

SYDNEY SOUTH WEST PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SSW018
DA Number	DA-865/2016
Local Government Area	Liverpool City Council
Proposed Development	Construction of a 6-storey residential flat building containing 31 units, demolition of existing buildings and lot consolidation. The application is lodged pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009.
Street Address	249-251 Hoxton Park Road and 9-11 Edgeworth Place, Cartwright (Lot 10 DP 1155995, Lot 502 and Lot 503 DP 236840).
Applicant	St George Community Housing Provider
Owner	St George Community Housing Provider
Date of DA Lodgement	09 September 2016
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	The development contains affordable housing with a capital investment value of \$9.8 million.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • <i>List all of the relevant environmental planning instruments: s79C(1)(a)(i)</i> <ul style="list-style-type: none"> • State Environmental Planning Policy (Affordable Rental Housing) 2009. • State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development. • State Environmental Planning Policy No.55 – Remediation of Land. • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. • State Environmental Planning Policy (Infrastructure) 2007. • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment. • Liverpool Local Environmental Plan 2008. • <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii)</i> <ul style="list-style-type: none"> • No draft Environmental Planning Instruments apply to the site. • <i>List any relevant development control plan: s79C(1)(a)(iii)</i> <ul style="list-style-type: none"> • Liverpool Development Control Plan 2008. <ul style="list-style-type: none"> - Part 1 – General Controls for all Development. - Part 3.7 – Residential Flat Development in the R4 Zone. • <i>List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv)</i>

	<ul style="list-style-type: none"> No planning agreement relates to the site or proposed development. List any coastal zone management plan: s79C(1)(a)(v) The subject site is not within any coastal zone management plan. List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 Consideration of the provisions of the Building Code of Australia.
List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none"> Architectural plans Landscape plans Stormwater drainage plans Survey plan Recommended conditions of consent Clause 4.6 Variation Written Justification to Height Statement of Environmental Effects SEPP 65 Verification Statement, Design Principles and Compliance Table Acoustic Report Waste Management Plan Flood Assessment Report Contamination Report BASIX Certificate Design Excellence Panel Comments Letter from St George Community Housing
Recommendation	Approval, subject to conditions
Report Prepared by	Rodger Roppolo
Report date	18 April 2016

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)? **No**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
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

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

The Sydney South West Planning Panel is the determining authority as the Capital Investment Value of the development is over \$5 million, pursuant to Clause 6(b) of Schedule 4A of the Environmental Planning and Assessment Act 1979.

1.2 The proposal

The application proposes the construction of a 6-storey residential flat building containing 31 units, demolition of existing buildings and lot consolidation. The application is lodged pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.

1.3 The site

The site is identified as 9-11 Edgeworth Place and 249-251 Hoxton Park Road, Cartwright.

1.4 The issues

The main issues are identified as follows:

- Non-compliance with the Liverpool Local Environmental Plan (LLEP) 2008 - Clause 4.3 Height of Buildings;
- Non-compliance with Liverpool Development Control Plan 2008 (LDCP 2008) – side setback controls.

1.5 Exhibition of the proposal

The DA was notified in accordance with LDCP 2008 for a period of 14 days from 15 September 2016 to 30 September 2016. No submissions were received.

1.6 Conclusion

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act 1979. Based on the assessment of the application and the consideration of the written request to vary the height of buildings 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 site incorporates the following allotments:

- Lot 502 and Lot 503 in DP 236840, which is known as 9-11 Edgeworth Place, Cartwright; and
- Lot 10 in DP 1155995, which is known as 249-251 Hoxton Park Road, Cartwright.

The site provides for a dual frontage of approximately 73 metres to Hoxton Park Road and approximately 60 metres to Edgeworth Place. The overall site area is 2,424m².

Currently located over 9-11 Edgeworth Place are two detached dwellings. Vehicular access to the dwellings are from Edgeworth Place. Pedestrian access to these dwellings are from Hoxton Park Road.

Nos. 249-251 Hoxton Park Road have already been developed as a 4-storey residential flat building containing 17 units with at-grade parking. The entire development is currently used

for the purpose of affordable housing, and is being managed by a not-for-profit social housing provider - St George Community Housing (SGCH).

The development at 249-251 Hoxton Park Road was approved on 15 December 2009, under the Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009.

Vehicular access to the development is from an access lane that runs parallel to Hoxton Park Road. The proposed development seeks to utilise the existing driveway of this development to provide access to the new residential flat building. The existing building, including its associated car parking will not be altered by this proposal. However, these 3 sites will be consolidated into one allotment as proposed by the applicant.

An aerial photograph and photographs of the site are provided below.



Figure 1 – Aerial photograph of the site



Figure 2 - Front view of existing dwelling at 11 Edgeworth Place



Figure 3 – Front view of existing dwelling at 9 Edgeworth Place



Figure 4 – Front view of existing residential flat building at 249-251 Hoxton Park Rd



Figure 5 – View of existing vehicular access way for the existing residential flat building

2.2 The locality

The site is located within the area of Cartwright which was based on the Radburn planning model, which is typified by the backyards of homes facing the street and the fronts of homes facing each other over common yards divided by a public laneway. The locality is generally characterised by low density residential development, with adjoining properties predominately single storey in nature. Walk up flats are located to the north of the development.

To the south of the site is Hoxton Park Road, which contains a Bus Transit Way. Further south are industrial developments. The closest waterway to the site is Cabramatta Creek, which is located 350m north of the site.

An aerial photograph of the locality is provided below:



Figure 6 – Aerial Photograph of the Locality

2.3 Site affectations

The subject site is affected by the following:

Flooding

The site is located within the Cabramatta Creek catchment. The site is not affected by flooding under the 1% annual exceedance probability event (AEP). However, it is affected by the probable maximum flood event. The application was accompanied by a flood impact assessment and was reviewed by Council's Flooding Section and no issues were raised.

3. BACKGROUND

3.1 Design Excellence Panel

The application was referred to the Design Excellence Panel for comment. The 9 design principles of SEPP 65 were considered and the panel identified a number of amendments to improve the overall scheme of the development.

Issues raised by the panel are detailed below with comments provided on how the concerns have been addressed by the applicant.

DEP Comments	Response
<i>Separation distances must comply with the ADG</i>	<p>The application achieves compliance with the separation distances of the ADG, except the building separation distances of Levels 1, 2 and 3 between the existing RFB and the proposed RFB.</p> <p>However, as discussed further in this report, the separation distance is considered to be acceptable.</p>
<i>There is a need to ensure that the apartments are solar access compliant. As the application is for both buildings, the assessment should be made against the development (i.e the two buildings)</i>	<p>The application achieves compliance with the ADG requirements of solar access. Overall, the development provides a minimum of 2 hours of solar access to 75% of the units with only 8% receiving no solar access.</p>
<i>Light and solar access shall be enhanced to the snorkel bedrooms.</i>	<p>Snorkel bedrooms have been removed.</p>
<i>Consider any privacy issues between the two bedrooms located in the north-west of the building (identified as Unit 04 and Unit 05 on Levels 1-3)</i>	<p>In order to reduce potential privacy issues, these windows have been offset and provided with privacy screens.</p>
<i>Applicant to engage a landscape architect.</i>	<p>A landscape architect has been engaged to prepare the landscape plan. The landscape plan includes a variety of trees, shrubs, ground covers and grasses.</p> <p>The landscape plan has been reviewed and is supported by Council's Landscape Architect.</p>
<p><i>The complete absence of communal open space is not supported. Communal open space shall be provided on the roof top with a kitchenette/WC/small room for a barbeque area.</i></p> <p><i>Investigate the potential of enabling the residents of the existing building to access the roof top space of the new building.</i></p>	<p>The DEP were concerned that the proposed development did not provide a high quality and functional communal open space due to the limited setbacks. The space provided on the ground floor is limited and not in an ideal location.</p> <p>The applicant has responded to these concerns and amended the application to incorporate a rooftop communal open space area of 214m² with BBQ facilities and seating area. This communal open space area will also be made accessible to the residents of the adjoining building.</p>
<i>The panel supports the additional height, subject to all the above issues being addressed whilst complying with the FSR.</i>	<p>As discussed further in this report, the request to vary the development standard relating to height is also supported by Council.</p>

3.2 Planning Panel Briefing

No Planning Panel Briefing meeting was held for the application.

4. DETAILS OF THE PROPOSAL

Construction of a 6-storey residential flat building containing 31 units, demolition of existing buildings and lot consolidation. All of the units within the development will be used as affordable housing and managed by SGCH.

Additional details are as follows:

- Construction of a 6-storey residential flat building containing 31 residential units comprising of:
 - 1 bedroom unit x 5; and
 - 2 bedroom unit x 26
- Existing RFB will be maintained.
- Building forms are articulated extensively, and facades incorporate a variety of materials and finishes: Building materials primarily include masonry walls, colorbond, metal deck roof; metal acoustic screens and glass balustrades.

Vehicular and Pedestrian Access

- No changes are proposed to the existing vehicular access, which will continue to be provided from Hoxton Park Road. The proposed development will utilise the existing driveway for access. In this regard, the existing RFB and the proposed RFB will share the existing driveway for vehicular access.
- The main pedestrian access to the development is provided from Hoxton Park Road, however access is also provided from Edgeworth Place. Additionally, the ground floor units are also provided with access from Hoxton Park Road and Edgeworth Place.

Parking Provisions

- The proposed new development will provide 15 parking spaces at ground level. No changes are proposed to the car parking provided by the existing development, which currently provides 4 parking spaces.
- A total of 19 parking spaces will be provided, including 5 accessible spaces.

Site Servicing Facilities

- The existing garbage storage room will be relocated to a new combined garbage storage room, located on the ground floor of the proposed RFB.

Stormwater Drainage

- Stormwater runoff from the existing development will connect to the existing on-site detention basin located beneath the central car parking area, while stormwater runoff from the proposed development will be connected to a new on-site detention basin also located underneath the new car parking area.
- Stormwater will be connected to the existing kerb inlet pit located within the cul-de-sac of Edgeworth Place.

