$5 million, the Joint Regional Planning Panel is therefore the determining authority.
List of all relevant s79C(1)(a) matters	<p>1. <i>List all of the relevant environmental planning instruments: s4.15(1)(a)(i)</i></p> <ul style="list-style-type: none"> • State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development. • State Environmental Planning Policy No.55 – Remediation of Land. • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment. • Liverpool Local Environmental Plan 2008. <p>2. <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: s4.15(1)(a)(ii)</i></p> <ul style="list-style-type: none"> • N/A <p>3. <i>List any relevant development control plan: s4.15(1)(a)(iii)</i></p> <ul style="list-style-type: none"> • Liverpool Development Control Plan 2008. <ul style="list-style-type: none"> - Part 1 – General Controls for all Development. - Part 3.7 – Residential Flat Buildings in the R4 Zone - Part 6 – Development in Business Zones

	<p>4. <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: s4.15(1)(a)(iv)</i></p> <ul style="list-style-type: none"> No planning agreement relates to the site or proposed development. <p>5. <i>List any coastal zone management plan: s4.15(1)(a)(v)</i></p> <ul style="list-style-type: none"> The subject site is not within any coastal zone management plan. <p>6. <i>List any relevant regulations: s4.15(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288</i></p> <p>Consideration of the provisions of the Building Code of Australia and National Construction Code (NCC)</p>
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> 1) Recommended Conditions of Consent 2) Architectural Plans 3) Accessibility Report 4) Acoustic Report 5) BASIX Certificate 6) BCA Report 7) Contamination Report 8) Hazardous Building Materials Report 9) Drainage Plans 10) Quantity Surveyors Report 11) Statement of Environmental Effects 12) Landscape Plan 13) Survey Plan 14) Traffic Report 15) Waste Management Plan 16) Design Excellence Panel minutes
Report prepared by	Boris Santana
Report date	3 April 2019

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? **Yes**
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

**Not
Applicable**

Conditions

Have draft conditions been provided to the applicant for comment?

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

Yes

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

The Sydney South West Planning Panel is the determining body as the development was originally lodged for an Affordable Housing Scheme with a Capital Investment Value of over \$5 million.

1.1 The proposal

The application that was lodged with Council for the proposed the construction of two 6 storey residential flat building comprising 147 apartments. The application was lodged pursuant to the ARH SEPP meaning that a portion of the development would be dedicated to affordable housing in exchange for a bonus FSR for the site. The applicant proposed that 50% of gross floor area of the development be dedicated for the purpose of affordable housing.

Following an assessment of the application it was discerned that the site is not located in an accessible area and therefore does not benefit from the bonus FSR provisions of the ARH SEPP. Consequently, the proposed development was required to be redesigned in order to comply with the FSR development standards of the LLEP 2008. Development consent is now sought for the construction of a mixed use development containing a 3 storey and 6 storey component, with a total of 7 commercial shopfronts and 76 residential apartments.

1.2 The site

The subject site is identified as Lot 1 in DP 230908 and Lot 101 in DP601256 being 101 Nuwarra Road, Moorebank. An aerial photograph of the subject site is provided below. The site is irregular in shape with a total area of 5210m². The site has two street frontages, 81.8m frontage to Nuwarra Road and a 42.2m frontage to Lucas Avenue.

1.3 The issues

The main issues are identified as follows:

- Non-compliance with the Liverpool Local Environmental Plan (LLEP) 2008 - Clause 4.3 Height of Buildings;
- Non-compliance with the LLEP 2008 – Clause 4.4 Floor Space Ratio
- Non-compliance with Apartment Design Guide (ADG) – building separation controls.

1.4 Exhibition of the proposal

The development application was notified and advertised for a period of 14 days between 24 January 2017 December 2014 and 19 Januarys 2015 in accordance with Liverpool Development Control Plan 2008 (LDCP 2008). Four objections were received to the proposed development. The application was redesigned substantially, with a reduction in the built form and land use intensity, in response to Council assessment and the submissions received during the notification period. Accordingly, it is not considered necessary to notify the application again.

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 written request to vary the height of buildings development standard pursuant to Clause 4.6 of the LLEP 2008, it is recommended that the application be approved, subject to conditions.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The subject site is identified as Lot 1 in DP 230908 and Lot 101 in DP601256 being 101 Nuwarra Road, Moorebank. An aerial photograph of the subject site is provided below. The site is irregular in shape with a total area of 5210m². The site has two street frontages, 81.8m frontage to Nuwarra Road and a 42.2m frontage to Lucas Avenue. The site has a fall from the east of the site to west of approximately 3 metres. Existing on the site are ground floor shops with one level of residential units above the shops.



Figure 1: Aerial photograph of the Site

2.2 The locality

The subject site is located on the western side of Nuwarra Road and to the east of Lucas Avenue. The locality consists of a mix of commercial and single detached dwellings and newer multi-dwelling housing developments in the surrounding R4 zone which is undergoing a transition to higher density. The site on the opposite side of Nuwarra Road is an approved 6 storey RFB, immediately adjacent to the south is a one storey community centre and library.

a total of 222 car parking spaces, associated landscaping and strata subdivision thereof' at 101 Nuwarra Road, Moorebank.

- Development Application No. DA-1589/2012 was refused by Council at its meeting on 8 August 2013 for 'demolition of existing structures and construction of a Dan Murphy's Liquor Store and fit-out with associated signage, car parking and loading facilities' at 101 Nuwarra Road, Moorebank.

3.3 Design Excellence Panel Briefing

On 20 July 2017, the proposed development was presented to the Design Excellence Panel for the proposal.

The Design Excellence Panel comments and recommendations are summarised below:

- *The applicant advised that the height and FSR have reduced in response to the Panel's previous minutes.*
- *The Panel reiterates its support of having commercial on the ground floor of the development. Application of commercial to street level to both streets.*
- *The lift overrun exceeds the permitted building height. The Panel does not have any significant concerns with this minor non-compliance with the height of building as a result of the lift-overrun only.*
- *The zero lot line to the southern boundary has implications on the development of the southern adjoining Council owned Library and Community Facility. The proposed is predicated on the southern adjoining land to be re-developed to the same level of intensity and scale as the proposal. The proposed blank party walls need to be designed to be aesthetically pleasing. The proposed treatment of the party walls and noting the Panel's earlier comment of the need to treat this to a satisfactory appearance, the applicant has not provided a satisfactory solution.*
- *The Panel notes that deep soil zones are only provided along the perimeter of the site. Deep soil zone should be provided within the central communal open space of the development. The deletion of the surplus car parking spaces for the development would facilitate the provision of further deep soil zone. It is understood that the quantum of parking provided exceed Council's parking requirement.*
- *The length of the building should be reduced to minimise its mass and bulk. The step in the building should be strengthened and accentuated. Articulating the built form to the party wall should be explored, as the Panel is concerned about the impact of the development to southern adjoining site when it is re-developed. Acceptable solution to the panel is to enhance the potential indent to the 2 half of the Nuwarra Road frontage of the site.*
- *Apartment sizes, room sizes and balconies must comply with the ADG.*
- *The Panel was advised that the development site is not located within an accessible area as defined by the Affordable Rental Housing SEPP. As such, the proposal is to comply with the Liverpool LEP2008 requirements in respect to FSR. However, this is an issue to be resolved by Council.*

The proposal is acceptable subject to the incorporation of the above advice given from the Panel and will not need to be seen by the Panel again.

In the event that amended plans are submitted to Council to address the concerns of the Design Excellence Panel the amended plans should be considered by Council.

Comment: The submitted proposal is considered to be consistent with the concept examined by the panel and is considered to have successfully incorporated their comments into the proposal. As stated by the DEP the application did not require any further referral to the DEP as part of the DA assessment process. Having regard to the nil setbacks to the library building, the applicant has provided a party wall detail plan that indicates that the party wall will incorporate different types of timber boards and patterned concrete to break up the visual bulk of the wall until such time that the library site is redeveloped. The proposed treatment of this wall is considered to be aesthetically pleasing and compatible with the colour scheme and finishes of the proposed development.

3.4 Planning Panel Briefing

The subject application was previously briefed to the SWCPP on 27 November 2017. Due to the change in panel members since the last briefing it was considered prudent to re-brief the application prior to determination. At the briefing meeting on 27 November 2017 the following matters were requested to be addressed;

- *Legal Advice required regarding LEP permissibility (residential on ground floor) and ARHSEPP applicability/permissibility regarding accessible area.*

Comment: This advice is only required insofar as the development is designed in accordance with the ARH SEPP. The proposed development has been modified in accordance with the provisions of LLEP 2008 and the ARH SEPP no longer applies. The proposed development is not required to be in an accessible area pursuant to LLEP 2008.

- *Concerns regarding the unit mix, particularly proportion of three (3) bedroom units.*

Comment: The proposed development, as originally submitted, proposed 23 x 1 bedroom units (16%), 117 x 2 bedroom units (80%) and 7 x 3 bedroom units (4%). The proposed development, as modified, proposes 12 x 1 bedroom units (16%), 56 x 2 bedroom units (74%) and 8 x 3 bedroom units (11%). Accordingly, the proportion of 3 bedroom apartments has been increased. It is noted that the unit mix provided is consistent with the controls of LDGP 2008 for residential development in the Liverpool Town Centre.

- *Concerns regarding the proposed development's height exceedance*

Comment: The maximum height of buildings in the B2 Zone is 21 metres and 18 metres in the R4 Zone. The proposed development, as originally submitted, proposed 22.4 metres or a 9% variation in the B2 Zone and 14.5 metres in the R4 Zone. The proposed development, as modified, proposes 21.5 metres or a variation of 2% in the B2 Zone and 14.5 metres in the R4 Zone. The only part of the building that breaches the maximum

building height is an architectural roof features. It is considered that the height exceedance is minor and not a reason to refuse the development application.

- *Concerns regarding the exceedance of Floor Space Ratio.*

Comment: Clause 4.4 of LLEP 2008 indicates a maximum FSR of 1.7:1 in the B2 Zone and 1.2:1 in the R4 Zone. The allowable gross floor area (GFA) in the B2 Zone is 7714sqm and 806sqm in the R4 Zone, with a combined total of 8520sqm. The proposed development, as originally submitted, proposed a GFA of 12,129sqm in the B2 Zone and 1,149sqm in the R4 Zone. The proposed development as modified proposes a gross floor area of 7772sqm in the B2 Zone and 742sqm in the R4 Zone. Although there is an FSR variation of 1% in the B2 Zone, the overall development is compliant with the maximum gross floor area of development granted by the FSR development standards.

- *Non-compliance with Apartment Design Guidelines.*

Comment: The proposed development has been modified so that it complies with the provisions of the ADG with the exception of Visual Privacy and Orientation of the ADG. These matters are discussed further in the briefing note.

- *Concerns regarding the on-site amenity of the proposal.*

Comment: It is considered that the proposed development has been designed in a manner that reinforces the geometry of the street network whilst providing meeting solar access and natural ventilation requirements of the ADG. Furthermore, there is a large communal open space area between both buildings, of which at least 20% is co-located with deep soil zones, providing adequate opportunities for passive recreation along with rooftop terraces. The design also provides sufficient building separation to adjoining residential properties to the north to prevent overlooking of existing dwelling houses.

- *Integration with the adjoining sites, regarding both the site's setbacks and Council's strategic vision for the area.*

Comment: The application was referred to Council's Property and Commercial Development Branch in relation to the implications of the proposed development on the future plans of the Council library to the south of the subject site. Council's Property and Commercial Branch indicated that currently there are no future plans for redevelopment of the library site. Furthermore, Council's Property and Commercial Development Branch does not consider there to be any impacts on future opportunities to redevelop the site should the development proceed in its current form.

The subject application was also briefed to the SWCPP on 4 February 2019. Due to the change in panel members since the last briefing it was considered prudent to re-brief the application prior to determination. At the briefing meeting on 4 February 2019 the following matters were requested to be addressed;

- *The Panel appreciated the improvement in the amended scheme submitted through the DA process.*

Comment: Noted

- *The Panel notes that the Design Review Panel considered that the amended proposal had successfully incorporates its comments on the earlier scheme.*

Comment: The DEP concluded that the proposal is acceptable subject to the incorporation of the advice given from the Panel and will not need to be seen by the Panel again. Council has reviewed the latest architectural drawings and considers that the advice given by the Panel has been incorporated into the scheme. Accordingly, the application will not need to be seen by the Panel again.

- *The Panel's preliminary view is that the proposed height exceedance could be adequately justified through the clause 4.6 mechanism as it is limited to the lift overrun and a small exceedance principally in the intrusion of the roof design, without significant impacts to adjoining properties.*

Comment: The applicant has submitted a clause 4.6 variation to justify the non-compliance. The request to vary the development standard of Clause 4.3 - Height of Buildings is considered to be well founded and justified under the circumstances. It is considered appropriate in this instance to apply a degree of flexibility when applying the maximum height development standard applicable to the subject site.