Lot Consolidation

- 9-11 Edgeworth Place and 249-251 Hoxton Park Road will be consolidated into one lot.

Demolition

- Demolition of existing buildings on site at 9 and 11 Edgeworth Place, consisting of two detached dwellings and removal of existing garage storage area.

Images of the proposed development are provided below:



Figure 7 – Perspective view from Hoxton Park Road



Figure 8 – Perspective view from Edgeworth Place



Figure 9 – Perspective view from Hoxton Park Road looking west

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 (Affordable Rental Housing) 2009;
- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development;
- State Environmental Planning Policy No.55 – Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Infrastructure) 2007;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment; and
- Liverpool Local Environmental Plan 2008.

Draft Environmental Planning Instruments

- No draft Environmental Planning Instruments apply to the site.

Development Control Plans

- Liverpool Development Control Plan 2008
 - Part 1 – Controls applying to all development
 - Part 3.7 – Residential Flat Development in the R4 Zone.

Contributions Plans

- Liverpool Contributions Plan 2009 applies to the subject development.

5.2 Permissibility

The site is zoned R4 High Density Residential, pursuant to the LLEP 2008. The proposal is defined as a *residential flat building* which is a permissible development in the R4 zone, subject to council consent.

A detailed assessment of the application against all relevant provisions is provided under Section 6 of this report.

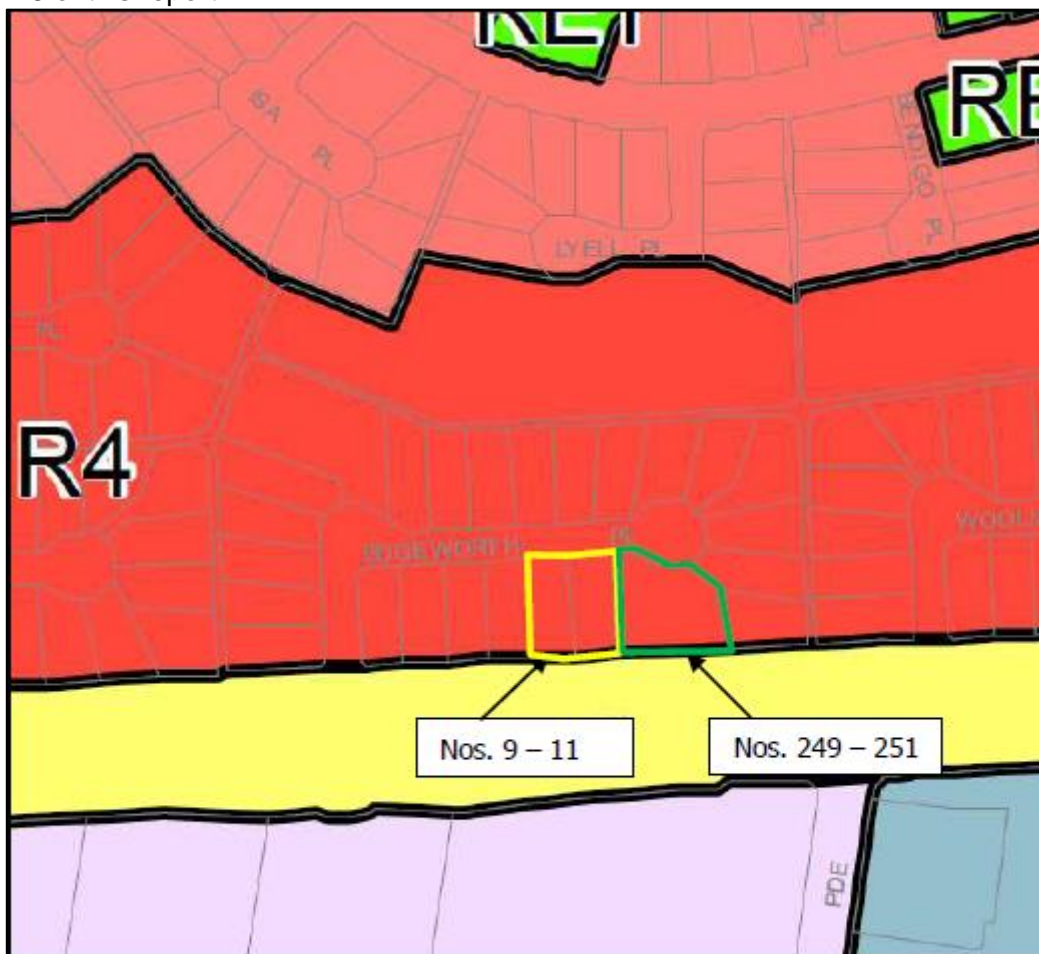


Figure 10 – Extract of the LLEP 2008, zoning map

6. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 79C of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000 as follows:

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

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

The DA has been lodged pursuant to the SEPP (Affordable Rental Housing) 2009. An assessment against the relevant provisions is provided in the table below.

Provision	Comment
Part 2 New Affordable Rental Housing	
Division 1 In Fill Affordable Housing	
Clause 10 Development to which Division Applies	
<p>(1) <i>This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:</i></p> <p>(a) <i>the development concerned is permitted with consent under another environmental planning instrument, and</i></p> <p>(b) <i>the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the Heritage Act 1977.</i></p>	<p>Complies</p> <p>The proposed development is permitted with consent under the LLEP 2008 and the site does not contain a heritage item.</p>
<p>(2) <i>Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.</i></p> <p><i>‘accessible area’ means land that is within 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday</i></p>	<p>Complies</p> <p>The site is 200m from a bus stop located within Hoxton Park Road.</p> <p>The bus stop is serviced by the 853 and 854 bus, which travels between Carnes Hill Shopping Centre and Liverpool Station.</p> <p>The above bus services operate within the parameters specified in the SEPP (Affordable Rental Housing) 2009.</p>
Clause 13 Floor Space ratio	
<p>(1) <i>This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.</i></p>	<p>Complies</p> <p>It is proposed that 100% of the gross floor area) of the development will be utilised for affordable housing.</p>
<p>(2) <i>The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:</i></p> <p>(a) <i>if the existing maximum floor space ratio is 2.5:1 or less:</i></p> <p>(i) <i>0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</i></p> <p>(ii) <i>Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:</i></p> <p><i>AH is the percentage of the gross floor area of the development that is used for affordable housing.</i></p> <p><i>Y = AH ÷ 100</i></p>	<p>Complies</p> <p>It is proposed that 100% of the gross floor area of the development will be utilised for affordable housing. Therefore, a bonus FSR of 0.5 is applicable.</p> <p>The FSR permissible under LLEP 2008 is 1:1. Therefore, the FSR for the site increases to a maximum FSR of 1.5:1</p> <p>The total gross floor area of the existing development and proposed development is 3641m², which equates to an FSR of 1.5:1.</p>
Clause 14 Standards that cannot be used to refuse consent	
<p>(1) <i>Site and solar access requirements</i></p> <p><i>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</i></p>	
<p>(b) <i>Site Area</i></p>	<p>Complies</p> <p>The site has an area of 2,424m².</p>

<p><i>if the site area on which it is proposed to carry out the development is at least 450 square metres,</i></p>	
<p><i>(c) landscaped area: if:</i></p> <ul style="list-style-type: none"> <i>(i) in the case of a development application made by a social housing provider—a minimum 35m² of landscaped area per dwelling is provided, or</i> <i>(ii) in any other case—a minimum of 30% of the area of the site is to be landscaped,</i> 	<p>Non Compliance</p> <p>The proposal has been prepared by SGCH, a social housing provider. The development (both existing and proposed) contains 48 units, which equates to 1680m² of landscaped area.</p> <p>However, it is important to note that the existing RFB has been approved, therefore these considerations have already been made with respect to that development's built form and was considered to be acceptable.</p> <p>With respect to the proposed development, based on 31 units provided, a landscaped area of 1,085m² is required. This seems unreasonable given that the site area of 9-11 Edgeworth Place is 1,157m², particularly in view of the site being zoned R4 High Density Residential.</p> <p>As the SEPP is not clear on this matter, it is assumed that the control therefore applies in the case of a multi-dwelling housing development whereby the 35m² could be provided within the courtyard/rear yard to each dwelling. In the case of a residential flat building, particularly in a high density residential zone, the control seems unreasonable.</p> <p>The more relevant landscape requirement should be that contained within the ADG and LDCP which requires a minimum of 25% of the site to be dedicated to landscaping.</p> <p>The landscaped area provided by the proposed development is 329m² which equates to 28% of the site area and considered acceptable in numerical terms.</p> <p>No changes are proposed to the landscaping area provided by the existing development.</p> <p>Additionally, subclause 3 (as discussed further below) allows the consent authority to grant consent to the development to which this Division applies whether or not the development complies with this standard.</p>
<p><i>(d) Deep Soil Zones</i></p> <p><i>In relation to that part of the site area that is not built on, paved or otherwise sealed:</i></p> <ul style="list-style-type: none"> <i>(i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the site area (the deep soil zone), and</i> <i>(ii) each area forming part of the deep soil zone has a minimum dimension of 3m, and</i> 	<p>Complies</p> <p>Based on a combined site area of 2424m², a minimum deep soil zone of 363m² is required.</p> <p>The proposed development provides 192m² or 16% of deep soil zones,</p>

<p>(iii) <i>if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</i></p>	<p>associated with the site area of 9-11 Edgeworth Place.</p> <p>There is no change to the deep soil areas of the existing development, which currently provides 381m² of deep soil zones, which equates to 30% of the site area of 249-251 Hoxton park Road.</p> <p>Therefore, the total deep soil zones equate to 573m², which equates to 23% of the combined site area.</p>
<p>(e) solar access: if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</p>	<p>Non Compliance</p> <p>It is noted that both the SEPP (Affordable Rental Housing) 2009 and SEPP 65 contain provisions relating to solar access for residential flat buildings. Either SEPP does not specifically state which SEPP prevails.</p> <p>The proposal has been designed to comply with the provisions of the ADG and thus SEPP 65 – Design Quality of Residential Apartment Development to ensure that 75% of units over the combined development provide for 2 hours of solar access. It is considered unreasonable to impose a minimum of 3 hours, when the development already satisfies the controls of another SEPP which specifically governs the design of residential flat buildings.</p> <p>Furthermore, the proposal exceeds the requirements of the ADG, with only 8% of the units receiving no solar access, which is well below the maximum 15% achievable.</p> <p>Given the above, the variation is considered to be acceptable.</p> <p>Additionally, subclause 3 (as discussed further below) allows the consent authority to grant consent to the development to which this Division applies whether or not the development complies with this standard.</p>
<p>(2) <i>General</i> A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p>	
<p>(a) <i>parking</i></p> <p>(i) <i>in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms or</i></p> <p>(ii) <i>in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5</i></p>	<p>Complies</p> <p>The proposed development requires the following parking:</p> <ul style="list-style-type: none"> - 5 x 1 bedroom requires 2 spaces; and - 26 x 2 bedroom requires 13 spaces. <p>A total of 15 spaces are required for the residents. A total of 15 have been provided for the proposed development.</p> <p>It is noted that the existing development was approved with only 4 parking spaces. These spaces will be retained.</p>

<i>parking spaces are provided for each dwelling containing 3 or more bedrooms.</i>	
(b) dwelling size <i>if each dwelling has a gross floor area of at least:</i> (i) 35m ² in the case of a bedsitter or studio, or (ii) 50m ² in the case of a dwelling having 1 bedroom, or (iii) 70m ² in the case of a dwelling having 2 bedrooms, or (iv) 95m ² in the case of a dwelling having 3 or more bedrooms.	Complies Apartment sizes comply with these requirements.
(3) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2)	It is noted that the proposed development does not comply with the standards relating to: <ul style="list-style-type: none"> - Clause 14(1)(c) in relation to landscaping; and - Clause 14(1)(e) in relation to solar access. Subclause 3 allows for consent to be granted despite the non-compliance with the above standards relating to landscaping and solar access.
Clause 16 Continued Application of SEPP 65	
<i>Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development to any development to which this Division applies.</i>	Complies An assessment of SEPP 65 has been carried out and is found to be satisfactory. Further discussion is provided within this report.
Clause 16A Character of Local Area	
<i>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</i>	Complies The current character of the area is generally comprised of single detached dwellings and 3 storey walk up residential flat buildings. This area of Cartwright has recently been rezoned to R4 – High Density Residential development. The area is currently in transition from low density residential to high density residential. The proposed development comprises a residential flat building that accommodates a total of 31 dwellings over 6 storeys. Although the proposed development does not strictly conform to the current character of the area, given that there are not many RFBs within the immediate locality, it will nevertheless confirm to the future desired character of the area. It is expected that development within the immediate locality will be re-developed in accordance with the current LLEP 2008 and LDCP 2008. As such, the proposed development generally complies with these requirements with the exception of height and therefore, would contribute to the desired future character of the area.
Clause 17 Must Be Used for Affordable Housing for 10 Years	
(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:	
(a) for 10 years from the date of the issue of the occupation certificate: (i) <i>the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and</i> (ii) <i>all accommodation that is used for affordable housing will be managed by a registered community housing provider, and</i> (b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act	Complies SGCH is a not-for-profit organisation who seek to provide affordable housing. Conditions of consent will be imposed to ensure compliance with this requirement.

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

The proposal has been evaluated against the provisions of SEPP 65 which aims to improve the design quality of residential apartment development. SEPP 65 does not contain numerical standards, but requires Council to consider the development against 9 key design quality principles; and against the guidelines of the associated Apartment Design Guidelines (ADG). The ADG provides additional detail and guidance for applying the design quality principles outlined in SEPP 65.

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

Design Quality Principle	Comment
Principle One – Context and Neighbourhood Character	
<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p><i>The challenges of the subject site is the high traffic area on Hoxton Park Road and is located on a developing area on an R4 site in Cartwright.</i></p> <p><i>DKO's site analysis identified the lack of pedestrian movement and general activation on the ground plan due to the areas current low density. As the area is undergoing a transition, providing passive surveillance and attractive pedestrian pathways through and around the site will promote community interaction and the use of public infrastructure into the future. The use of materials and building quality draws itself from the brick houses and tin roofs around the site.</i></p> <p><i>Proposed Building Types</i> <i>The proposed development complies with the objectives of the Liverpool LEP 2008 zone controls for R4 High Density residential development and will therefore complement the desired future character of the area. The development will promote the infrastructure efficiency and support the commercial, retail and recreational activities in the area. In this respect, it is noted that the area is in transition from low and medium density housing to high density housing.</i></p> <p><i>The building type proposed partially conforms to Councils building envelope controls for RFBs. The building is highly articulated and is broken down into three volumes facing Hoxton Park Road, this is compatible with the built form character of the area; as is with the building materiality.</i></p> <p><i>Landscape Context</i> <i>The site currently contains a number of trees, all of which are non-protected (exotic and non-local) tree species.</i></p> <p><i>The proposed development maintains setbacks to all boundaries with exceeds deep soil landscape planting requirements. The proposal incorporates an attractive landscape area the surrounds the built form on ground level. This includes provisions for large tree planting in deep soil zones within side and front setbacks; these plantings will enhance the character of the streetscape on all sides. Generous private open spaces are provided to ground floor units, allowing for an activated and dynamic street character. The proposed development is compatible with the built form context of the site.</i></p>

Design Quality Principle	Comment
Design Principle 2 – Built form and scale	
<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><i>The development responds intelligently and sensitively to its location and future urban context. The role of DKO's architecture is to mediate between the existing condition and the future urban context. The design proposals scale in terms of bulk and height has been carefully considered to respond to the areas transition into a future growth area. Instead of having a single linear building, the proposed scheme breaks up the massing on site by having several detached buildings. Visually the bulk of the buildings are softened further as a result of material selection, massing techniques and landscaping that is located at the base of each building.</i></p> <p><i>The proposed scheme provides an urban framework that responds to the evolving context of Cartwright while maximising the quality of residential amenity at all times. The resultant design is ultimately providing flexibility for all occupants to use the space as they desire.</i></p> <p><i>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 as well as providing acoustic and privacy screening amenity to the building from Hoxton Park Road.</i></p> <p><i>The scale and height of the proposed development is appropriate to its R4 zoning.</i></p> <p><i>Shadow studies were done to compare the maximum bulk massing and the proposed massing's over shadowing effects on the neighbouring house to the West. The upper level increased setbacks and additional storey breach fared better against it in comparison and was supported in the Design review panel and Liverpool Council. Careful design consideration was given to the building height setbacks to ensure the amenity of the neighbour to the west is not effected</i></p>
Design Principle 3 – Density	
<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p><i>The proposed development is located approximately 106m heading West & 197m heading East walking distance from bus stops on Hoxton Park Road. 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.</i></p>
Design Principle 4 – Sustainability	
<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and</p>	<p><i>The building has been designed to achieve a 7 star NatHERS Rating & 4 star Greenstar Rating.</i></p> <p><i>The proposed development will reduce the necessity for mechanical heating and cooling with 63% of units being cross ventilated.</i></p> <p><i>The depth of the proposed balconies, ranging from 1.1m to 2.3 m to the North contributes to passive solar performance by the balconies of the units above blocking high angle hot summer sun and allowing low angle winter sun to penetrate the unit. Screening</i></p>

Design Quality Principle	Comment
<p>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>	<p><i>and shading devices are also incorporated into the facades to provide additional control over solar access.</i></p> <p><i>The accessibility of the site to public transport decreases the carbon footprint of the development by reducing the need for private motor vehicle usage. Providing a viable alternative is vital to changing patterns of travel behaviour. Further, a small number of secure bicycle parks are proposed ground level on site for those who choose this means.</i></p> <p><i>Minimising the apartments that receive no solar access units to only 8% reduces the heating energy load in winter.</i></p> <p><i>Providing water retention tanks and OSD tanks to retain and use much of the rainwater collected on site for irrigation of the communal gardens and other water uses in the building.</i></p> <p><i>A BASIX certificate has been submitted as part of this application and demonstrates that the development meets the government's criteria for energy efficiency.</i></p>
Design Principle 5 – Landscape	
<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p><i>Landscaping of private and communal open spaces wrap around the building at ground level. The landscaping of the site is predominantly to the same domestic scale as surrounding individual residential properties, however the proposed planting schedule has considered a much more generous amount of trees and shrubs given that neighbouring properties have little or minimal garden provided.</i></p> <p><i>The building sits harmoniously within the streetscape, where 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. A landscaped rooftop communal open space is provided as well which orientates North which provides exceptional opportunities for the residences of the building to gather.</i></p>
Design Principle 6 – Amenity	
<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual</p>	<p><i>The proposed building is aligned on a north-south axis with units oriented north, east or west with minimal exceptions. This ensures that majority of units receive good natural day lighting. In the proposed development, unit depths are reduced and daylight access is shared more equitably across the site. This approach achieves 75% of units of the total units on site with 2+ hours sunlight in midwinter and 63% of units with natural cross ventilation.</i></p> <p><i>Passive solar is enhanced by the balconies of the units above blocking high angle hot summer sun and allowing low angle winter sun to penetrate the unit. The proposed apartment layout allows</i></p>