- *From the material submitted, it appeared that the minor non-compliance with the B2 FSR control of around 1% was counterbalanced by the 8% degree of compliance with the R4 control, such that again the non-compliance could likely be resolved through the 4.6 process.*

Comment: The applicant has submitted a clause 4.6 variation to justify the non-compliance. The request to vary the development standard of Clause 4.4 – Floor Space Ratio is considered to be well founded and justified under the circumstances. It is considered appropriate in this instance to apply a degree of flexibility when applying the maximum height development standard applicable to the subject site.

- *The Panel agrees that the nil side setbacks to the library building in the B2 zone is appropriate, and that minor non-compliance to the north is acceptable as being nonetheless consistent with intent of the ADG control.*

Comment: Noted.

- *The Panel saw that there would be a loss of sun to the solar panels on the library building, but noted the advice that it was for one solstice only and that for the majority of the year the panels would still receive good sun for at least 4 hours per day.*

Comment: Noted.

- *The conditions might usefully regulate the colour scheme for the façade panels and roof materials to reduce the contribution to the 'heat sink' in the area.*

Comment: A condition will be imposed on any consent granted.

4. DETAILS OF THE PROPOSAL

Development consent is sought for:

- Demolition of existing structures and excavation of the site in preparation of the construction of the mixed use development;
- Construction of a mixed use development that comprises of a 3 storey building facing Lucas Avenue and a 5 to 6 storey building facing Nuwarra Road. There will be a total of 7 commercial shopfronts (with a total floor area of 1350sqm) and 76 residential apartments. The following mix of apartments if proposed to be provided within the development:
 - 12 x One (1) bedroom dwellings (16% of apartments);
 - 56 x Two (2) bedroom dwellings (74% of apartments);
 - 8 x Three (3) bedroom dwellings (10% of apartments).
- The ground floor of the Lucas Avenue building contains 2 commercial shopfront and 2 residential storeys above with 20 residential apartments. There is a communal open space area on the rooftop. The following mix of apartments if proposed to be provided within this building:

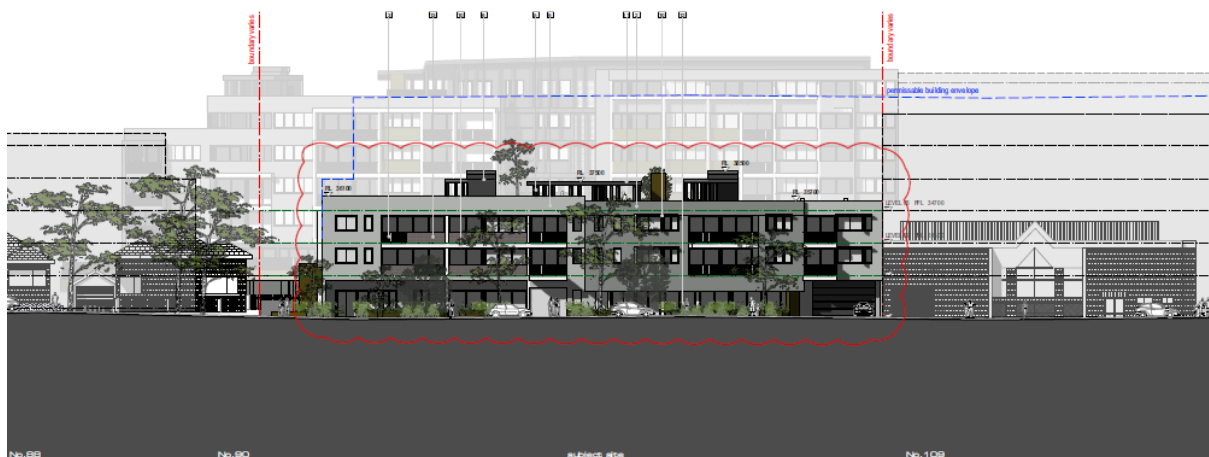


Figure 3: Lucas Avenue elevation

- The ground floor of Nuwarra Road building contains 5 commercial tenancies and 4 to 5 residential storeys above with 56 apartments. There is a communal open space area on the fifth and sixth storey.



Figure 4: Nuwarra Road elevation

- Vehicle access to the site is off Lucas Avenue for vehicles up to and including a medium rigid vehicle.
- There will be 2.5 basement levels of parking comprising 220 car spaces (comprising 37 visitor spaces, including 15 accessible spaces) and 28 bicycle spaces;
- Deliveries and waste collection will be conducted at the rear of commercial tenancies on Lucas Avenue in a designated loading area.
- The development comprises a total communal open space area of 1950m² in the form of a central ground floor area between buildings and roof top spaces;
- Associated landscaping works.
- Strata subdivision.

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

Draft Environmental Planning Instruments

- No draft Environmental Planning Instruments apply to the site.

Other Plans and Policies

- Apartment Design Guide

Development Control Plans

- *Liverpool Development Control Plan 2008*
 - Part 1 – Controls applying to all development
 - Part 3.7 – Residential Flat Buildings
 - Part 6 – Development in Business Zones

- Liverpool Contributions Plan 2009 – Established Areas applies

The site is zoned B2 Local Centre and R4 High Density Residential pursuant to LLEP 2008 as depicted in Figure 6.



The proposed development is a mixed use development that comprises a 'Residential flat building' and 'Commercial Premises', which is permissible within the B2 Local Centre. Although 'Residential Flat Buildings' are permitted in the R4 High Density Zone it is noted that 'Commercial Premises' are prohibited, however, Clause 5.3 enables a development consent to be granted to development of land for any purpose that may be carried out in the adjoining zone. On this basis, the R4 zoned portion of the site can be used as a commercial premises given that it is located within 25m of the B2 Zone boundary. Figure 7 shows the extent of the development that relies on Clause 5.3 to achieve commercial premises on the ground floor of the development.

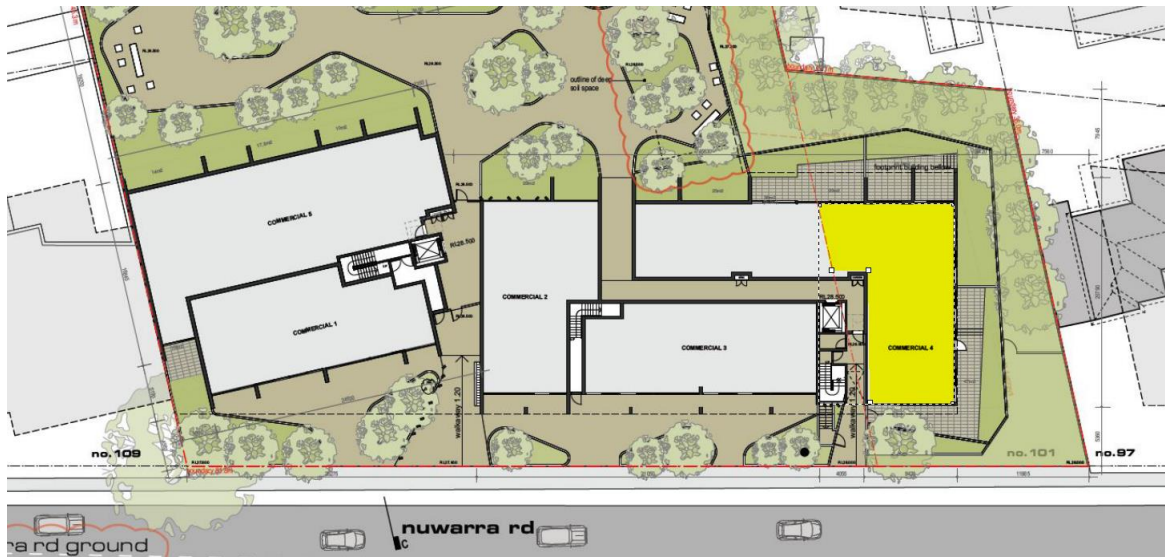


Figure 6. Extent of commercial premises on the ground floor of Nuwarra Road frontage that relies on Clause 5.3 for permissibility

6. ASSESSMENT

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

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

State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development.

State Environmental Planning Policy No. 65 applies to the proposal, as the application involves residential flat buildings greater than 3-storeys in height and containing more than 4 units. Clause 30(2) of SEPP 65 requires residential flat development to be designed in accordance with the design quality principles contained in Part 2 of SEPP 65.

Following is a table summarising the nine (9) design quality principles outlined in SEPP 65, and compliance with such.

DESIGN QUALITY PRINCIPLE REQUIRED	DOES THE PROPOSAL ADDRESS THE PRINCIPLE?	HOW DOES THE PROPOSAL ADDRESS THE PRINCIPLE?
PRINCIPLE 1: 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	Yes.	The subject site is partially zoned B2 Neighbourhood Centre and R4 High Density Residential. The applicant proposes a mixed use development with non-residential uses at street level and apartments. The proposal is considered to complement the desired future character of the area. The site has two street frontages, Nuwarra Road and Lucas Avenue. The development proposes two buildings, each of which face the street, around a centralised communal open space area. The development has also been setback from the street to provide for landscaping and

<p>elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>		<p>break out space for commercial activities at the street level.</p> <p>It is noted that the area is in transition from low and medium density development to high density development. The building type conforms to the Council's building envelope controls for mixed use developments.</p> <p>Each building is highly articulated and is broken down into volumes, this is compatible with the built form character of the area; as is with the building materiality.</p> <p>The proposal incorporates an attractive landscape area that surrounds the built form on ground level. This includes provisions for large tree planting in deep soil zones within front and side setbacks; these plantings will enhance the character of the development.</p> <p>It is considered that the proposal is appropriate for the context considering it is located within the B2 and R4 zone. It is considered the subject development is consistent with the desired future character of the area.</p>
<p>PRINCIPLE 2: BUILT FORM AND SCALE</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	Yes.	<p>The bulk and scale of the proposal has been carefully considered to respond to the areas transition into a future growth area. The proposed scheme breaks up the massing on site as a result of material selection, massing techniques and landscaping.</p> <p>The building form aims to reduce the perceived mass of a development of this scale by breaking up the masses in to vertical elements and fine grain detail to the bulk of the building.</p> <p>The scale and height of the proposed development is appropriate to its B2 and R4 zoning.</p>
<p>PRINCIPLE 3: DENSITY</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public</p>	Yes.	<p>The proposal will contribute to a high quality streetscape for the area. The unit sizes are according to the SEPP 65 standards and each unit is provided with a private open space. The density is appropriate for the site given its accessibility to public transport, access to common and communal open space, the built form context, and the high amenity achieved for every unit in the development.</p>

transport, access to jobs, community facilities and the environment.		
<p>PRINCIPLE 4: SUSTAINABILITY</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	Yes.	The proposed development is consistent with the BASIX requirements applicable and with the BASIX certificates provided. The proposed development has maximised solar access and natural ventilation, based on the design.
<p>PRINCIPLE 5: LANDSCAPE</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	Yes	<p>Landscaping of communal open spaces is provided at ground level. A deep soil zone is provided along the northern boundary of the site to provide a landscape buffer between the proposed development and adjoining R4 zoned sites to the north. The landscaping of the site is predominantly to the same domestic scale as surrounding individual residential properties.</p> <p>The building is considered consistent with the streetscape, and additional planting is proposed to further enhance its contextual design response. The proposed landscaped areas will aid in reducing the scale of the building and integrate the development with the surrounding environment.</p>
<p>PRINCIPLE 6: AMENITY</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good</p>	Yes.	The proposed development has a maximum of 7 units off a single core, which helps to ensure good amenity for residents. Proposed lobbies and corridors have a generous width, not only allowing access by persons with a disability but

<p>amenity contributes to positive living environments and resident well-being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>		<p>avoiding a dark or tight space. Further to this the applicant provides generous amount of glazing for the central lobby to enable solar access.</p> <p>The proposed apartment layout allows adequate circulation and privacy for each room. The solar access for the development is sound with minimal single aspect apartments facing south. The development also achieves a high degree of cross-ventilation. Sufficient private open spaces ensure good solar penetration and ventilation to each unit.</p> <p>The proposed development is considered satisfactory in terms of amenity.</p>
<p>PRINCIPLE 8: SAFETY</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	Yes.	<p>The proposal has been designed to take into account the safety and security both externally and internally of the development. The design is considered to appropriately incorporate the CPTED principles namely surveillance, access/egress control, territorial reinforcement and space management.</p>
<p>PRINCIPLE 8: HOUSING DIVERSITY AND SOCIAL INTERACTION</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	Yes.	<p>The proposal includes a variety of different housing typologies that will be offered in different sizes and layouts. The mix in housing typologies will help diversify the residents in the development.</p> <p>The proposed development is designed to maximise accessibility for access impaired. Sufficient disabled car parking facilities have been provided in the basement level. Passenger lifts provide easy access to all levels of the building. 10% of the proposed units are also adaptable.</p> <p>The proximity of the site to transport alternative to the private car, along with the proximity of local services will assist in reducing the emission of greenhouse gases and cost of living. Bicycle parking and motorcycle is provided to further promote alternative means of transport.</p>

<p>PRINCIPLE 9: AESTHETICS</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	Yes.	<p>The proposed development is considered to be aesthetically pleasing. The proposed development has incorporated an appropriate diversity of building elements, textures, materials and colours to enable a suitable design outcome. The proposed development has effectively responded to its surrounding context in terms of streetscape appearance and the desired future character of the area.</p>
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Further to the above design quality principles, Clause 30(2) of SEPP 65 also requires residential flat development to be designed in accordance with the Department of Planning's publication entitled the Apartment Design Guide (ADG). The following table outlines compliance with the ADG, where numerical requirements ('controls') are specified.