Design Quality Principle	Comment
<p>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><i>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 which is further enhanced by the installation of operable skylights. Sufficient private open spaces ensure good solar penetration and ventilation to each unit. Where windows are within a slot, privacy screens are provided to avoid overlooking in to the adjacent units property and generally an extended separation of 2.8m is provided in the middle of the building.</i></p> <p><i>Common Circulation</i> <i>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 avoiding a claustrophobic, dark, or tight space. Further to this a slot to the northern elevation allows light into the corridor. A corridor break is provided to minimise amount of shared walls within the development and also provide natural cross ventilation in to the corridors.</i></p>
Design Principle 7 – Safety	
<p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p><i>The proposal has been designed in such a way that safety and security is ensured for the site and its residents:</i></p> <ul style="list-style-type: none"> - <i>Casual surveillance of open spaces: casual surveillance entrances and exits on the site are possible from the units. Corner balconies/windows and balconies provide a wider degree of casual surveillance along the street.</i> - <i>Letterboxes: size and location of letter boxes comply with the requirements of Australia Post. The letter boxes are located perpendicular to the street, reducing their visual impact, and are located in a suitable area under the gatehouse close to the front boundary.</i>
Design Principle 8 – Housing Diversity and Social Interaction	
<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><i>The 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.</i></p> <p><i>The development is being funded through project finance that will be serviced by rental income from this and other SGCH housing projects. There has been no significant injection of funding into this project from Federal, State or Local Government by way of grants, affordable housing levies, inclusionary zoning or other external contributions such as government land grants. ABS population projections showed an unexpected increase in population numbers while the Department of Planning's discussion paper "Sydney over the next 20 years" calls for increases in the number of small units (1 and 2 bedroom) to meet future needs of the metropolitan area. The proposed development will assist in meeting this demand. The proposed development meets this trend by providing 100% 1 and 2 bedroom units.</i></p> <p><i>The proposed development is designed to maximise accessibility for access impaired. Sufficient disabled car parking facilities have been provided and are located near the main access lift of the building on Ground Floor. Passenger lifts provide easy access to all levels of the building. 10% of the proposed units are adaptable. Further to this, each stair core has been provided with a refuge</i></p>

Design Quality Principle	Comment
	<p><i>area which in itself is an amenity above and beyond that required in the BCA.</i></p> <p><i>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 is provided to further promote alternative means of transport.</i></p> <p><i>The Bicycle parking is provided on ground level in the carpark; there are 6 bicycle spaces provided for residents of the building. Having the bicycle parking located within a secure and covered communal area means well-lit access at all hours of the day, removing any potential safety issue for residents dismounting and parking their bicycle late at night in a possibly more vulnerable position close to the street.</i></p>
Design Principle 9 – Aesthetics	
<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p><i>The development proposes a 6 storey RFB building surrounded by landscaped gardens and communal open space and a north facing rooftop communal open space. The building's main entrance is positioned on the southern east along Hoxton Park Road. Residents and visitors enter the building along a path at street level; the main entrance is accentuated by ornamental trees and plantings that line the walkway up to the entrance door of the ground floor lobby</i></p> <p><i>Motor vehicle and service access is via an existing slip lane and existing driveway on Hoxton Park Road, with a shared access to one level of the existing on grade car park. This ramp entrance is at the middle of the site.</i></p> <p><i>The massing of the proposed apartment block has been broken into three elements vertically to ensure an interesting and an appropriate overall proportion. This reduces the bulk and scale of upper levels and identifies three clear "parts" to the building; the base, middle and top. The building is further broken into two along the longer eastern and western facades by the indent of the natural ventilated lobby and a wide slot on the East and West. The Southern facades have been articulated into three masses by virtue of breaks in the buildings</i></p> <p><i>Potential privacy impacts between neighbouring buildings and the proposed development are addressed through internal building layout, offsetting of windows and the use of privacy louvres on the upper floors.</i></p> <p><i>Landscaping assists with screening but is not relied upon to achieve privacy. A combination of glazed balustrades and full height vertical screens, recessed balconies and balconies outside of the primary building line are arranged on a loose grid. Overall, the building façade is organised to achieve multiple pavilion forms separated by a recessive vertical element. This creates a visually dynamic and articulated façade.</i></p> <p><i>The Northern façade has a simpler and façade which will fit to the future character of the area with the same principles of a base, middle & top. The middle brick façade has the same massing height to match the building on 249 -251 Hoxton Park Road and reduce the perceived scale along Edgeworth Place.</i></p> <p><i>Materials, Colours and Textures:</i></p> <p><i>The building façade is highly articulated with a neutral colour palette and modern architectural style. The façade is composed</i></p>

Design Quality Principle	Comment
	<i>primarily of brick, which varies in tone depending on the extent of protrusion of the façade. This reinforces the articulation of the façade achieved through varied setbacks and step downs in building mass. The base and recessed elements of the façade are proposed in a dark brick base, whilst the middle form and protruding elements, reflecting the scale of the neighbouring masses, is articulated in a natural brown red brick. The brick element contributes to the texture and materiality of the façade and is in-keeping with the surrounds and the general character of the surrounding buildings. A dark metallic 'top' is proposed to break the brick and reduce the perceived building bulk and give the impression of a more single terrace type development in order to reduce the perceived massing of the building.</i>

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

Provisions	Comment
2E Building depth	
Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. This will ensure that apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation	<p>Non compliance</p> <p>The developments provides a building depth of 26m.</p> <p>The building exceeds the building depth guideline. However, the variation is considered acceptable as the units are of an appropriate apartment depth and configuration to provide natural ventilation and solar access.</p> <p>Further discussion is provided below.</p>
2F Building separation	
<p>Minimum separation distances for buildings are:</p> <p>Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms 	<p>The building separation distances are only applicable to the eastern and western side of the development, as the site is bounded by a road to the primary and secondary frontage.</p> <p>It is generally applicable that half the building separation distance is provided, as adjoining development would provide the other half of the separation distance to ensure compliance. As such, only half the building separation distance is required to the western side of the development.</p> <p>The eastern side of the development will require the full separation distance, given the existing RFB to the east.</p> <p>These separation distances apply to the ground floor, Level 1, Level 2 and Level 3.</p> <p>The western elevation of the proposed development provides a blank wall (non-habitable). Therefore, a separation distance of 3m (half the required separation of 6m) is required to the side boundary.</p> <p>The distances provided are as follows Ground floor – 3m provided, which complies.</p>

Provisions	Comment
	<p>Level 1 – 3m provided, which complies. Level 2 – 3m provide, which complies. Level 3 – 3m provided, which complies.</p> <p>The eastern elevation of the proposed developments provides a blank wall (non-habitable), while the western elevation of the existing development provides habitable rooms. Therefore a separation distance of 9m is required between the two buildings. The separation distances provided are as follows:</p> <p>Ground floor – 13m, which complies. Level 1 – 7.5m, which does not comply. Level 2 – 7.5m, which does not comply. Level 3 – 7.5m, which does not comply.</p> <p>Further discussion on the non-compliances are provided below.</p>
<p>Five to eight storeys (12m to 25m)</p> <ul style="list-style-type: none"> • 19m between habitable rooms/balconies • 18m between habitable and non-habitable rooms • 9m between non-habitable rooms 	<p>These separation distances apply to Level 4 and Level 5.</p> <p>The western elevation of the proposed development provides a blank wall (non-habitable). Therefore, a separation distance of 4.5m (half the required separation of 9m) is required to the side boundary.</p> <p>Level 4 – 7.4m provided, which complies. Level 5 – 7.4m provided, which complies.</p> <p>At levels 4 and 5 between the proposed building and existing building, no separation distance is required as the existing RFB is only four storeys in height.</p>
3A Site analysis	
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	<p>Complies</p> <p>A detailed site analysis plan has been provided.</p>
3B Orientation	
<p>Building types and layouts respond to the streetscape and site while optimising solar access within the development</p> <p>Overshadowing of neighbouring properties is minimised during mid-winter</p>	<p>Complies</p> <p>The proposed RFB has been designed to address both Edgeworth Place and Hoxton Park Road, with primary pedestrian access available via Hoxton Park Road. All ground floor units are provided with private access.</p> <p>The proposal will exceed the maximum building height control by some 3.4m. Careful consideration has been given to the siting of the additional height to ensure that the additional shadow cast will fall onto Hoxton Park Road (south) rather than onto adjoining residential development.</p>
3D Communal and public open space	
<p>Communal open space has a minimum area equal to 25% of the site</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p>	<p>Complies</p> <p>Based on a combined site area of 2,424m², a minimum communal open space area of 606m² is required for the entire development.</p>

Provisions	Comment
<p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</p> <p>Communal open space is designed to maximise safety</p> <p>Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood</p>	<p>The total communal open space area provided over the combined site area is 608m² which equates to 25%.</p> <p>The communal open space consists of the following:</p> <ul style="list-style-type: none"> - Ground floor communal open space of 394m²; - Rooftop communal open space area of 214m². <p>It should be noted that the existing development was approved with minimal communal open space. Therefore, the applicant has opted to provide additional communal open space within the south-eastern corner of this development. This space was originally private open space associated with the ground floor unit. The ground floor unit will still have sufficient private open space.</p> <p>The proposed rooftop communal open space will ensure solar access is achieved.</p> <p>The communal open space on the roof top includes a BBQ and seating areas offering a quality outdoor space for the future occupants which are completed by landscaping works to create a pleasant setting.</p> <p>With respect to the design guidance criteria provided under the ADG, the following comments are made:</p> <ul style="list-style-type: none"> - The proposed areas of communal open space have been designed as three large usable spaces at ground level that easily identifiable within the front, side and rear setbacks. The ground levels of communal open space have also been designed as dual use incorporating drying yards and meeting points for residents. - Direct, equitable access is provided to the communal open space areas from circulation areas, entries and lobbies. Provision will be made for security passes ensuring residents of the established residential flat building have access to the rooftop communal open space of the proposed residential flat building. - The ADG also reinforces that where communal open space cannot be provided at ground level, it should be provided on a podium or roof. As stated, the north-south orientation of the site together with the R4 zoning means overshadowing to the front is somewhat inevitable. Therefore, the provision of communal open space at roof level, provides for a better level of amenity to the occupants in terms of solar access and usability.