Apartment Design Guide Compliance Table

Provisions	Comment
PART 3 SITING THE DEVELOPMENT	
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 The proposed development is considered appropriate for its context.
3B Orientation	
3B-1. Building types and layouts respond to the streetscape and site while optimising solar access within the development	Complies The building layout has been designed to address both Nuwarra Road and Lucas Avenue. The site's orientation does not allow the building to completely maximise the northern orientation. However, strategic window location and design results in desirable amenity for future residents. Overshadowing of neighbouring properties is minimised during mid-winter.
3B-2. Overshadowing of neighbouring properties is minimised during mid-winter	
3C Public Domain Interface	
3C-1 Transition between private and public domain is achieved without compromising safety and security	Complies No ground floor apartments are proposed. Basement and ground floor access to the apartments is satisfactory. The pedestrian entry is obvious.
3C-2 Amenity of the public domain is retained and enhanced	
3D Communal and public open space	
3D-1. An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for	Complies Communal Open Space makes up 36% of the site.

landscaping	Approximately 17% of the communal open space is located on the ground floor, a portion of which is co-located with deep soil zones, between both structures.												
1. Communal open space has a minimum area equal to 25% of the site	Communal Open Space receives a minimum of 2 hours of sunlight The multiple landscape elements provide various spaces for residents to relax or be active. Communal garden beds and benches are provided within the development. The proposed areas of communal open space are accessible and visible from habitable rooms and private open space areas.												
2. 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)													
3D-2. Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting													
3D-3. Communal open space is designed to maximise safety													
3D-4. Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood													
3E Deep soil zones													
Site Area >650m ² – 1500m ² Min. Dimensions 3m Deep soil zone (% of site area) - 7%	Complies The proposal provides 16% deep soil landscaping across the subject site.												
3F Visual Privacy													
Requirement: <table><tr><td>Building Height</td><td>Habitable Rooms and Balconies</td><td>Non Habitable Rooms</td></tr><tr><td>Up to 12m (4 Storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 Storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	Up to 12m (4 Storeys)	6m	3m	Up to 25m (5-8 Storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	Considered acceptable The proposed development complies with ADG separation with the exception of Level 5 roof top terrace for the structures on Nuwarra Road. It is noted that Level 5 requires 9m separation to the adjoining northern lot. A small portion of the terrace is only 6m from the northern property boundary.
Building Height	Habitable Rooms and Balconies	Non Habitable Rooms											
Up to 12m (4 Storeys)	6m	3m											
Up to 25m (5-8 Storeys)	9m	4.5m											
Over 25m (9+ storeys)	12m	6m											
3G Pedestrian access and entries													
3G-1. Building entries and pedestrian access connects to and addresses the public domain	Complies Building access areas, entries and pathways are clearly visible from the public domain. The entrance to the residential foyer is easily identifiable and distinguishable. Clear entry to communal open space. A through site connection is not identified in the LDCP 2008 as being required on this site.												
3G-2. Access, entries and pathways are accessible and easy to identify													
3G-3. Large sites provide pedestrian links for access to streets and connection to destinations													
3H Vehicle Access													
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	Complies The proposal provides vehicle access via Lucas Avenue which is considered a good outcome considering that Nuwarra Road experiences a greater volume of traffic and heavy vehicle movements.												
3J Bicycle and Car Parking													
3J-1. Minimum car parking requirement for residents and visitors to comply with Guide to Traffic Generating Developments, or the car parking requirement prescribed by the	Complies Car parking has been provided as per the requirements of the DCP.												

relevant council, whichever is less.	<p>Undercover bike storage and motorcycle spaces are provided in the basements.</p> <p>Access to the car parking within the basement levels will require swipe card access and motion sensor lights will be installed.</p> <p>The vehicle access point has been integrated into the building design and the underground car park is not readily visible from the public domain.</p> <p>Part of the car park will be at-grade due to the location of the entrance on the low side of the site at Lucas Avenue which increases substantially to Nuwarra Road.</p>
3J-2. Parking and facilities are provided for other modes of transport	
3J-3. Car park design and access is safe and secure	
3J-4. Visual and environmental impacts of underground car parking are minimised	
3J-5. Visual and environmental impacts of on-grade car parking are minimised	
3J-6 Visual and environmental impacts of above ground enclosed car parking are minimised	
PART 4 DESIGNING THE BUILDING	
4A Solar and Daylight Access	
<p>1. 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.</p> <p>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</p>	<p>Complies</p> <p>A total of 74% apartments achieve a minimum of two hour solar access.</p> <p>Only 3% of apartments do not receive any solar access.</p>
<p>4A-2 Daylight access is maximised where sunlight is limited</p> <p>Objective 4A-3 Design incorporates shading and glare control, particularly for warmer months</p>	<p>Complies</p> <p>The site provides optimum solar access to apartments given the orientation of the site.</p> <p>The BASIX Certificate for the proposed development identifies that it achieves the required thermal comfort levels. Proposed materials and finishes incorporate shading and glare control measures including external louvres and awnings.</p>
4B Natural Ventilation	
<p>4B-1 All habitable rooms are naturally ventilated to create healthy indoor living environments.</p> <p>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>Complies</p> <p>A total of 60% apartments natural cross ventilation (46 apartments).</p>
<p>4B-2 The layout and design of single aspect apartments maximises natural ventilation</p>	
<p>4B-3 The number of apartments with natural cross ventilation is maximised</p>	
4C Ceiling Heights	
<p>4C-1 Ceiling height achieves sufficient natural ventilation and daylight access. Measured from finished floor level to finished</p>	<p>Complies</p> <p>All residential floors achieve a minimum floor-to-</p>

<p>ceiling level, minimum ceiling heights are:</p> <p>Minimum ceiling height for apartment and mixed use buildings</p> <table> <tr> <td>Habitable Rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-Habitable</td> <td>2.4m</td> </tr> <tr> <td>If located in mixed use areas</td> <td>3.3m for ground and first floor</td> </tr> </table>	Habitable Rooms	2.7m	Non-Habitable	2.4m	If located in mixed use areas	3.3m for ground and first floor	<p>ceiling height of 2.7 metres.</p> <p>All commercial floors achieve 3.3 metres and in some instances provide more than 4 metres.</p> <p>Floor-to-floor heights have been increase to 3.1m so that the 2.7 m ceiling height is more easily achieved.</p>
Habitable Rooms	2.7m						
Non-Habitable	2.4m						
If located in mixed use areas	3.3m for ground and first floor						
4C-2 Ceiling height increases the sense of space in apartments and provides for well proportioned rooms.	All residential apartments have a minimum ceiling height of 2.7m in habitable rooms and apartment layouts have been designed to provide spacious, well-proportioned rooms.						
4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building	The floor to ceiling heights at ground floor and above is consistent with the residential use. Given the number of residential apartments on each level, following strata subdivision it is unlikely that these would be converted to commercial uses in future.						
4D Apartment Size and Layout							
<p>4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</p> <p>1. Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> • Studio 35m² • 1 bedroom 50m² • 2 bedroom 70m² • 3 bedroom 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>Complies</p> <p>All dwellings meet the minimum internal areas of the ADG.</p>						
<p>4D-2 Environmental performance of the apartment is maximised.</p> <p>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height Based on ceiling heights of 2.7m, habitable room depths are required to be limited to 6.75m.</p> <p>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>Complies</p> <p>All units comply with open plan living depths.</p>						
<p>4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs</p> <p>1. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p>	<p>Complies</p> <p>All master bedrooms and other bedrooms achieve the required areas.</p> <p>All bedrooms achieve the minimum dimension.</p>						

<p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none">• 3.6m for studio and 1 bedroom apartments• 4m for 2 and 3 bedroom apartments <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>All apartments achieve the minimum dimension requirements to living/dining rooms.</p>															
4E Private Open Space and Balconies																
<p>4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity</p> <p>1. All apartments are required to have primary balconies as follows:</p> <table><tr><td>Dwelling type</td><td>Minimum Area</td><td>Minimum Depth</td></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>2.4m</td></tr></table> <p>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p>	Dwelling type	Minimum Area	Minimum Depth	Studio	4m ²		1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	<p>Complies</p> <p>All apartments comply with or exceed the minimum numeric requirements for balcony sizes.</p> <p>There are no apartments at ground level.</p>
Dwelling type	Minimum Area	Minimum Depth														
Studio	4m ²															
1 bedroom	8m ²	2m														
2 bedroom	10m ²	2m														
3+ bedroom	12m ²	2.4m														
<p>4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents</p>	<p>Complies</p> <p>Private open space is directly accessible from the living area of each dwelling and can be used in conjunction with these.</p> <p>The balconies are integrated into the overall design development and form part of the detail of the building.</p>															
<p>4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building</p>																
<p>4E-4 Private open space and balcony design maximises safety</p>																
4F Common circulation and spaces																
<p>4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments.</p> <p>1. The maximum number of apartments off a circulation core on a single level is eight.</p> <p>2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	<p>Complies</p> <p>Two circulation cores are proposed in each building, with each level comprising a lift lobby.</p> <p>The proposed development provides amenity to the common circulation spaces through windows.</p> <p>A total of 7 apartments per circulation core.</p>															
<p>4F-2 Common circulation spaces promote safety and provide for social interaction between residents</p>	<p>The proposal incorporates a common foyer which provides opportunities for residents to interact.</p>															
4G Storage																
<p>4G-1 Adequate, well designed storage is provided in each apartment.</p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p>	<p>Complies</p> <p>The proposal provides for storage within each apartment, or the basement levels. These areas comply with the minimum volume specified in the</p>															

Dwelling Type Studio 1 bedroom 2 bedroom 3+ bedroom At least 50% of the required storage is to be located within the apartment	Storage volume 4m3 6m3 8m3 10m3	ADG.
4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments		Complies Storage is provided within each apartment. In some instances, storage is provided within the basement.
4H Acoustic Privacy		
4H-1 Noise transfer is minimised through the siting of buildings and building layout		Complies Noise transfer has been minimised by setting the living areas and bedrooms back from the balconies.
4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments		The apartments have been configured so that quiet spaces (e.g. bedrooms) are co-located.
4J Noise Pollution		
4J-1 In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings		Complies An acoustic report provided and considered to be acceptable.
4J-2 Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission		
4K Apartment Mix		
4K-1 A range of apartment types and sizes is provided to cater for different household types now and into the future.		Complies The proposed development proposes 12 x 1 bedroom units (16%), 56 x 2 bedroom units (74%) and 8 x 3 bedroom units (11%).
4K-2 The apartment mix is distributed to suitable locations within the building		
4L Ground Floor Apartments		
4L-1 Street frontage activity is maximised where ground floor apartments are located		Not Applicable
4L-2 Design of ground floor apartments delivers amenity and safety for residents		
4M Facades		
4M-1 Building facades provide visual interest along the street while respecting the character of the local area		Complies Building façades are articulated and modulated through the use of balconies, varying windows, awnings and recessed elements.
4M-2 Building functions are expressed by the facade		
4N Roof Design		
4N-1 Roof treatments are integrated into the building design and positively respond to the street		Complies As demonstrated in the elevation drawings and photomontage a flat roof treatment is proposed, which is considered acceptable. The proposal complies with requirements of BASIX and will include the required thermal insulation techniques.
4N-2 Opportunities to use roof space for residential accommodation and open space are maximised.		
4N-3 Roof design incorporates sustainability features		
4O Landscape Design		
4O-1 Landscape design is viable and sustainable		The landscape plan incorporates sustainable environmental design and landscaping to the site.