Provisions			Comment
3E Deep soil zones			
Deep soil zones are to meet the following minimum requirements:			Complies Based on a combined site area of 2424m ² , a minimum deep soil zone of 169m ² is required for the entire development. The existing and proposed development provides 212m ² of deep soil zones which equates to 8%. Deep soil zones contain a minimum dimension of 6m.
Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)	
Less than 650m ²	-	7%	
650m ² to 1500m ²	3m		
Greater than 1500m ²	6m		
Greater than 1500m ² with significant tree cover	6m		
3F Visual Privacy			
Minimum separation distances from buildings to the side and rear boundaries are as follows:			Complies Up to 12m (this applies to Ground floor, Level 1, Level 2 and Level 3) Western elevation A minimum setback of 3m is required. The development provides a 3m setback to these levels. A 3m setback is provided.
Building Height	Habitable Rooms and Balconies	Non Habitable Rooms	
Up to 12m (4 storeys)	6m	3m	
12m to 25m (5-8 storeys)	9m	4.5m	
Over 25m (9+ storeys)	12m	6m	
			Complies Between 12m to 25m (this applies to Level 4 and Level 5) Western elevation A minimum setback of 4.5m is required. A setback of 7.5m has been provided to these levels.
3G Pedestrian Access and Entries			
Building entries and pedestrian access connects to and addresses the public domain			Complies Primary access to the building will be via Hoxton Park Road, although all ground floor dwellings are provided with private entries from either Hoxton Park Road or Edgeworth Place. The pedestrian and vehicle access points have been clearly separated to minimise conflicts.
Access, entries and pathways are accessible and easy to identify			
Large sites provide pedestrian links for access to streets and connection to destinations			
3H Vehicle Access			
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes			Complies Vehicle access points are located to achieve safety and minimize conflict.
3J Bicycle and Car Parking			
For development in the following locations: <ul style="list-style-type: none">- on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or- on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street			Not Applicable Car parking has been provided in accordance with the requirements of the SEPP (Affordable Rental Housing) 2009.

Provisions	Comment												
Parking and facilities are provided for other modes of transport													
Car park design and access is safe and secure													
Visual and environmental impacts of underground car parking are minimised													
Visual and environmental impacts of on-grade car parking are minimised													
Visual and environmental impacts of above ground enclosed car parking are minimised													
4A Solar and Daylight Access													
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	Complies 75% of all units will receive a minimum of 2 hours of solar access during mid-winter.												
In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter													
A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	Complies 8% of all units will receive no solar access.												
4B Natural Ventilation													
All habitable rooms are naturally ventilated	Complies 63% of all units are naturally cross ventilated.												
The layout and design of single aspect apartments maximises natural ventilation													
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed													
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line													
4C Ceiling Heights													
Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	Complies Floor to ceiling heights of 2.7m are provided.												
<table><tr><td colspan="2">Minimum ceiling height</td></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed use areas</td><td>3.3m from ground and first floor to promote future flexibility of use</td></tr></table>		Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed use areas	3.3m from ground and first floor to promote future flexibility of use
Minimum ceiling height													
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Attic spaces		1.8m at edge of room with a 30 degree minimum ceiling slope											
If located in mixed use areas	3.3m from ground and first floor to promote future flexibility of use												
Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms													
Ceiling heights contribute to the flexibility of building use over the life of the building													
4D Apartment Size and Layout													
Apartments are required to have the following minimum internal areas:	Complies The apartments comply with the minimum size areas.												
<table><tr><td>Apartment Type</td><td>Minimum Internal Area</td></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>		Apartment Type	Minimum Internal Area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²		
Apartment Type		Minimum Internal Area											
Studio		35m ²											
1 bedroom		50m ²											
2 bedroom		70m ²											
3 bedroom	90m ²												

Provisions		Comment															
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each																	
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms		Complies Habitable rooms are provided with windows of sufficient glass areas.															
Habitable room depths are limited to a maximum of 2.5 x the ceiling height		Complies Habitable rooms are generally limited to 2.5m x the ceiling height.															
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window		Complies Kitchens are generally 8m from a window.															
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)		Complies Bedrooms are of sufficient size.															
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)		Complies Bedrooms have a minimum dimension of 3m.															
Living rooms or combined living/dining rooms have a minimum width of: - 3.6m for studio and 1 bedroom apartments - 4m for 2 and 3 bedroom apartments		Complies Sufficient widths are provided to living rooms/dining rooms.															
4E Private Open Space and Balconies																	
All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3 bedroom</td><td>12m²</td><td>2.4</td></tr></table> The minimum balcony depth to be counted as contributing to the balcony area is 1m		Dwelling Type	Minimum Area	Minimum Depth	Studio	4m ²	-	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3 bedroom	12m ²	2.4	Complies The development provides for sufficient balcony size and depths.
Dwelling Type	Minimum Area	Minimum Depth															
Studio	4m ²	-															
1 bedroom	8m ²	2m															
2 bedroom	10m ²	2m															
3 bedroom	12m ²	2.4															
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m		Complies More than 15m ² of private open space is provided to ground floor units.															
4F Common Circulation and Spaces																	
The maximum number of apartments off a circulation core on a single level is eight		Complies The maximum number of units off a circulation core is 7.															
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40		Not applicable															
4G Storage																	
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling Type</th><th>Storage Size Volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3 bedroom</td><td>10m³</td></tr></table> At least 50% of the required storage is to be located within the apartment.		Dwelling Type	Storage Size Volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3 bedroom	10m ³	Complies Sufficient storage space is provided within each unit.					
Dwelling Type	Storage Size Volume																
Studio	4m ³																
1 bedroom	6m ³																
2 bedroom	8m ³																
3 bedroom	10m ³																
4H Acoustic Privacy																	
Noise transfer is minimised through the siting of buildings and building layout		Complies Appropriate noise mitigation measures will be implemented in accordance with the															
Noise impacts are mitigated within apartments through layout and acoustic treatments																	

Provisions	Comment
	recommendations provided within the Acoustic Report.
4K Apartment Mix	
A range of apartment types and sizes is provided to cater for different household types now and into the future	Complies 1 bedroom and 2 bedroom units are provided, which will meet the demand of the housing provider.
The apartment mix is distributed to suitable locations within the building	
4L Ground Floor Apartments	
Street frontage activity is maximised where ground floor apartments are located	Complies The proposal includes landscaping at ground level to provide for visual interest. The proposed fences and pathways clearly delineate areas of public and private open space. Private entries are also proposed to all ground floor units.
Design of ground floor apartments delivers amenity and safety for residents	
4M Facades	
Building facades provide visual interest along the street while respecting the character of the local area	Complies The overall design including building façade has been endorsed by the Design Excellence Panel.
Building functions are expressed by the facade	
4N Roof Design	
Roof treatments are integrated into the building design and positively respond to the street	Complies The development is in accordance with these objectives.
Opportunities to use roof space for residential accommodation and open space are maximised	
Roof design incorporates sustainability features	
4O Landscape Design	
Landscape design is viable and sustainable	Complies The development is in accordance with these objectives.
Landscape design contributes to the streetscape and amenity	
4P Planting on Structures	
Appropriate soil profiles are provided	Complies The development is in accordance with these objectives.
Plant growth is optimised with appropriate selection and maintenance	
Planting on structures contributes to the quality and amenity of communal and public open spaces	
4Q Universal Design	
Universal design features are included in apartment design to promote flexible housing for all community members	Complies The development is in accordance with these objectives.
A variety of apartments with adaptable designs are provided	
Apartment layouts are flexible and accommodate a range of lifestyle needs	
4R Adaptive Reuse	
New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	Not Applicable The DA is for the development of a new building and not the adaptive reuse of an existing building.
Adapted buildings provide residential amenity while not precluding future adaptive reuse	
4S Mixed Use	
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Not Applicable The DA does not proposed a mixed use development.

Provisions	Comment
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	
4T Awnings and Signage	
Awnings are well located and complement and integrate with the building design	Not Applicable
Signage responds to the context and desired streetscape character	
4U Energy Efficiency	
Development incorporates passive environmental design	Complies The development is in accordance with these objectives.
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	
Adequate natural ventilation minimises the need for mechanical ventilation	
4V Water Management and Conservation	
Potable water use is minimised	Complies Potable water use is minimised and water efficient devices will be provided in accordance with the requirements of the BASIX certificate.
Urban stormwater is treated on site before being discharged to receiving waters	Complies This aspect has been reviewed by Council's Land Development Engineers who have raised no issues subject to conditions.
Flood management systems are integrated into site design	Not Applicable
4W Waste Management	
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Complies Waste storage facilities are provided and will be maintained by the caretaker.
Domestic waste is minimized by providing safe and convenient source separation and recycling	
4X Building Maintenance	
Building design detail provides protection from weathering	Complies The development is in accordance with these objectives
Systems and access enable ease of maintenance	
Material selection reduces ongoing maintenance costs	

The above assessment has identified a number of non-compliances, namely:

Building Depth

The ADG recommends maximum apartment depths of 12-18m from glass line to glass line. The proposed development generally provides a building depth of 26m.

Although the buildings exceed the recommended building depths provided by the ADG, the internal layout of the apartments have been designed to ensure that sufficient solar access and natural ventilation is provided. 75% of the apartments will receive a minimum of 2 hours of solar access and 63% of the apartments are cross ventilated. Additionally, no issues were raised by the DEP in relation to the building depths.

Building Separation

The building separation distances of Levels 1, 2 and 3 between the existing RFB and the proposed RFB do not achieve compliance with the requirements of the ADG, which stipulates:

- Up to four storeys:
 - o 12m between habitable rooms/balconies;
 - o 9m between habitable and non-habitable rooms; and
 - o 6m between non-habitable rooms.

The eastern elevation of the proposed development contains a blank wall, while the western elevation of the existing RFB contains windows to habitable rooms. As such, a 9m building separation distance is applicable (i.e. non-habitable to habitable). The application proposes a separation distance of 7.5 metres.

The variation to the building separation guideline is considered to be acceptable as the overall development achieves design excellence. The development also achieves the objectives of the guideline. The objectives include: achieving appropriate building scale that will be in character with the area (once adjoining sites are developed) and provides appropriate mass between buildings; preserves visual and acoustic privacy; provides appropriately sized common open space; and deep soil zones to support stormwater management and tree planting.

(c) State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 provides direction for matters to be considered in the assessment of development adjacent to particular types of infrastructure development.

As the proposed development is for a residential use that is within proximity to a classified road, being Hoxton Park Road, the consent authority must be satisfied that where the development is for the purpose of residential development certain noise criteria is achieved for the development. Specifically Clause 102 of SEPP (Infrastructure) 2007 prescribes:

- (3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*
- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,*
 - (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

The application was accompanied by an Acoustic Report, which concluded that the proposed development is capable of complying with the noise criteria, subject to the implementation of noise mitigation measures such as laminated glazing, acoustic seals around doors and windows.

Conditions will be imposed prescribing compliance with the Acoustic Report and the noise criteria within Clause 102 of the SEPP (Infrastructure) 2007, to ensure that the proposed development incorporates noise attenuation to minimise any adverse impact from road noise. This will ensure that an appropriate level of residential amenity is achieved in accordance with the requirements of the SEPP (Infrastructure) 2007.

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

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

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

The application was accompanied by A Preliminary Contamination Assessment (Report 20849) prepared by Ideal Geotech. The report concluded that the:

The only obvious potential sources of contamination arise from the following:

- 1. Fuel, oil, asbestos sheeting lead based paints and pesticides may have been stored within the garages at some point.*
- 2. The house construction may include asbestos and lead based paints.*

No history of dangerous manufacturing on site utilizing heavy chemicals was documented and no history of heavy chemicals storage was documented.

A search of the NSW EPA Contaminated Land Management record of notices indicates that the site has had no previous contamination reported.

Search of Protection of the Environment Operations Public Register (POEO) revealed no licensed and delicensed premises in the vicinity (200m) of the subject site.

The results of the chemical analyses indicate that the site does not present a risk to human health or the environment in a 'residential with garden/accessible soil' ('A') setting and is considered suitable for the sites proposed development.

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

Clause 7 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	The Preliminary Assessment concluded that the site is suitable for the proposed development.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	The submitted assessment concludes that the site is not contaminated.
(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.	Not applicable.

(e) State Environmental Planning Policy (BASIX) 2004

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

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

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

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

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

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

It is considered that the proposal satisfies the provisions of the GMREP No.2 subject to

appropriate sedimentation and erosion controls during construction. The development will have minimal impact on the Georges River Catchment.

(g) Liverpool Local Environmental Plan 2008

(i) Permissibility

The proposed development is defined as a *residential flat building*. As per the LLEP, 2008, a *residential flat building* is defined as follows:

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

The proposed development satisfies the definition of a *residential flat building*. The subject site is predominately zoned R4 High Density Residential under the LLEP 2008 and a residential flat building is permissible within the zone, subject to Council consent.

(ii) Objectives of the zone

The objectives of the 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 satisfies the above objectives of the R4 zone as follows:

- It will provide for housing needs within a high density residential environment. It is noted that while immediate development within the vicinity of the site consists of low density residential development; the area has been zoned as High Density Residential and it is therefore envisioned that redevelopment of the area will result in the establishment of other residential flat buildings within close vicinity of the subject site.
- It will contain a number of different sized units, thereby providing a variety of housings types within a high density residential environment;
- It will not hinder the opportunity for other land uses that provide facilities or services to meet the day to day needs of residents.
- The site is within close proximity to transport facilities which include the Liverpool Transit Way.
- The proposal will provide high density residential development that will not result in the fragmentation of land that would otherwise hinder the opportunity for other high density residential development within the area.

(iii) Principal Development Standards and Provisions

The application has also been considered against the relevant provisions and principal development standards of the LLEP 2008, which are listed in the table below.

It is noted that Clause 8 of the SEPP (Affordable Rental Housing) 2009 prescribes that *if there is an inconsistency between this Policy and any other environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency*. In this regard, only those provisions of the LLEP 2008 which are not in conflict with the SEPP (Affordable Rental Housing) 2009 have been considered.

Clause	Provision	Comment
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Clause 2.7 Demolition	The demolition of a building or work may be carried out only with development consent	Complies Development consent is sought for the demolition of the existing buildings on the development site.
Clause 4.3 Height of Buildings	Maximum height of 15m	Non compliance The development will result in height of 18.4m
Clause 4.4 Floor Space Ratio	Maximum FSR of 1.0:1	Not Applicable Pursuant to the LLEP 2008, the FSR for the site is 1:1. However, the SEPP (Affordable Rental Housing) 2009 prescribes a maximum FSR of 1.5:1. The development provides an FSR of 1.5:1, which is in accordance with the SEPP (Affordable Rental Housing) 2009.
Clause 4.6 Exceptions to development standards	Provisions relating to exceptions to development standards	A request to vary Clause 4.3 Height of Buildings has been submitted. Further discussion is provided below.
Clause 7.8 Flood Planning	Provisions relating to development on flood prone land.	Complies The aspect has been reviewed by Council's Flooding Section, who have raised no issues, subject to conditions.
Clause 7.14 Minimum Building Street Frontage	Minimum building street frontage of 24m	Complies The site has a frontage of 60m to Edgeworth Place and 73m to Hoxton Park Road.

Variation to Clause 4.3 Height of Buildings

Clause 4.3(2) of the LLEP 2008 identifies a maximum height of 15m for the site.

The development proposes a height of 18.91m which represents a numerical variation of 3.95m or 26%. As demonstrated below, the non-compliant height relates to a portion of level 4 and level 5 of the development.

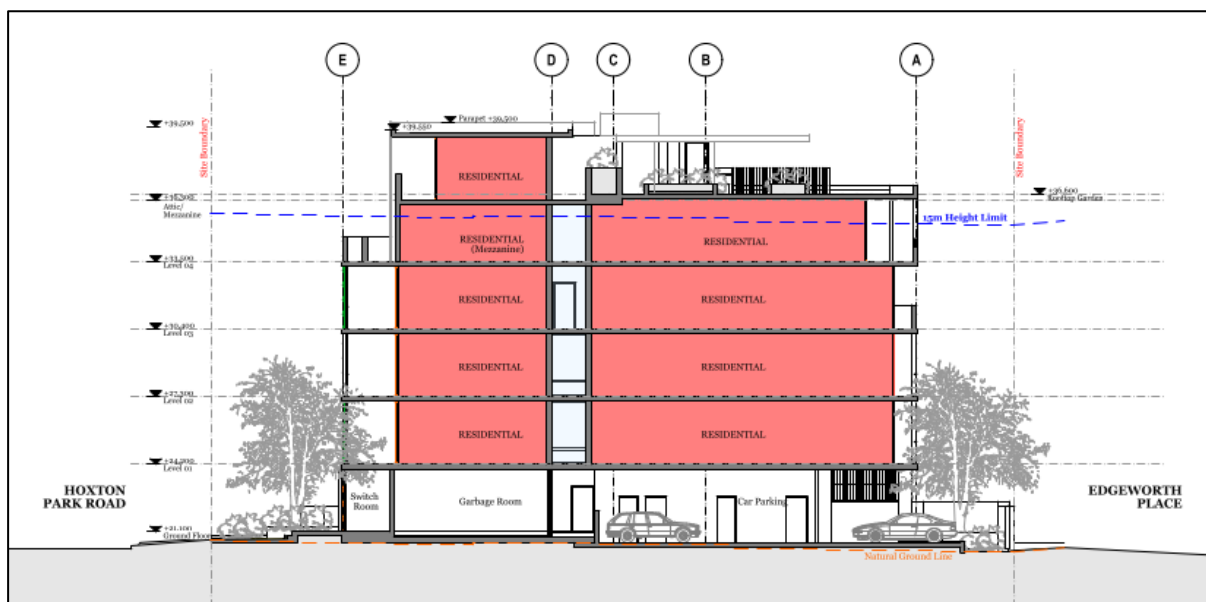


Figure 11 – Extract of the section plan showing the building elements which exceed the height limit (indicated in blue)

The applicant has provided justification for the departure to the development standard in accordance with Clause 4.6 of the LLEP 2008 summarised as follows (a copy of the Clause 4.6 is attached):

The objectives of the standard are achieved notwithstanding non-compliance with the standard:

The objectives supporting the height of buildings control as identified by Clause 4.3 are discussed below. Consistency with the objectives and the absence of any environmental impacts, would demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance. The discussion provided below demonstrates how the proposal is consistent with the objectives of Clause 4.3.

“(1) The objectives of this clause 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 has been designed in accordance with the provisions of SEPP (Affordable Rental Housing) 2009 and is therefore entitled to a maximum floor space ratio of 1.5:1.

As stated earlier, the subject site will be developed in conjunction with Nos. 249 – 251 Hoxton Park Road, given a common ownership over both sites by social provider, St George Community Housing. The consolidated site, being Nos. 9 – 11 Edgeworth Place and 249 – 251 Hoxton Park Road, provide for a total site area of 2,424.2m².

The proposal provides for a total gross floor area of 3,649m² comprising of 1,291m² attributable to the existing residential flat building at Nos. 249 – 251 Hoxton Park Road and proposed 2,358m² over Nos. 9 – 11 Edgeworth Place. The resultant FSR is compliant at 1.5:1. Therefore, notwithstanding the additional height being sought, the proposal will continue to comply with the FSR control.

The bulk of the proposed variation occurs at proposed Level 05 which is limited to the southern portion of the building. The additional bulk has been strategically located to the southern side of the building to minimise its effect to the adjoining properties. As demonstrated in the below diagrams, the shadows cast by the development do not significantly alter from a compliant scheme with the majority of the additional shadow cast over Hoxton Park Road itself rather than to neighbouring properties.