4O-2 Landscape design contributes to the streetscape and amenity	Landscape design contributes to the streetscape character.
4P Planting on Structures	
4P-1 Appropriate soil profiles are provided	Complies
4P-2 Plant growth is optimised with appropriate selection and maintenance	
4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces	
4Q Universal Design	
4Q-1 Universal design features are included in apartment design to promote flexible housing for all community members	Complies The applicant has indicated which units are capable of adaptable housing
4Q-2 A variety of apartments with adaptable designs are provided	
4Q-3 Apartment layouts are flexible and accommodate a range of lifestyle needs	
4R Adaptive Reuse	
4R-1 New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	Not Applicable The development does not proposed new additions or adaptations to an existing building.
4R-2 Adapted buildings provide residential amenity while not precluding future adaptive reuse	
4S Mixed Use	
4S-1 Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Complies Mixed use development contributes positively to the public domain.
4S-2 Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	
4U Energy Efficiency	
4U-1 Development incorporates passive environmental design	Complies The BASIX Certificate provided with the application identifies that the proposed development achieves the required levels of thermal comfort for a development of this scale. The proposed development satisfies the natural ventilation design criteria requirements
4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	
4U-3 Adequate natural ventilation minimises the need for mechanical ventilation	
4V Water Management and Conservation	
4V-1 Potable water use is minimised	Complies Potable water use will be minimised where possible. The BASIX Certificate identifies that the proposed development achieves compliance with water efficiency requirements. Stormwater will be treated on site, prior to being discharged into Council's stormwater system. The site is not identified as flood prone. Detention tank proposed in basement but also an above OSD is located within deep soil zone.
4V-2 Urban stormwater is treated on site before being discharged to receiving waters	
4V-3 Flood management systems are integrated into site design	
4W Waste Management	

4W-1 Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	Complies The proposed development provides two separate bin rooms for commercial and residential component in car park. Sufficient loading area and manoeuvring area is provided in the car park for commercial and residential waste vehicles.
4W-2 Domestic waste is minimised by providing safe and convenient source separation and recycling	
4X Building Maintenance	
4X-1 Building design detail provides protection from weathering	Complies Building has been designed and will be detailed in a manner to provide protection from weathering. Systems and access enable ease of maintenance All plant equipment is accessible, being located in the basement. Finishes selected on the basis of reducing maintenance costs.
4X-2 Systems and access enable ease of maintenance	
4X-3 Material selection reduces ongoing maintenance costs	

The above assessment has identified a non-compliance with Building Separation. The building separation distance of Level 5 of the proposed RFB do not achieve compliance with the requirements of the ADG, which stipulates:

- *Five to eight storeys (12m to 25m):*
 - o *18m between habitable rooms/balconies;*
 - o *12m between habitable and non-habitable rooms; and*
 - o *9m between non-habitable rooms.*

A communal terrace is proposed on the northern elevation of Level 5. In this regard, a 9m separation distance from the side property boundary is applicable (i.e. between habitable rooms/balconies) to Level 5. The application proposes a separation distance of 6 metres from the Level 5 terrace to the northern property boundary.

It should be noted that only a small portion of the terrace is 6m from the northern property boundary. The majority of the terrace has been setback 9 metres from the north property boundary. Any privacy impacts associated with the reduced separation distance can be mitigated via the use of privacy screening to the northern face of Level 5 terrace.

Given the above, the variation to the building separation guideline is considered to be acceptable subject to a condition that requires screening to be installed on the north face of the Level 5 terrace.

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.

Pursuant to Clause 7 of SEPP 55, Council is also required to undertake a merit assessment of the proposed development. The following table summarises the matters for consideration in determining development application (Clause 7).

Clause 7 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	<p>A Stage 2 Contamination Report was submitted to Council for consideration. The Contamination report concluded that no contamination is present and the site poses no risk to human health for the proposed development.</p> <p>However, a Hazardous Building Material Survey was submitted which revealed traces of Asbestos at the site.</p> <p>Council's Environmental Health Officer has reviewed the submitted information and raised no objections, subject to conditions.</p>
(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	Although the submitted Contamination Report confirms that the site is not contaminated, it appears that there is Asbestos material at the site. Council's Environmental Health Branch has recommended pertinent conditions of consent to demolition and dispose of this material.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	The land will be suitable for the development provided that it is carried out in accordance with conditions of consent.

Based on the above assessment, the proposal is considered to satisfy the relevant objectives and provisions of SEPP 55. Therefore, it is considered that the subject site is suitable for the proposed development subject to the imposition of conditions.

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

The application is supported by a BASIX Certificate in accordance with the provisions of the SEPP which indicates that the required targets for water, thermal comfort and energy are met by the proposal.

Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

(deemed SEPP).

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

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

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.

Liverpool Local Environmental Plan 2008

As stated previously the subject site is zoned B2 and R4 under Liverpool Local Environmental Plan 2008 (LLEP 2008). The proposed development is defined permitted with consent.

Zone Objectives

The objectives of the B2 – Local Centre zone are identified as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To allow for residential and other accommodation while maintaining active retail, business or other non-residential uses at street level.*
- *To facilitate a high standard of urban design and a unique character that contributes to achieving a sense of place for the local community.*

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

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

The proposed development is considered to be consistent with the objectives of the B2 and R4 zone; as follows:

- The proposal will provide for 76 apartments above commercial tenancies on street level. The development provides for the housing needs of the community within the form of high density development whilst providing ground floor tenancies capable of accommodating a range of retail and business uses with an active street frontage.

- The proposal redevelops the existing shop-top housing development at the site. It is considered that the overall development provides for a high standard of urban design and a unique character that contributes to achieving a sense of place for the local community.
- The proposal results in a development that has been designed to enable adjoining B2 and R4 zoned land to redevelop in a manner that is also consistent the land use zoning.

Principal Development Standards

The following principal development standards are applicable to the proposal:

CLAUSE	REQUIRED	PROPOSED	COMPLIANCE
Clause 4.3 – Height of Building	The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. Applicable Height limit to the site is nominated as “P” 18 metres and “R” 21 metres.	The buildings on site would have a maximum height of 21.8 metres in the 21 metre height limit and a height of 20.6 metres in the 18 metres height limit. The proposed development exceeds the height limit by 800mm and 2600mm.	No. Clause 4.6 statement provided. Further discussion below.
Clause 4.4 – Floor Space Ratio	The floor space ratio on the LEP map is ‘P’ or 1.2:1 and ‘S2’ or 1.7:1	<u>B2 zone</u> FSR = 1.71:1 <u>R4 zone</u> FSR = 1.1:1	No. Clause 4.6 statement provided. Further discussion below.
Clause 7.14 – Minimum building street frontage	Development consent must not be granted to development for the proposal unless the site has at least one frontage to a public street of at least 24 metres.	The subject site has a minimum frontage of 24m to both street frontages.	Complies
Clause 7.16 – Ground floor development in zones B1, B2 and B4	Development consent must not be granted for development unless the ground floor of the building will not be used for the purposes of residential accommodation; and will have at least one entrance and at least one other door or window on the front of the building facing a street other than a service lane.	The proposed development has commercial tenancies on the ground floor with windows facing the street. The ground floor of either street frontage will not be used for residential purpose.	Complies

CLAUSE	REQUIRED	PROPOSED	COMPLIANCE
Clause 7.17 – Development in flight paths	To provide for effective and on-going operation of airports and ensure such operation is not compromised.	The site sits within the 51m AHD contour of the Bankstown Airport Obstacle Limit Contour. The maximum height of the development is 49.40m AHD. Accordingly, the proposal is not classed as a 'Controlled Activity' within the meaning of Division 4 of Part 12 of the Airports Act 1996. A condition will be imposed that any cranes utilized in this construction greater than 51m AHD requires separate assessment.	Complies

Discussion on variation under Clause 4.6 of LLEP 2008 development standards

As identified in the compliance table above, building height does not comply with the provisions of the LLEP 2008 and is discussed as follows:

Variation to Clause 4.3 Height of Buildings

Clause 4.3(2) of the LLEP 2008 identifies a maximum height of 21.0m and 18.0m for the site. The 21 metre height limit applies to the B2 zoned land and the 18.0m height limit applies to the R4 zoned land. The development proposes the following non-compliances to building heights:

- A maximum height of 21.8m to roof in the B2 zoned land which represents a numerical variation of 800mm or 4%; and
- A maximum height of 20.6m to lift overrun in the R4 zoned land which represents a numerical variation of 2600mm or 14%.

The non-compliant height is shown in the below figure.



Figure 7 – Extract of the submitted plans showing the building elements which exceed the height limit.

Consequently, the applicant has provided a clause 4.6 variation to justify the non-compliance.

The submitted written request to vary Clause 4.3 - height of buildings has been assessed against the provisions of Clause 4.6; the objectives of the Clause being varied; and the objectives of the B2 zone and 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) 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 height non-compliance is limited to the lift shaft and small sections of the roof and will have no adverse impact in terms of visual impact, privacy or solar access;*
- *The Lucas Avenue building complies with the 18m height limit and is 5.05m below the maximum height;*
- *The proposed development meets the objectives of the height control and strict compliance with numeric height controls of 21m would undermine or thwart its objectives.*
- *The urban design and architectural merit of the proposal are of high standard that exceed compliance with planning policies such as the ADG and DCP 2008. The proposed development is fully compliant with these policies despite the FSR and height variations, indicating a good design outcome.*
- *The provision of a generous common open space and landscaped buffer internally between the two buildings increases residential amenity;*
- *The proposed building height will achieve a cohesive urban design outcome and transition in height appropriate for the location of the site within the broader context of the locality. Buildings of similar scale to the proposal are anticipated to the south and west;*
- *Strict compliance with the building height standard would be a suboptimal planning outcome as it would have the effect of requiring the removal of a number of units and access to the rooftop communal open space area without any associated planning benefit;*
- *The development has been designed to minimise impacts on neighbouring properties and adjoining properties;*
- *The development provides increased housing choice close to the Liverpool City Centre and to public transport options;*
- *Existing commercial uses onsite have not been viable, and the replacement of derelict commercial building with high quality shop top housing development will provide environmental planning benefit to the locality;*
- *To require strict compliance would require removing parts of the building without resulting in a real planning or environmental benefit;*

In response to the applicant's submission, Council accepts that strict compliance with the applicable height control is unreasonable and unnecessary having regard to the following:

- *The proposed breach of 800mm in height limit of 21 metres in the B2 zoned land relates to a portion of the roof of the 6 storey building along Nuwarra Road. The vast majority of the sixth storey is below the maximum building height of 21 metres. The proposed breach in height limit can be attributed to the proposed roof design and the topography of the site. The roof has been designed so that it rises on an angle from east to west in a manner that is consistent with existing dwelling houses along Nuwarra Road and is considered to be sympathetic to the neighbourhood character. However, as the sites topography falls from east to west, the roof begins to encroach into the building height limit as the natural ground level falls from east to west of the subject site.*
- *The proposed breach of 2600mm in height limit of 18 metres in the R4 zoned land relates to a vertical circulation core that services the 6 storey building along Nuwarra Road. Given that this building extends into the R4 zoned land it has been stepped down to 5 storeys in the R4 zoned land so as to provide an appropriate transition in*

building heights to R4 zoned land north of the site. Accordingly, the vast majority of the building complies with the 18 metre height limit except for one vertical circulation core that slightly extends 3.5 metres into the R4 zoned land. The proposed vertical circulation core is a necessary component of the development as it enables the 6 storey building to be properly serviced and modulated effectively to address the Nuwarra Rod frontage.

- The buildings have been designed in a manner that is contingent upon the existing context of the site. The site is an irregular shaped allotment with two road frontages that marks the transition between B2 zoned land and R4 land to the north of the site. A 3 storey building is proposed at the Lucas Avenue frontage and a 6 storey building is proposed at the Nuwarra Road frontage that has been stepped down to 5 storeys within the R4 zoned land. The building height is limited at Lucas Avenue in order to retain solar access to the existing solar panels on the library site to the south and to keep the bulk of development along Nuwarra Road which is road of regional significance. The buildings have also been setback in a manner that is consistent with the desired setbacks for future commercial development at the library to the south and R4 zoned land to the north of the site. The overall design of the proposal is considered to be appropriate given the site context.
- The subject site accommodates a 6 storey building which is characteristic of development that is to be anticipated in the B2 zone that permits a height of buildings of 21m. This building has been adequately stepped back to 5 storeys within the R4 zoned portion of the land that permits a height of buildings of 18m. The breach in height limit stems from the proposed design of the proposal and the sites topography. In order to achieve a compliant building height, it would necessary to transfer the sixth storey to Lucas Avenue which would result in an inferior visual and solar access outcome for the site and adjoining sites, particularly the library to the south. In this case, it is considered that there is adequate environmental grounds to support a variation to Clause 4.3 of the LLEP 2008. The development responds to the site constraints without resulting in any additional impacts compared to a complaint scheme.
- The proposed non-compliant building height was reviewed by the DEP. The panel found that the proposed development exhibits design excellence when assessed against the design principles of SEPP 65 such as context, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.
- Given the large site area, it is considered that the proposed development is of an appropriate bulk and scale.