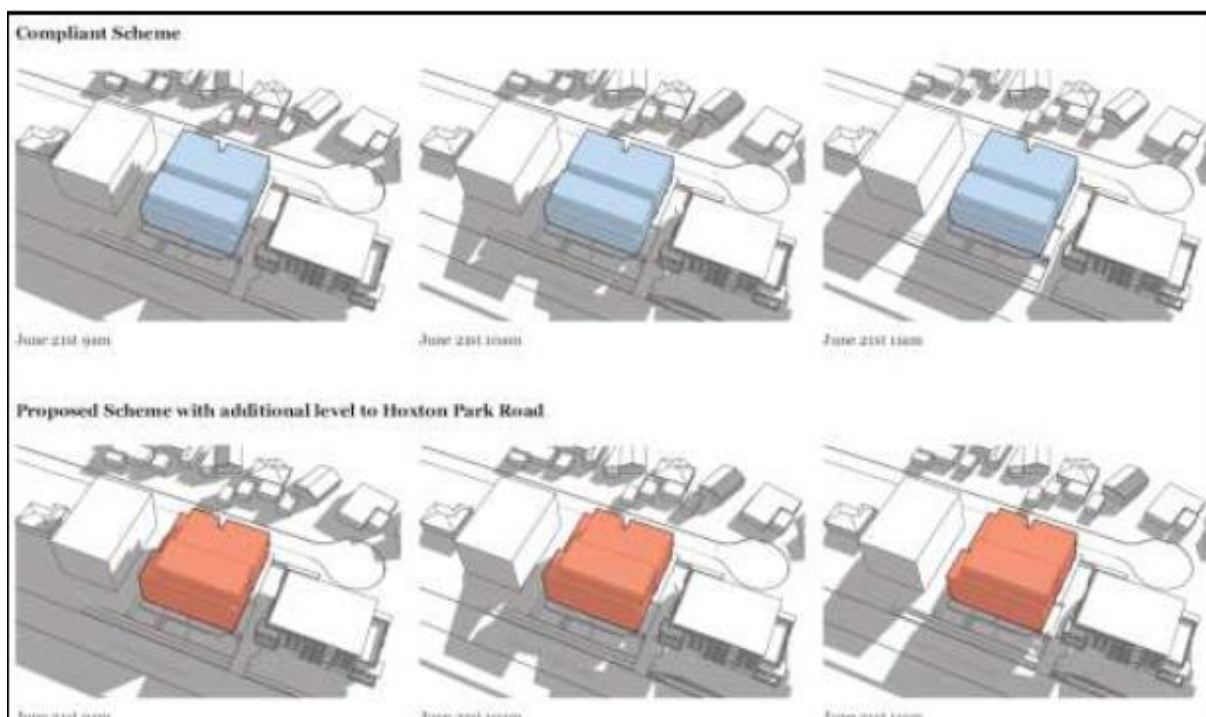


Figure 12 – Extract of the shadow diagrams

The proposed mezzanine has also been designed with a reduced floor to ceiling height (approximately 2.6m) compared to the remaining levels to reduce the overall building height without compromising the internal amenity of the unit to the future occupants.

The proposed development is considered modern in its design with a strong four storey presentation to both street frontages. The upper levels of the building have been designed to be recessive with increased setbacks and contrasting metal clad walls in a darker finish.

The proposed building has also been specifically designed to address both street frontages so as to maximise solar access/natural light and cross ventilation into the units. In addition, the proposed development has been well articulated to both street frontages and proposes varying setbacks to both side boundaries to ensure that the actual and perceived bulk of the building is minimised not only from the street but also as viewed from the adjoining properties.

It should also be noted that the subject site has been identified as flood prone land, and accordingly it would not be feasible to reduce the proposed levels of the building.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standards. As demonstrated, the objectives of these standards have been achieved.

Are there sufficient Environmental Planning Grounds?

The assessment above demonstrates that the resultant environmental impacts of the proposal will be satisfactory.

The proposal addresses the site constraints, streetscape and relevant objectives of both the standards and the zone. The proposal will not result in any unreasonable amenity or environmental impacts.

The proposal will result in a better planning outcome as unlike SEPP (Affordable Rental Housing) 2009, which requires that up to 50% of the dwellings be offered as affordable housing for a period of 10 years, all of the proposed 31 units will be nominated as affordable housing to be managed by, St George Community Housing for a period of at least 20 years.

The proposal therefore provides a social benefit to the community providing for new, affordable accommodation in an area well serviced by public transport services and local infrastructure.

Regular bus services are available along Hoxton Park Road to the rear of the site and along nearby Cartwright Avenue. The site is also located in close proximity to the retail/commercial premises sited along Hoxton Park Road with Westfield Liverpool located to the north east of the site.

The proposal also seeks to integrate Nos. 9 – 11 Edgeworth Place with Nos. 249 – 251 Hoxton Park Road. As discussed during our meeting with the Design Excellence Panel, it is sought to introduce an integrated landscaping solution between the properties including a communal rooftop terrace to be accessed by residents of both properties. As part of this strategy, communal facilities including two BBQ areas (required for 4 Star Green Rating), will also be provided on site.

The development is also notably compliant with the maximum 1.5:1 FSR prescribed by SEPP (Affordable Rental Housing) 2009.

In this case, strict compliance with the development standard for height of buildings development standard of the LLEP 2008 is unnecessary and unreasonable.

Is the Variation in the Public Interest?

Clause 4.6 states that the development consent must not be granted for development that contravenes a development standard unless 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 to be carried out.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard under Part 4.

The development as proposed will be in the public interest as it is consistent with the objectives of Clause 4.3.

The proposed development is in our submission consistent with the desired character of the area and that the proposed development when assessed against the ADG is also compliant in terms of ventilation, amenity and the like.

Furthermore, it is important to also consider the objectives of the R4 High Density Residential zone in relation to the development, which are as follows:

Zone R4 High Density Residential

Objectives of zone

- 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. In response to the above the following is provided:*

The proposal will provide for 31 new residential units which is reflective of the high density zone. It is acknowledged that there is a demand for more affordable housing within the Liverpool local government area and our client is endeavouring to respond to this need by offering 100% of the dwellings as affordable housing for a period of at least 20 years, which exceeds the minimum 10 year requirement under the SEPP (Affordable Rental Housing) 2009.

Under the requirements of the SEPP, only 50% of the units are required to be nominated as affordable housing and for a period of 10 years. Additionally, SGCH is a not for profit organisation who are genuinely seeking to address a rising demand for quality affordable housing in the area.

The development provides for a mix of units, in terms of size, layout, orientation and number of bedrooms. The proposed development is consistent with other high density residential development in the LGA.

There are no other land uses proposed.

Regular bus services are available from Hoxton Park Road and nearby Cartwright Avenue. As stated above, retail/commercial facilities are also located within proximity of the site along Hoxton Park Road with Westfield Liverpool also located to the north-east.

The proposal seeks to consolidate the subject site with the neighbouring property at No. 249 – 251 Hoxton Park Road. The adjoining western property is capable of amalgamating with its neighbouring western property, ensuring no property is left isolated.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standards, noting the development will be in the public interest.

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. Accordingly, the departure from the allowable building height is not considered to be unreasonable and unnecessary.

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

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

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

The application has been assessed against the controls of the LDCP 2008, particularly Part 1 *General Controls for all Development*, and Part 3.7 *Residential Flat Buildings in the R4 Zone*.

The table below provides an assessment of the proposal against the relevant controls of the LDCP 2008.

LDCP 2008 Part 1: General Controls for All Development

Development Control	Provision	Comment
Section 2. Tree Preservation	Controls relating to the preservation of trees	Complies The site does not contain any significant vegetation.
Section 3. Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	Complies The landscape plan has been reviewed by Council's Landscape Officer, who has raised no issues with the design.
Section 4. Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	Not Applicable The development site is not identified as containing any native flora and fauna.

Development Control	Provision	Comment
Section 5. Bush Fire Risk	Controls relating to development on bushfire prone land	Not Applicable The site is not identified as bushfire prone land.
Section 6. Water Cycle Management	Stormwater runoff shall be connected to Council's drainage system by gravity means. A stormwater drainage concept plan is to be submitted.	Complies This aspect has been reviewed by Council's Land Development Engineers, who have raised no issues subject to conditions.
Section 7. Development Near a Watercourse	If any works are proposed near a water course, the Water Management Act 2000 may apply, and you may be required to seek controlled activity approval from the NSW Office of Water.	Not Applicable The development site is not within close proximity to a water course.
Section 8. Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	Complies Conditions of consent will be imposed to ensure that erosion and sediment controls measures are implemented during the construction of the development.
Section 9. Flooding Risk	Provisions relating to development on flood prone land.	Complies The development site is affected by flooding. This aspect has been reviewed by Council's Floodplain Engineers, who have raised no issues subject to conditions.
Section 10. Contaminated Land Risk	Provisions relating to development on contaminated land.	Complies As discussed within this report, the site is suitable for development.
Section 11. Salinity Risk	Provisions relating to development on saline land.	Complies Conditions relating to erosion and sediment control measures will be implanted to prevent further spread of potentially saline soils.
Section 12. Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	Not Applicable The development site is not identified as containing the potential for acid sulphate soils to occur.
Section 13. Weeds	Provisions relating to sites containing noxious weeds.	Not Applicable The site is not identified as containing noxious weeds.
Section 14. Demolition of Existing Development	Provisions relating to demolition works	Complies Conditions of consent will be imposed to ensure demolition works are carried out in accordance with relevant Australian Standards.
Section 15. On Site Sewage Disposal	Provisions relating to OSMS.	Not Applicable OSMS is not proposed.
Section 16. Aboriginal Archaeology	An initial investigation must be carried out to determine if the proposed development or activity occurs on land potentially containing an item of aboriginal archaeology.	Not Applicable The site has been developed. As such, it is unlikely that it would contain Aboriginal Archaeology.
Section 17. Heritage and Archaeological Sites	Provisions relating to heritage sites.	Not Applicable The site is not identified as a heritage item or within the immediate vicinity of a heritage item.
Section 18. Notification of Applications	Provisions relating to the notification of applications.	Complies The application was notified in accordance with the LDCP 2008.