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

The objectives of Clause 4.3 and assessment are as follows:

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

The proposed development is considered to be consistent with the objectives of Clause 4.3 of LLEP 2008, in that notwithstanding the height exceedance, it will provide a built form that is compatible with the intended future character of the area.

The subject site accommodates a six storey building which is characteristic of development that is to be anticipated in a zone that permit a height of buildings of 21m. This building has

been adequately stepped back to 5 storeys within the R4 zoned portion of the land that permits a height of buildings of 18m.

The proposed development is considered modern in its design with a strong 5-6 storey presentation to the Nuwarra Road frontage. The upper level of the building has been designed to be recessive with increased setbacks.

The proposal allows for a development that encourages high quality urban form with the inclusion of extensive communal open space and landscaped areas at ground level. In addition, the proposed development has been well articulated at the street frontage and proposes varying setbacks to both side boundaries to ensure that the actual and perceived bulk of the building is minimised when viewed from the adjoining properties.

Also, it is considered that the shadows cast by the development do not significantly alter from a compliant scheme.

Given the above, it is considered that the proposed development is consistent with the objectives of Clause 4.3 of LLEP 2008.

3) Consistency with objectives of the zone – B2 Neighbourhood Centre and R4- High Density Zone

The objectives of the B2 Neighbourhood Centre zone are as follows;

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To allow for residential and other accommodation while maintaining active retail, business or other non-residential uses at street level.*
- *To facilitate a high standard of urban design and a unique character that contributes to achieving a sense of place for the local community.*

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 proposal will provide for 76 apartments above non-residential uses at street level. The proposed height of the building along Nuwarra Road enables the whole development to achieve a satisfactory overshadowing outcome on the community facility to the south. Reduction in the ground floor level would result in non-residential uses that were below street level, which would be an inferior planning outcome.

To exclude the R4 zoned portion of land would result in the fragmentation of land that may prevent the achievement of high density residential. The proposal redevelops the existing shop-top housing development at the site. It is considered that the overall development provides for a high standard of urban design and a unique character that contributes to achieving a sense of place for the local community.

4) 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,*

As detailed above, the request to vary the development standard of Clause 4.3 - Height of Buildings is considered to be well founded and justified under the circumstances. It is considered appropriate in this instance to apply a degree of flexibility when applying the maximum height development standard applicable to the subject site. Moreover, it is considered that achieving a greater height in this instance will allow for the creation of a high quality development within the locality and in turn represents a design outcome that is suitable for the locality.

5) Recommendation

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

Discussion on variation under Clause 4.6 of LLEP 2008 development standards

As identified in the compliance table above, Floor Space Ratio (FSR) does not comply with the provisions of the LLEP 2008 and is discussed as follows:

Variation to Clause 4.4 Floor Space Ratio

Clause 4.4(2) of the LLEP 2008 identifies a maximum FSR of 1.7:1 in the B2 Neighbourhood Zone and 1.2:1 in the R4 High Density Residential Zone.

The development proposes a FSR of 1.71:1 in the B2 zoned portion of the site and a FSR of 1.1:1 in the R4 zoned portion of the site. Accordingly, the applicant proposes a numerical variation to the FSR in the B2 Zone of 58sqm or 1%.

Consequently, the applicant has provided a clause 4.6 variation to justify the non-compliance.

The submitted written request to vary Clause 4.4 – Floor Space Ratio has been assessed against the provisions of Clause 4.6; the objectives of the Clause being varied; and the objectives of the B2 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:*
 - (iii) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (iv) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- 1) 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 proposal complies overall if the allowable FSR is combined across the two lots;*
- *The proposal presents a fully compliant scheme in accordance with the ADG and DCP 2008. Full compliance suggests that architecture and design quality of the development is of high standard despite the FSR non-compliance;*
- *Redistribution of building mass to the edges of the site accommodates a central landscaped area that ensures better internal amenity than a complying development. It also frames the streetscape on both frontages in accordance with future development on adjacent properties;*
- *The development has been designed to take into consideration the development potential of the southern Council owned property. By including a blank wall and nil setback the southern site can continue the built form located around the perimeter of the site and provide centrally located landscaped open space. This pattern ensures a viable development form with increased amenity;*
- *Existing commercial uses onsite have not been viable, and the replacement of the derelict commercial building with high quality commercial and residential development will provide environmental planning benefit to the locality;*
- *Strict compliance with the FSR standard would be a suboptimal planning outcome as it would not be responsive to the site context;*
- *The variation directly assists Council in achieving additional housing choice within a high density residential environment within the locality, as desired by the zone objectives;*
- *The proposed variation will create consistent streetscape presentation given development to the east, and this will achieve a superior planning outcome in comparison to achieving strict compliance;*
- *The proposed development meets the objectives of the FSR control and strict compliance would undermine or thwart its objectives, or the zone's objectives (or both); and*
- *The burden placed on future residents (by eliminating apartments) and/or the broader community (by reducing the numbers of homes within an accessible location in easy reach of commercial centres and public transport) would be disproportionate to any consequences that may arise from the proposed non-compliance with the FSR control.*

- *Insisting on strict compliance in this instance would result in a reduction of the gross floor area with no built form or functional benefits and could place unreasonable burden on the development and the inability to provide high quality development.*
- *On environmental planning ground, the site location and its proximity to sites which may develop to higher density provides an opportunity for a transitional density that is consistent with Council's expectations for the site.*

In response to the applicant's submission, Council accepts that strict compliance with the applicable floor space ratio control is unreasonable and unnecessary having regard to the following:

- The applicant proposes a numerical variation to the FSR in the B2 Zoned portion of the site of 58sqm or 1%. However, it should be noted that the part of the development within the R4 zoned portion of the site is 64sqm under the allowable FSR. In this regard, the gross floor area of the whole development is less than the total allowable gross floor area permitted across the site.
- Despite the varying FSR applicable at the site, the development has been designed in as a whole so that even with a variation to floor space in the B2 zoned land, the building density and bulk of the overall development is well within that anticipated in on the site and locality.
- The proposed development was reviewed by the DEP. The panel found that the proposed development exhibits design excellence when assessed against the design principles of SEPP 65 such as context, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.
- Given the large site area, it is considered that the proposed development is of an appropriate bulk and scale.

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

The objectives of Clause 4.4 and assessment are as follows:

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

The proposed development is considered to be consistent with the objectives of Clause 4.4 of LLEP 2008, in that notwithstanding the FSR exceedance in the B2 Zone, the non-compliant floor area will be offset by the additional floor area available in the R4 zoned portion of the site. The total floor area of the development will provide for a density and intensity of land use that is no different to a compliant development.

The subject site accommodates a 3 storey building and part 5-6 storey building which is characteristic of development that is to be anticipated in the B2 zone and R4 zone. The upper level of the building has been designed to be recessive with increased setbacks and

contrasting metal clad walls in a darker finish. In addition, the proposed development has been well articulated at the street frontage and proposes varying setbacks to both side boundaries to ensure that the actual and perceived bulk of the building is minimised when viewed from the adjoining properties.

The proposal allows for a development that encourages high quality urban form with the inclusion of extensive communal open space and landscaped areas at ground level. The application was considered by the Design Excellence Panel who raised no concerns with the proposed built form and bulk with the proposed development.

The shadows cast by the development do not significantly alter from a compliant scheme and there is no greater privacy impacts associated with the development as a result of the proposed variation to FSR in the B2 zone.

Given the above, it is considered that the proposed development is consistent with the objectives of Clause 4.4 of LLEP 2008.

3) Consistency with objectives of the zone – B2 Neighbourhood Centre

The objectives of the B2 zone are as follows;

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To allow for residential and other accommodation while maintaining active retail, business or other non-residential uses at street level.*
- *To facilitate a high standard of urban design and a unique character that contributes to achieving a sense of place for the local community.*

The proposal will provide for 76 apartments above non-residential uses at street level. The proposed height of the building along Nuwarra Road enables the whole development to achieve a satisfactory overshadowing outcome on the community facility to the south. Reduction in the ground floor level would result in non-residential uses that were below street level, which would be an inferior planning outcome.

To exclude the R4 zoned portion of land would result in the fragmentation of land that may prevent the achievement of high density residential. The proposal redevelops the existing shop-top housing development at the site. It is considered that the overall development provides for a high standard of urban design and a unique character that contributes to achieving a sense of place for the local community.

4) Consistency with Clause 4.6 objectives

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

As detailed above, the request to vary the development standard of Clause 4.4 – Floor Space Ratio is considered to be well founded and justified under the circumstances. It is considered appropriate in this instance to apply a degree of flexibility when applying the maximum height development standard applicable to the subject site. Moreover, it is considered that the variation to FSR in this instance will allow for the creation of a high quality development within the locality and in turn represents a design outcome that is suitable for the locality.

5) Recommendation

With considerations to the discussion above, the proposed variation to the Clause 4.4 “*floor space ratio*” has satisfied the provisions of Clause 4.6 and is supported in this circumstance.

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

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

6.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

Part 1 - General Controls for all Development and Part 4 - Development in The Liverpool City Centre of the Development Control Plan apply to the proposed development and prescribe standards and criteria relevant to the proposal.

The following compliance table outlines compliance with these controls.

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
CONTROLS	PROVIDED	COMPLIES
Chapter 2 Tree Preservation	Chapter 2 requires preservation of existing trees. No significant trees are to be removed.	Complies
Chapter 3 Landscaping and Incorporation of Existing Trees	A concept landscape plan has been provided as part of the proposal	Complies
Chapter 4 Bushland and Fauna Habitat Preservation	Applies to sites containing bushland and fauna habitat.	N/A
Chapter 5 Bushfire Risk	The site is not identified as being bush fire prone land.	N/A
Chapter 6 Water Cycle Management	A concept stormwater management plan has been provided and the application has been referred to Council's engineering assessment unit to provide their comment.	Complies
Chapter 7 Development Near Creeks and Rivers	Chapter 7 stipulates requirements to be met by developments adjoining natural watercourses.	N/A
Chapter 8 Erosion and Sediment Control	A concept erosion and sediment control plan has been provided as part of the proposal.	Appropriate conditions shall be included in the conditions of consent to satisfy Council's requirements.
Chapter 9 Flooding Risk	The site is not flood prone.	N/A

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT			
Chapter 10 Contaminated Land Risk	See SEPP 55 discussion		Complies
Chapter 11 Salinity Risk	The proposal was referred to Council's Land Development Engineers for comments. No objection raised to the proposed development, subject to conditions.		Complies
Chapter 12 Acid Sulfate Soils Risk	The site is identified by the LLEP 2008 as not containing acid sulfate soils.		N/A
Chapter 13 Weeds	Noxious weeds have not been identified on the land.		N/A
Chapter 14 Demolition of Existing Developments	Demolition work is proposed.		Pertinent conditions to be imposed on consent
Chapter 15 On-Site Sewage Disposal	The site will not require on-site sewage management system and is capable of connection to the Sydney Water system.		N/A
Chapter 16 Aboriginal Archaeology	Chapter 16 applies to land in which Aboriginal sites, places or relics have been previously identified; or within an identified cultural landscape; or land that has not been cleared.		N/A
Chapter 17 Heritage and Archaeological Sites	The site does not contain a heritage item; is not in a heritage conservation area; and is not an archaeological site.		N/A
Chapter 18 Notification of Applications	The application was notified in accordance with Council's DCP requirement, and the provisions of the EP&A Act and Regulation.		Four objections were received.
Chapter 19 Use of Clothing Bins	N/A		N/A
Chapter 20 Car Parking and Access	<p>Required</p> <p><u>Retail Premises</u></p> <p>Developments of LFA less than 12,000sqm: require 1 space per 20sqm LFA.</p> <p>A GLA of 1348 sqm is proposed and requires 68 car parking spaces</p> <p><u>Residential Flat Buildings</u></p> <p>12 x 1 bedrooms @ 1 space = 12 spaces</p> <p>56 x 2 bedrooms @ 1.5</p>	<p>Proposed</p> <p>Basement level 2 has 83 spaces</p> <p>Basement level 1 has 84 spaces</p> <p>Basement on ground has 48 spaces</p> <p>Total 215 spaces including 15 disabled spaces</p>	Complies

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT			
	spaces = 84 spaces 8 x 3 bedrooms @ 2 spaces = 16 spaces Total of 112 private residential spaces and 19 visitor spaces required. Combined total of car spaces for Residential and Commercial required is 199 spaces.		
Chapter 21 Subdivision of Land and Buildings	Not applicable to the proposed development.	N/A	
Chapter 22 Water Conservation	Not applicable to the proposed development.	N/A	
Chapter 23 Energy Conservation	Not applicable to the proposed development.	N/A	
Chapter 24 Landfill	The application requires excavation for the purposes of a basement carpark.	Conditions of consent are to be imposed	
Chapter 25 Waste Disposal and Re-Use Facilities	A Waste Management Plan has been provided as part of this application.	Appropriate conditions shall be imposed in the conditions of consent	
Chapter 26 Outdoor Advertising and Signage	No signage	N/A	

Part 3.7 – Residential Flat Buildings in the R4 Zone		
Frontage and Site Area		
	Minimum frontage of 24m	Complies A frontage of 24m is provided.
Site Planning		
	The building should relate to the site's topography with minimal earthworks, except for basement car parking.	Complies Earthworks are proposed for the basement level car park.
	Siting of buildings should provide usable and efficient spaces, with consideration given to energy efficiency in the building design	Complies Application is accompanied by a BASIX certificate.
	Site layout should provide safe pedestrian, cycle and vehicle access to and from the street.	Complies Safe access is provided.
	Siting of buildings should be sympathetic to surrounding development, taking specific	Complies The development is in accordance with the objectives of the zone.

	account of the streetscape in terms of scale, bulk, setbacks, materials and visual amenity.	
	Stormwater from the site must be able to be drained satisfactorily. Where the site falls away from the street, it may be necessary to obtain an easement over adjoining property to drain water satisfactorily to a Council stormwater system. Where stormwater drains directly to the street, there may also be a need to incorporate on-site detention of stormwater where street drainage is inadequate	Complies This aspect has been reviewed by Council's Development Engineering officers, who have recommended approval subject to conditions.
	The development will need to satisfy the requirements of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.	Complies As demonstrated within this report, the development mostly demonstrates compliance with SEPP 65.
Setbacks		
Front Setback	Front building setback of 5.5m is required from the street.	Complies A front setback of 5.5m is provided to the building.
	Verandahs, eaves and other sun control devices may encroach on the front and secondary setback by up to 1m.	Complies No encroachments are proposed
Side Setback	Boundary to land in R4 zone: 3m building setback required for a building height up to 10m (i.e. ground floor, first floor and second floor)	Complies A 3m side setback is provided to the building for a height of 10m
	Boundary to land in R4 zone: 8m building setback required for a building height up greater 10m (i.e. third and fourth floor)	Considered acceptable It should be noted that the development has been designed in a manner so that is complies with the minimum building separation distances in the ADG. With respect to the variations to setbacks, the variations are considered to be acceptable as the development is unlikely to negatively impact neighbouring properties.
Rear Setback	Boundary to land in R4 zone: 8m building setback required for all building heights	Complies All apartments achieve a setback of 8m from the rear boundary.
Landscaped Area and Private Open Space		
Landscaped Area (Deep Soil Zone)	A minimum of 25% of the site area shall be landscaped area.	Complies Approximately 55% of the site that is zoned R4 is landscaped area.
	A minimum of 50% of the front setback area shall be landscaped area	Complies Majority of front setback area is landscaped area.
	Optimise the provision of consolidated landscaped area within a site by: - The design of basement and sub-basement car parking, so as not to fully cover the site. - The use of front and side setbacks.	Complies Landscaped areas are generally consolidated within the front, rear and side setback.

	- Optimise the extent of landscaped area beyond the site boundaries by locating them contiguous with the landscaped area of adjacent properties.	
	Promote landscape health by supporting for a rich variety of vegetation type and size	Complies A variety of native plant species are provided.
Open Space	Provide communal open space, which is appropriate and relevant to the context and the building's setting.	Complies Communal open space is provided.
	Where communal open space is provided, facilitate its use for the desired range of activities by: - Locating it in relation to buildings to optimise solar access to dwellings. - Consolidating open space on the site into recognisable areas with reasonable space, facilities and landscape. - Designing its size and dimensions to allow for the range of uses it will contain. - Minimising overshadowing. - Carefully locating ventilation duct outlets from basement car parking.	Complies The communal open space is well located.
	Locate open space to increase the potential for residential amenity.	Complies The communal open space increases the potential for residential amenity.
Private Open Space	Private open space shall be provided as follows: - 10m ² for a dwelling size less than 65m ² - 12m ² for a dwelling size over 65m ²	Complies Private open space requirements are provided in accordance with the requirements of the ADG.
	Private open space may be provided as a courtyard for ground floor dwellings or as balconies for dwellings above the ground floor.	Complies Private courtyards are provided for units on the ground floor.
	Private open space areas should be an extension of indoor living areas and be functional in size to accommodate seating and the like.	Complies The POS acts as an extension of the internal living rooms.
	Private open space should be clearly defined for private use.	Complies The POS is clearly defined.
Building Design, Style and Streetscape		
Building Appearance and Streetscape	Objectives of the controls are as follows: a) To ensure an attractive streetscape that is consistent with the environment of residential flat buildings. b) To promote high architectural quality in residential flat buildings. c) To ensure that new developments have facades which	Complies The composition of building elements, materials, textures and colours will complement the existing and likely future character of the area in terms of height, bulk, scale, built form and roof design. The proposed building is highly articulated and designed to suit the site and address the streetscape.

	<p>define and enhance the public domain and desired street character.</p> <p>d) To ensure that building elements are integrated into the overall building form and facade design.</p>	
Roof Design	<p>Objectives of the controls are:</p> <p>a) To provide quality roof designs, which contribute to the overall design and performance of residential flat buildings;</p> <p>b) To integrate the design of the roof into the overall facade, building composition and desired contextual response;</p> <p>c) To increase the longevity of the building through weather protection.</p>	<p>Complies</p> <p>The proposed roof design contributes positively to the design of the building.</p>
Building Entry	<p>Objectives of the controls are:</p> <p>a) To create entrances which provide a desirable residential identity for the development.</p> <p>b) To orient the visitor.</p> <p>c) To contribute positively to the streetscape and building facade design.</p>	<p>Complies</p> <p>Entries are located to relate to the streetscape and provide an attractive and safe appearance to residents and visitors.</p>
Balconies	<p>Objectives of the controls are:</p> <p>a) To ensure that balconies contribute positively to the façade of a building.</p> <p>b) To ensure balconies are functional and responsive to the environment thereby promoting the enjoyment of outdoor living for dwelling residents.</p> <p>c) To ensure that balconies are integrated into the overall architectural form and detail of residential flat buildings.</p> <p>d) To contribute to the safety and liveliness of the street by allowing for casual overlooking and address.</p>	<p>Complies</p> <p>Proposed balconies are integrated into the architectural form of the development and will complement the façade and also provide for casual surveillance.</p>
Daylight Access	<p>Objectives of the controls area:</p> <p>a) To ensure that daylight access is provided to all habitable rooms and encouraged in all other areas of residential flat development.</p> <p>b) To provide adequate ambient lighting and minimise the need for artificial lighting during daylight hours.</p> <p>c) To provide residents with the ability to adjust the quantity of daylight to suit their needs.</p>	<p>Complies</p> <p>The majority of the units and the communal open space will receive adequate solar access.</p>
Internal Design	<p>Objectives of the controls are:</p> <p>a) To ensure that the internal design of buildings provide a pleasant environment for the occupants and residents of adjoining properties.</p>	<p>Complies</p> <p>The building is designed with optimal amenity for future occupants, providing pleasant living spaces, solar access, and natural ventilation.</p>

Ground Floor Dwellings	Objectives of the controls are: a) To contribute to the desired streetscape of an area and to create active safe streets. b) To increase the housing and lifestyle choices available in dwelling buildings.	N/A No ground floor units proposed
Security	Objectives of the controls are: a) To ensure that buildings are orientated to allow surveillance from the street and adjoining buildings. b) To ensure that entrances to buildings are clearly visible and easy to locate in order to minimise the opportunities for intruders. c) To ensure buildings are safe and secure for residents and visitors. d) To contribute to the safety of the public domain.	Complies Entrances to buildings are clearly defined, causal surveillance opportunities exist, and the development provides a safe and secure building for future occupants and visitors.
Natural Ventilation	Objectives of the controls are: a) To ensure that dwellings are designed to provide all habitable rooms with direct access to fresh air and to assist in promoting thermal comfort for occupants. b) To provide natural ventilation in non-habitable rooms, where possible. c) To reduce energy consumption by minimising the use of mechanical ventilation, particularly air conditioning.	Complies Natural ventilation is provided in accordance with the requirements of the ADG.
Building Layout	Objectives of the controls are: a) To provide variety in appearance. b) To provide increasing privacy between dwellings within the building. c) To assist with flow through ventilation. d) To improve solar access.	Complies Proposed building layout is optimised for natural light and ventilation, whilst presenting an articulated presentation that is responsive to the site and its context.
Storage Areas	A secure storage space is to be provided for each dwelling with a minimum volume of 8m ³ (minimum dimension 1m ²). This must be set aside exclusively for storage as part of the basement or garage.	Complies Storage spaces are provided within each apartment. Storage areas are also proposed in the basement car park.
	Storage areas must be adequately lit and secure. Particular attention must be given to security of basement and garage storage areas.	Complies Storage areas within the basement will be adequately lit.
Landscaping and Fencing		
Landscaping	Objectives of the controls are: a) To ensure that the development uses 'soft landscaping' treatments to soften the appearance of the buildings and complement the streetscape. b) To ensure that the relation of	Complies The use of landscaping elements is appropriate to the scale of the development and provides a variety of native species in varying heights to complement the development.

	<p>landscape design is appropriate to the desired proportions and character of the streetscape.</p> <p>c) To ensure that the use of planting and landscape elements are appropriate to the scale of the development.</p> <p>a) To retain existing mature trees within the site in a way which ensures their ongoing health and vitality.</p> <p>b) To provide privacy, summer shade and allow winter sun.</p> <p>c) To encourage landscaping that is appropriate to the natural, cultural and heritage characteristics of its locality.</p> <p>d) To add value to residents' quality of life within the development in the forms of privacy, outlook and views.</p>	
Fencing	Maximum height of front fence is 1.2m. The front fence may be built to a maximum height of 1.5m if the fence is setback 1m from the front boundary with suitable landscaping in front of the proposed fence.	N/A No front fence proposed
	Fences should not prevent surveillance by the dwelling's occupants of the street or communal areas.	N/A
	The front fence must be 30% transparent.	N/A
	Front fences shall be constructed in masonry, timber, metal pickets and/or vegetation and must be compatible with the proposed design of the dwelling.	N/A
	The maximum height of side boundary fencing within the setback to the street is 1.2m.	It is recommended conditions are imposed to ensure compliance.
	Boundary fences shall be lapped and capped timber or metal sheeting.	It is recommended conditions are imposed to ensure compliance.
Car Parking and Access		
Car Parking	Visitor car parking shall be clearly identified and may not be stacked car parking.	Complies Visitor parking spaces have been provided in accordance with Part 1 of LDCP 2008. Visitor spaces are not stacked.
	Visitor car parking shall be located between any roller shutter door and the front boundary.	Noted Visitor spaces are adequately located in the car park
	Pedestrian and driveways shall be separated.	Complies Pedestrian and driveways are separated.
	Driveways shall be designed to accommodate removalist vehicles.	Complies On-street parking is available for removalist vehicles. There is also a designated loading area within the car park that can accommodate removalist vehicles.

	Where possible vehicular entrances to the basement car parking shall be from the side of the building. As an alternative a curved driveway to an entrance at the front of the building may be considered if the entrance is not readily visible from the street.	Complies Vehicular access is provided to the development from Lucas Avenue instead of Nuwarra Road which is a higher order road. It is ideal that access is achieved from Lucas Avenue.
	Give preference to underground parking	Complies Underground parking is provided.
Pedestrian Access	Objectives of the controls are: a) To promote residential flat development that is well connected to the street and contributes to the accessibility of the public domain. b) To ensure that residents, including users of strollers and wheelchairs and people with bicycles, are able to reach and enter their dwelling and use communal areas via minimum grade ramps, paths, access ways or lifts.	Complies Pedestrian entries are clearly defined and accessible.
Amenity and Environmental Impact		
Overshadowing	Adjoining properties must receive a minimum of three hours of sunlight between 9am and 5pm on 21 June to at least: - One living, rumpus room or the like; and - 50% of the private open space.	Complies Shadow diagrams of the proposed development have been prepared for 21 June (winter solstice). The shadow diagrams demonstrate that the proposal is likely to generate an overshadowing impact on the existing library to the site. The development will not result in overshadowing impacts to any adjoining residential properties.
Privacy	Objectives of the controls are: a) To locate and design buildings to meet projected user requirements for visual and acoustic privacy and to protect privacy of nearby residents. b) To avoid any external impacts of a development, such as overlooking of adjoining sites. c) To provide reasonable levels of visual privacy externally and internally, during the day and at night. d) To maximise outlook and views from principal rooms and private open space.	Complies The building has been designed to generally comply with the setback provisions of the LDCP 2008. It is noted that some variations are proposed to the building setbacks, however these variations are offset through the provision of privacy measures in order to minimise the potential impact of overlooking.
Acoustic Impact	Objectives of the controls are: a) To ensure a high level of amenity by protecting the privacy of residents within residential flat buildings.	Complies The development is able to achieve a high level of amenity, subject to the implementation of noise attenuation measures outlined in the submitted acoustic report.
Site Services		

	Objectives of the controls are: a) To ensure that the required services are provided. b) To ensure that the services provided are easily protected or maintained.	Complies All required site services will be provided to the site and maintained.
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Part 6 Development in Business Zones		
Subdivision, Frontage and Site Area		
	Sites must have a minimum street frontage of 20 m.	Complies A frontage of 20m is provided.
Site Planning		
	<p>The siting of buildings and the development should:</p> <ol style="list-style-type: none"> 1. Provide safe pedestrian, cycle and vehicle access to and from the public street. 2. Be compatible with nearby residential development in terms of appearance, overshadowing, privacy, views, setbacks and height. 3. Address the street and consider its presentation to the public domain. 4. Consider the impact on existing and potential pedestrian links. 5. Stormwater from the site must be able to be drained satisfactorily. Where the site falls away from the street, it may be necessary to obtain an easement over adjoining property to drain water satisfactorily to a Council stormwater system. Refer to Water Cycle Management in Part 1. 	<p>Complies</p> <p>The development has been designed to provide vehicle access to and from Lucas Avenue rather than Nuwarra Road. This is the preferred outcome as Nuwarra Road has a greater volume of traffic.</p> <p>The mixed use development has been designed in a manner that is compatible with desired character of residential development in the R4 zone.</p> <p>The mixed use development has been designed in a manner that addresses each street frontage. Non-residential uses on the ground floor and balconies of apartments above will activate the street frontage.</p> <p>The proposed development does not impact on existing or potential pedestrian links.</p> <p>The application was referred to Council's Development Engineer who advised that the stormwater concept for the development is considered to be satisfactory, subject to conditions</p>
	<p>In Local Centres the redevelopment of the centres should also:</p> <ol style="list-style-type: none"> 1. Utilise opportunities to address the street and provide an outdoor public domain. 2. Where appropriate provide bus access within the centre. 3. Incorporate links from any adjoining community facilities, open space or residential areas not currently linked. 	<p>Complies</p> <p>The development addresses both Lucas Avenue and Nuwarra Road. The ground floor uses have been setback from the street to enable the potential for spillover of commercial activity.</p> <p>Bus access is not required to be provided as the site is not an existing centre</p> <p>Links are not considered to be required as it will not improve access to any assets.</p>
Setbacks		
	Rear Setbacks	N/A
	1. Where the site has rear lane	There is no rear lane access. However,

	<p>access the building may be built to the rear boundary, at ground and first floor level. Any floors above the first floor shall be setback equal to the height of the additional floors.</p> <p>2. Where there is no rear lane access and the site adjoins land that is in a residential zone, the building shall be setback from the rear boundary as follows: - 5m for non-residential component of building up to 10m high. - 8m otherwise for components of building up to 15m high.</p>	<p>given that the site has two frontages, there is no rear setback.</p>
	<p>Side Setbacks</p> <p>1. Where the site adjoins land that is also in a business zone there is no setback requirement.</p> <p>2. Where the side boundary of the site adjoins land that is in a residential zone, the building may be required to be setback from the side boundary or limited to one storey near the boundary. Any floors above the ground floor shall be setback equal to the height of the additional floors.</p>	<p>Considered acceptable</p> <p>The site adjoins an existing community facility to the south which is zoned B2 local centre and existing residential to the north which is zoned R4 High Density Residential.</p> <p>The proposal has nil setbacks to the community facility to the south. No concern has been raised by Council's Property and Commercial Development Branch.</p> <p>The buildings have been setback to the north in accordance with the ADG separation distances. As the site to the north is zoned R4 it is anticipated that future development will also need to comply with ADG separation distances.</p> <p>The development has been adequately setback from the northern boundary.</p>
	<p>Front Setbacks</p> <p>As each layout and location of each Local Centre is distinct the setback shall be determined as part of an urban design strategy. This strategy shall consider the following in determining the appropriate setbacks:</p> <ol style="list-style-type: none"> 1. Opportunities for a public domain/public street frontage. 2. Need for car parking, bus stops and drop off points between the buildings and the public street. 3. Whether the street is a primary access to the Local Centre. 4. The location of adjacent residential development. 5. The range of adjoining uses, such as Health Consulting Rooms 	<p>Considered acceptable</p> <p>Urban design strategy not considered to be warranted as development relates only to a minor portion of the B2 zone. It is expected that urban strategy be undertaken for the redevelopment of any existing shopping centre (i.e. Moorebank Shopping Centre).</p> <p>In considering the front setbacks, the proposal provides for non-residential uses to each street frontage for an active street frontage. Car parking has been provided to the site off Lucas Avenue to limit the number of driveways from Nuwarra Road.</p> <p>Also, the development has been designed to be setback from the street in a manner that complements the existing and desired future character of residents immediately to the north of the site.</p>

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Landscape Areas and Pedestrian Areas		
	<ol style="list-style-type: none"> 1. Redevelopment of a centre should incorporate shops having frontage to the exterior of the centre. 2. Usable pedestrian areas having frontage to shops should be provided and should be sufficiently wide in places to provide for outdoor eating areas. 3. Pedestrian areas should minimise any changes in levels and allow wheelchair access to the shops from the car parking area, bus stops, public footpaths and drop areas. 4. Pedestrian areas should link all major activity areas of the centre. 5. Pedestrian areas should be separate from loading areas. 6. Separate pedestrian access should be provided to adjoining public footpaths, community facilities and open space. 7. Sufficient area shall be provided to permit landscaping and tree planting within pedestrian areas and car parking areas 	<p>Complies</p> <p>The development provides for commercial opportunities on the ground floor with a frontage to Lucas Avenue and Nuwarra Road.</p> <p>The ground floor has been setback from the street and would enable outdoor eating areas in the future if these uses are ever proposed.</p> <p>The proposed development has been designed to provide wheelchair access to ground floor uses from the street and the basement car park.</p> <p>Pedestrian areas have been separated from the loading area for the development and vehicular entries/exits.</p> <p>Substantial tree planting is provided within front setbacks and along the interface to residential properties north of the site.</p>
Building Form, Streetscape and Layout		
	<p>Building Form</p> <ol style="list-style-type: none"> 1. Articulate building walls addressing the street to add visual interest. 2. Development adjoining open space shall address the open space and avoid blank walls. 	<p>Complies</p> <p>The development has been designed in a manner that is sympathetic to the geometry of the site with adequate articulation to the building walls.</p>
	<p>Building Materials</p> <ol style="list-style-type: none"> 1. Highly reflective finishes are not permitted above the ground floor. 2. Colour & materials of the buildings shall be consistent with the existing adjoining development. 	<p>Complies</p> <p>Colour and materials is considered to contribute to the character of the site and locality.</p>
	<p>Entrances</p> <ol style="list-style-type: none"> 1. Orientate entrances to buildings towards the public street and provide clear lines of sight between entrances, foyers and the 	<p>Complies</p> <p>Entrances to the buildings, as well as common lobbies, are orientated to the public street.</p>

	<p>street.</p> <p>2. The common lobby to a home unit development should face the street.</p> <p>3. Where the ground floor of a business development, mixed-use development, and shop-top housing faces the street, the ground floor must incorporate shopfront style windows with clear glazing so that pedestrians can see into the premises and vice versa.</p>	<p>Clear glazing is incorporated in non-residential uses at the street level to ensure that pedestrians can see into the premises and vice versa.</p>
	<p>Street Frontage</p> <p>1. Ground floor uses are to be at the same general as the footpath and be accessible directly from the street.</p> <p>2. Provide predominately glazed shop fronts to all ground floor retail areas.</p> <p>3. Developments on corner sites shall address the corner and the secondary street frontage.</p> <p>4. Avoid blank or solid walls and the use of dark or obscured glass on street frontages.</p> <p>5. Roller shutters that obscure windows are not permitted.</p> <p>6. Provide opportunities for table seating along shop frontages.</p> <p>7. Any Automatic Teller Machine (ATM) must be located at a highly visible location at street level, and must be well lit at night and incorporate mirrors or reflective materials so that users can observe people behind them.</p> <p>8. The street number of a building must be visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building.</p>	<p>Complies</p> <p>Ground floor uses are at the same general level as the footpath and can be directly accessed from the street.</p> <p>Glazed shopfronts are provided to all ground floor uses. No roller shutters are proposed.</p> <p>The development avoids blank or solid walls.</p> <p>The development has been setback from the street to enable break out space for commercial activities.</p>
	<p>Awnings</p> <p>1. Provide continuous street frontage awnings to all new developments.</p> <p>2. Wrap awnings around corners on street corner buildings.</p>	<p>Considered acceptable</p> <p>The development has been designed so that apartments above non-residential uses on the ground floor overhang to provide a continuous awning.</p>

	<p>3. Awnings must be complementary to each other.</p> <p>4. Canvas blinds along the street edge are permitted.</p>	
	<p>Roof Forms</p> <p>1. Minimise the bulk and mass of roofs and the potential for overshadowing from roofs.</p> <p>2. Provide eaves with a minimum length of 400mm in dwellings with pitched roofs.</p> <p>3. Where flat roofs are proposed, lift overruns and rooftop plant and machinery are to be obscured from view by parapets or designed to be incorporated within rooftop activities/features.</p> <p>4. Incorporate lift overruns and service plant etc. into the design of the roof.</p> <p>5. Wherever possible provide landscaped and shaded areas on roofs to serve as communal private open space for residents of the building.</p>	<p>Complies</p> <p>The roof form is considered to be well designed without resulting in unacceptable overshadowing to surrounds. Lift overruns and service plants have been screened as part of the design. Roof top terraces are proposed in some instances to serve as a communal landscaped area for residents of the building.</p>
	<p>Material and Finishes</p> <p>1. Avoid expanses of any single material.</p> <p>2. Utilise high quality and durable materials and finishes, such as face brick with / without coloured render; and plain glass windows.</p> <p>3. Avoid large wall tiles, rough textured render, polished metal and curtain walls or reflective glass.</p>	<p>Complies</p> <p>The development incorporates a mix of materials and finishes that is considered to be suitable for a mixed use development.</p>
	<p>Dwellings above shops</p> <p>1. Dwellings and balconies in upper storeys shall address the street, rear laneway and any adjacent open space.</p> <p>2. Access to dwellings above shops must be from the front street.</p> <p>3. Dwellings above shops should be designed to facilitate flow through ventilation.</p> <p>4. Entrances shall be designed to accommodate movement of furniture.</p>	<p>Complies</p> <p>Dwellings and balconies in upper storeys address each street frontage and internal communal open space.</p>

	<p>Adjoining Residential Areas</p> <p>1. Development should minimise impact of the privacy of adjoining and nearby dwellings.</p> <p>2. Development should be compatible with any adjoining and nearby dwellings.</p>	<p>Complies</p> <p>The proposal has been designed in accordance with the objectives of the ADG and is considered to be compatible with R4 zoned land immediately to the north of the site.</p>
	<p>Links to nearby Community Facilities and Open Space Developments should incorporate opportunities for pedestrian links to adjoining Community Facilities and Open Space.</p>	<p>N/A</p>
<p>Landscaping and Fencing</p>		
	<p>Where landscaping is to be provided a detailed landscape plan shall accompany a development application. A suitably qualified Landscape architect must prepare all Landscape Plans submitted with the development application. Refer to Part 1 for requirements for Detailed Landscape Plans.</p>	<p>Complies</p> <p>A detailed landscape plan has been submitted with the application and is considered to be acceptable.</p>
	<p>Landscaped areas within the redevelopment of any Local Centres shall generally involve the provision of trees and shrubs in mulched garden beds. In particular the landscaping shall involve the following:</p> <p>1. the trees shall provide a canopy for the streetscape and soften the appearance of the Business Environment, without unduly concealing approved on site signage;</p> <p>2. mulched garden beds shall incorporate ground covers that will cover the ground area;</p> <p>3. shrubs shall be used to soften appearance of the centre environment, but still allow viewing between the street and the development;</p> <p>4. shrubs shall only be planted in mulched garden beds;</p> <p>5. paving should assist in distinguishing the pedestrian areas from driveway areas;</p> <p>6. paving should complement the pedestrian areas within a centre;</p> <p>7. Seating should be provided in</p>	<p>Complies</p> <p>Landscaped areas provide a combination of trees and shrubs. Landscaping has been provided along the front setback and side setback to soften the appearance of the buildings.</p>

	pedestrian areas, particularly at bus stops and waiting areas.	
Car Parking and Access		
	<p>As each layout and location of each Local Centre is distinct the location and design of car parking shall be determined as part of an urban design strategy. The design and location of car parking and loading areas shall incorporate the following:</p> <ol style="list-style-type: none"> 1. Provide an interface between the shops and car parking that feels like a public street environment. 2. Provide access for bus stops and drop off points either within or adjacent to the development 3. Locate car parking where it will minimise on street car parking. 4. Pedestrians should have easy access to the buildings, through clever design of car parking, or a clearly marked zebra crossing to the primary entry of the development. 	<p>Considered acceptable</p> <p>Urban design strategy not considered to be warranted as development relates only to a minor portion of the B2 zone. It is expected that urban strategy be undertaken for the redevelopment of any existing shopping centre (i.e. Moorebank Shopping Centre).</p> <p>Car parking has been provided in the basement for both the commercial component and residential component. Car parking has been adequately screened from the public domain to ensure that each street frontage remains active.</p> <p>The design of the proposed development provides for an active street frontage with ample pedestrian links to the commercial and residential component.</p>
Amenity and Environmental Impact		
	Development shall be designed to minimise overlooking of adjoining and nearby residential development.	<p>Complies</p> <p>Adequate building separation is provided in order to minimize overlooking to nearby residential development</p>
	Dwellings above shops shall be designed to maximise solar access.	<p>Complies</p> <p>Dwellings above ground floor uses achieve adequate solar access.</p>
	<ol style="list-style-type: none"> 1. Where an allotment adjoins a Classified Road, dwellings must comply with AS 3671 – Acoustics – Road Traffic Noise Intrusion. 2. Dwellings should be located to minimise the impact of noise from car parking and loading areas. 	<p>Complies</p> <p>An acoustic report has been submitted which confirms that apartments will be able to achieve the applicable acoustic criteria. Council's Environmental Health Branch reviewed the acoustic report and raises no concern with the proposal in terms of acoustic impacts.</p> <p>The vehicular entry/exit has been positioned to the south of the development away from residential properties to the north thereby providing an effective noise buffer.</p>
	External lighting to a development must give consideration to the impact of glare on the amenity of adjoining and nearby residents.	TBC
Site Services		
	1. A common letterbox structure must be located close to the main	Complies

	<p>pedestrian entrance of a building.</p> <p>2. The street number of a building must be visible from the street and made of a reflective material to allow visitors and emergency vehicles to easily identify the location of the building.</p>	Letterbox is to be located close to the main pedestrian entrance of each building. A condition will also be imposed on any consent granted regarding street numbers
	Where a footpath, road shoulder, new or enlarged access driveway or is required to be provided this shall be provided at no cost to Council. Council must be notified of any works that may threaten Council assets. Council must give approval for any works involving Council infrastructure.	TBC
	In some cases it may be necessary to provide an electricity substation at the front of the development adjacent to the street frontage. This will involve dedication of the area as a public road to allow access by the electricity provider. The front boundary treatment used elsewhere on the street frontage shall be used at the side and rear of the area.	TBC
	<p>1. Development involving dwellings shall provide at least two waste storage areas to separately cater for the dwellings and non-residential uses on an allotment.</p> <p>2. A development must provide a waste storage area inside every food premises, and inside any shop that is capable of accommodating a food premises.</p> <p>3. A development must locate a waste storage area inside the building, or adjacent to a lane where it is convenient and safe for residents, tenants, and waste collection trucks to access the waste storage area and the location and floor level are to the satisfaction of Council and Part 1.</p>	<p>Complies</p> <p>Two waste storage areas are proposed for commercial and residential component. A loading/unloading area is provided in the basement car park to enable waste collection. Conditions to be imposed regarding waste areas and collection of waste bins from the site.</p>

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

No planning agreement relates to the site or proposed development.

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

The Environmental Planning and Assessment Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. If approved appropriate

conditions of consent will be imposed requiring compliance with the BCA.

6.6 Section 4.15(1)(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 or there are Coastal Zones applicable to the subject site.

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

(a) Natural and Built Environment

Built Environment

The impacts of the development on the built environment have been assessed and the development is considered to be acceptable and unlikely to cause any adverse impact to the natural environment. Consideration has been given to site-specific and broader issues such as, but not limited to the acoustic impact and waste management. Further discussion on these issues is provided below:

Waste Management

Waste management has been assessed in accordance with the provisions of the LDCP 2008 and the associated implementation note, and is found to be satisfactory. Waste management details are as follows:

- A 80m² bin holding room for the residential component is provided in the basement capable of accommodating 28 x 660L waste and recycling bins;
- A 40m² bin holding room for the commercial component is provided in the basement capable of accommodating 10 x 660L waste and recycling bins; and
- Provision has been made in the basement car park for the collection of waste and recycling bins.

Conditions of consent will be imposed to ensure that an agreement with Council is reached regarding the collection of waste.

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. Consideration has been given to site-specific and broader issues such as, but not limited to the potential impact of earthworks. Further discussion on these issues is provided below.

Impact of Earthworks

The development involves substantial cut, given the excavation works associated with the construction of the basement car park. A maximum depth of excavation of approximately 9.2m is expected with excavation extending to within close proximity to the southern boundary. In this case, it is suitable for a Geotechnical Report to be prepared prior to CC so as to ensure that earthworks are considered to be acceptable and unlikely to adversely impact upon the environment. Additionally, no objections to the earthworks have been raised by Council's Technical officers.

(b) Social Impacts and Economic Impacts

The proposal would result in a positive economic impact in the locality through the capital investment value of the development and is unlikely to generate any identifiable detrimental social impacts, being consistent with the desired development type in the locality.

Liverpool Contributions Plan

The Liverpool Contributions Plan 2009 provides information on the extent of anticipated new development, the extent of new public services and amenities needed to support the new development and the contributions that the new development must make to fund the public services and amenities.

Accordingly, the payable Section 94 Contribution fee for the development proposed is \$252,102, subject to the CPI applicable at the time of payment.

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

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

6.9 Section 4.15 (1)(d) – Any submissions made in relation to the Development

(a) Internal Referrals

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

Internal Department	Status and Comments
Building	No objection, subject to conditions
Landscaping	No objection, subject to conditions
Environmental Health	No objection, subject to conditions
Land Development Engineering	No objection, subject to conditions
Traffic Engineering	No objection, subject to conditions

(b) External Referrals

The following comments have been received from External agencies:

External Department	Status and Comments
Roads and Maritime Services	No objection, subject to conditions
Sydney Water	No objection, subject to conditions
NSW Police	No objection, subject to conditions
Endeavour Energy	No objection, subject to conditions

(c) Community Consultation

The development application was advertised for a period of 14 days between 24 January 2017 December 2014 and 19 Januarys 2015 in accordance with Liverpool Development Control Plan 2008 (LDGP 2008). Four (4) objections were received, the concerns of which are summarised below:

1. Traffic Congestion

There is existing traffic congestion in Lucas Avenue, McKay Avenue and Nuwarra Road. Traffic is particularly problematic in the morning and afternoon drop off and pick up times around the school. This development will only further impact on traffic congestion as the road network.

Comment: The application was referred to Council's Traffic Engineering Branch for review of traffic impacts associated with the development. Council's Traffic Engineering Branch considers that the surrounding road network, including Nuwarra Road, has capacity to accommodate the traffic generation from the proposed development. Furthermore, the proposed development provides adequate amount of car parking for the proposed mixed use development and is unlikely to result in any parking overflow on the surrounding road network.

2. Privacy

The building will overlook into the school yard and across into the backyards for surrounding properties.

Comment: The original application proposed a 7 storey building along the frontage of Nuwarra Road and a 6 storey building along the frontage of Lucas Avenue. The 7 storey building along Nuwarra Road has subsequently been reduced to 6 storeys and the 6 storey building along Lucas Avenue has subsequently been reduced to 3 storeys. It should be noted that these buildings, particularly the building along Lucas Avenue, has been setback a minimum of 4 metres from the property boundary, resulting in a separation distance of approximately 23 metres from the school property boundary. It is considered that any privacy impacts have been alleviated given the height of the proposed development together with the building separation from the school.

Having regard to surrounding residential amenity, it is considered that the residential receivers more susceptible to privacy concerns are those existing dwellings immediately to the north of the subject site. It should be noted that the building along Lucas Avenue has been setback 6 metres from the northern property boundary up to the third storey which is compliant with the ADG separation distances for privacy. This building also has a rooftop terrace which has been setback approximately 18 metres from the northern property boundary. Privacy has been adequately addressed with the current scheme.

The building along Nuwarra Road has been setback 6 metres up to four storeys which is compliant with ADG separation distances for privacy. With the exception of a minor section of the rooftop terrace, the fifth storey of the building has been setback 9 metres from the northern property in accordance with ADG separation distances. A condition will be imposed on any consent that requires privacy screening to be provided on the rooftop terrace to limit overlooking to adjoining properties. The sixth storey of this building provides at least 9

metres of separation to the northern property boundary in accordance with the ADG. Privacy has been adequately addressed with the current scheme.

In addition, the properties to the north are zoned R4 High Density and it is expected that should these properties redevelop, adequate separation distances have been provided to ensure that the properties can redevelop.

3. Character of the Area

The development will be incompatible with existing development in Moorebank and would set an undesirable precedent for similar development

Comment: The land is zoned B2-Neighbourhood Centre and R4 – High Density Residential. The applicant intends to develop the site for the purpose of commercial floor space on the ground floor and residential above. To the south of the site is an existing community facility and opposite Lucas Avenue to the west is an existing school, both of which are zoned B2 Local Centre. To the north and east of the site opposite Nuwarra Road are existing low density residential properties that are currently zoned R4 High Density Residential. In its context, the development represents a shift in the area from the existing low density character for the planned purpose of high density residential centred on a commercial precinct. The proposed development is consistent with this vision.

It should be noted that the dimensions and area of the subject site meets the site requirements for a mixed use development of this size and scale. The development has also been designed in accordance with Council's LEP and DCP as well as the design quality principles of SEPP 65 – Design Quality of Residential Apartment Development. Therefore, it is considered that the mixed use development is of a character that is considered to be consistent with the desired character of the site and locality whilst providing adequate residential amenity to future occupants of the development as well as the surrounds, both in its existing form and anticipated form under the zoning provisions of the locality.

4. Commercial floor area

The proposal results in a loss of commercial floor area which is only going to negatively impact the existing community.

Comment: The original development did not provide any opportunities for commercial floor area to be retained at the site. The proposed development was amended to replace all ground floor apartments with commercial tenancies. There are seven commercial tenancies proposed on the ground floor with a combined gross floor area of 1,348sqm. Accordingly, the proposed development is consistent with the objectives of the B2 zone as it revitalises existing commercial at the site for the local community. Council's technical officers have considered both the acoustic and traffic implications of the mixed use development in the locality and raises no objection, subject to conditions of development consent.

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

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

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

7 CONCLUSION

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The proposal provides an appropriate response to the site's context and satisfies the SEPP 65 design principles and the requirements of the ADG. The scale and built form would be consistent with the desired future character of the area that is envisaged under the LLEP 2008 and LDCP 2008.
- The proposal substantially complies with the provisions of the LDCP 2008. There are variations proposed to the setback controls, however these are considered acceptable on merit.
- The development will generate a social and economic benefit for the community, given that it will revitalize the existing local centre.
- The proposed development will have positive impacts on the surrounding area, which are largely anticipated by the zoning of the site.

8. RECOMMENDATION

The Development Application DA-1248/2016 be approved subject to conditions of consent.

9. ATTACHMENTS

- 1) Recommended Conditions of Consent
- 2) Architectural Plans
- 3) Accessibility Report
- 4) Acoustic Report
- 5) BASIX Certificate
- 6) BCA Report
- 7) Contamination Report
- 8) Hazardous Building Materials Report
- 9) Drainage Plans
- 10) Quantity Surveyors Report
- 11) Statement of Environmental Effects
- 12) Landscape Plan
- 13) Survey Plan
- 14) Traffic Report
- 15) Waste Management Plan
- 16) Design Excellence Panel minutes