Development Control	Provision	Comment
Section 19. Used Clothing Bins	Provisions relating to used clothing bins.	Not Applicable The DA does not propose used clothing bins.
Section 20. Car Parking and Access	Residential Development Car Parking Requirements: <ul style="list-style-type: none"> - 1 space per one bedroom; - 1.5 spaces per two bedroom units; - 2 spaces per three or more bedroom dwelling; - 1 space per 4 units or part thereof, for visitors - One service bay 	Not Applicable Car parking has been provided in accordance with the SEPP (Affordable Rental Housing) 2009.
Section 21. Subdivision of Land and Buildings	Provisions relating to the subdivision of land.	Complies The lots will be amalgamated.
Section 22. and Section 23 Water Conservation and Energy Conservation	New dwellings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	Complies Conditions of consent will be imposed to ensure compliance with the BASIX commitments.
Section 25. Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Complies During Construction: A waste management plan has been submitted. Conditions of consent will be imposed to ensure that compliance with the WMP is achieved during construction. On-going Waste Management: The existing bin holding area will be removed and a new bin room provided as part of the RFB. Residents of both RFBs will dispose of their rubbish within the bin room, which is capable of holding: <ul style="list-style-type: none"> - 24 x 240L waste bins; - 24 x 240L recycling bins and - 4 x 240L green bins. Sufficient bins have been provided in accordance with Council's waste management plan. Bins will be wheeled to the front for collection. It is recommended that larger bins (i.e. 660L bins) are utilised in order to reduce the number of bins presented to the street kerb for collection. This will be enforced through a condition of consent.
Section 26 Outdoor Advertising and Signage	Provisions relating to signage.	Not Applicable The DA does not propose any signage.
Section 27. Social Impact Assessment	A social impact comment shall be submitted for residential flat buildings greater than 20 units or affordable rental housing.	Complies The application was accompanied by a SIC, which has been reviewed by Council's Community Planning Section, who have raised no issues subject to recommendations.

Development Control	Provision	Comment
		The development will result in a positive social impact, as it will be providing 100% affordable housing.

Part 3.7 – Residential Flat Buildings in the R4 Zone

Development Control	Provision	Comment
Frontage and Site Area		
	Minimum frontage of 24m	Complies A frontage of 60m is provided to Edgeworth Place and 73m to Hoxton Park Road.
Site Planning		
	The building should relate to the site's topography with minimal earthworks, except for basement car parking.	Complies Minimal earthworks are proposed.
	Siting of buildings should provide usable and efficient spaces, with consideration given to energy efficiency in the building design	Complies Where possible ground level private open space, balconies and windows have been orientated to the north to maximise solar access and improve energy efficiency of the building.
	Site layout should provide safe pedestrian, cycle and vehicle access to and from the street.	Complies The units have been orientated to address both street frontages providing opportunities for casual surveillance of pedestrian paths and the driveway.
	Siting of buildings should be sympathetic to surrounding development, taking specific account of the streetscape in terms of scale, bulk, setbacks, materials and visual amenity.	Complies The development is in accordance with the objectives of the zone.
	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 technical 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 demonstrates compliance with SEPP 65.
Setbacks		
Front Setback	Front building setback of 7m is required to Hoxton Park Road.	Non Compliance The proposal has been designed to address Hoxton Park Road which is a classified road. Accordingly, a setback of 7m is required. The proposal generally provides for a setback of between 7m to 8.4m at the ground floor, with the exception of the blade walls, bin storage room and switch room which are setback 6m from the boundary.

Development Control	Provision	Comment
		<p>Although non-compliant in part, the extent of the variation is limited to just a 5m portion of the façade and occurs at ground level. This wall has been articulated by a feature brick and metal screen wall which extends in front of the carpark to aid in integrating the service rooms into the development.</p> <p>To Levels 1, 2 and 3, the proposed balconies will encroach into the front setback by 1m. Although numerically non-compliant, the design of the balconies in this manner will positively contribute towards the articulation of this façade and given its outlook to Hoxton Park Road, will not result in any amenity concerns. The balconies have been designed with glass balustrades and as such will not contribute towards the bulk of the building as read from the street.</p> <p>Given the above, the minor non-compliance to the front setback is considered to be acceptable.</p>
	Front building setback of 5.5m is required to Edgeworth Place	<p>Non Compliance</p> <p>The development provides a front setback of 5.5m to the building, with the balconies encroaching into the front setback by 1m.</p> <p>However, as discussed above, although numerically non-compliant, the design of the balconies in this manner will positively contribute towards the articulation of this façade</p> <p>As such, the variation is considered to be acceptable.</p>
	Verandahs, eaves and other sun control devices may encroach on the front and secondary setback by up to 1m.	Not Applicable.
Side Setback	Boundary to land in R4 zone: 3m building setback required for a building height up to 10m (i.e. ground floor, Level 1, Level 2 and Level 3)	<p>Complies</p> <p>A 3m side setback has been provided to these levels.</p>
	Boundary to land in R4 zone: 8m building setback required for a building height greater than 10m (i.e. Level 4 and Level 5)	<p>Non Compliance</p> <p>A side setback of 7.4m is provided, representing a non-compliance of 600mm.</p> <p>The variation is considered to be acceptable as discussed below.</p>
Rear Setback	Boundary to land in R4 zone: 8m building setback required for all building heights	<p>Not Applicable</p> <p>The site has two frontages and no rear boundary.</p>
Landscaped Area and Private Open Space		
Landscaped Area	A minimum of 25% of the site area shall be landscaped area.	<p>Complies</p> <p>Based on a combined site area of 2424m², a minimum landscaped area of 606m² is required.</p> <p>The proposed development provides 250m² of landscaping areas which equates to 21% of the site area of 9-11 Edgeworth Place.</p> <p>There is no change to the landscaping areas of the existing development, which currently provides</p>

Development Control	Provision	Comment
		381m ² , which equates to 30% of the site area of 249-251 Hoxton park Road. Therefore, the total landscaping area equates to 631m ² , which equates to 26% of the combined site area.
	A minimum of 50% of the front setback area shall be landscaped area	Complies Majority of the front setback area to Hoxton Park Road 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. - Optimise the extent of landscaped area beyond the site boundaries by locating them contiguous with the landscaped area of adjacent properties.	Complies Landscaped areas are generally consolidated within the front and side setbacks.
	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 An area of communal open space is proposed on the roof top of the proposed building, which is in accordance with the recommendation provided by the DEP. This rooftop communal open space will also be accessible by the occupants of the existing RFB. Additional communal open space is also provided at ground level adjacent to the western side boundary.
	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 roof top communal open space will receive sufficient solar access and will allow for a range of activities.
	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	Complies Private open space requirements are provided in accordance with the requirements of the ADG.

Development Control	Provision	Comment
	- 12m ² for a dwelling size over 65m ²	
	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 and balconies are provided for units above 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 define and enhance the public domain and desired street character. d) To ensure that building elements are integrated into the overall building form and facade design.	Complies The composition of building elements, materials, textures and colours is likely to complement the 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.
Roof Design	Objectives of the controls are: a) To provide quality roof designs, which contribute to the overall design and performance of residential flat buildings; b) To integrate the design of the roof into the overall facade, building composition and desired contextual response; c) To increase the longevity of the building through weather protection.	Complies The proposed roof design contributes positively to the design of the building.
Building Entry	Objectives of the controls are: a) To create entrances which provide a desirable residential identity for the development. b) To orient the visitor. c) To contribute positively to the streetscape and building facade design.	Complies Entries are located to relate to the streetscape and provide an attractive and safe appearance to residents and visitors.
Balconies	Objectives of the controls are: a) To ensure that balconies contribute positively to the façade of a building. b) To ensure balconies are functional and responsive to the environment thereby promoting the enjoyment of outdoor living for dwelling residents.	Complies Proposed balconies are integrated into the architectural form of the development and will complement the façade and also provide for casual surveillance.

Development Control	Provision	Comment
	<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>	
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	<p>Objectives of the controls are:</p> <p>a) To contribute to the desired streetscape of an area and to create active safe streets.</p> <p>b) To increase the housing and lifestyle choices available in dwelling buildings.</p>	<p>Complies</p> <p>The ground floor units will complement the streetscape and provide safe access.</p>
Security	<p>Objectives of the controls are:</p> <p>a) To ensure that buildings are orientated to allow surveillance from the street and adjoining buildings.</p> <p>b) To ensure that entrances to buildings are clearly visible and easy to locate in order to minimise the opportunities for intruders.</p> <p>c) To ensure buildings are safe and secure for residents and visitors.</p> <p>d) To contribute to the safety of the public domain.</p>	<p>Complies</p> <p>The entrance to the building is clearly defined, causal surveillance opportunities exist, and the development provides a safe and secure building for future occupants and visitors.</p>
Natural Ventilation	<p>Objectives of the controls are:</p> <p>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.</p> <p>b) To provide natural ventilation in non-habitable rooms, where possible.</p> <p>c) To reduce energy consumption by minimising the use of mechanical ventilation, particularly air conditioning.</p>	<p>Complies</p> <p>All units have direct access to natural ventilation.</p>

Development Control	Provision	Comment
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.
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 units.
	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 apartment are 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 landscape design is appropriate to the desired proportions and character of the streetscape. c) To ensure that the use of planting and landscape elements are appropriate to the scale of the development. a) To retain existing mature trees within the site in a way which ensures their ongoing health and vitality. b) To provide privacy, summer shade and allow winter sun. c) To encourage landscaping that is appropriate to the natural, cultural and heritage characteristics of its locality. d) To add value to residents' quality of life within the development in the forms of privacy, outlook and views.	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.
Planting on Structures	a) To contribute to the quality and amenity of communal open space on podiums and internal courtyards. b) To encourage the establishment and healthy growth of trees in urban areas.	Complies Landscaping on the rooftop communal open space is provided and detailed within the landscape plan.
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	Non compliance A 1.8m high palisade fence with masonry piers is proposed to the frontage of Edgeworth Place.

Development Control	Provision	Comment
	boundary with suitable landscaping in front of the proposed fence.	Although, the fence is above the maximum requirement, it is consistent in height with the existing fence.
	Fences should not prevent surveillance by the dwelling's occupants of the street or communal areas.	Complies The style of the fence is open and will not prevent surveillance of the street.
	The front fence must be 30% transparent.	Complies The fence is transparent and open in style.
	Front fences shall be constructed in masonry, timber, metal pickets and/or vegetation and must be compatible with the proposed design of the dwelling.	Complies The front fence consists of masonry and metal.
	The maximum height of side boundary fencing within the setback to the street is 1.2m.	Complies Side boundary fencing is 1.2m in height.
	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.	Not Applicable Parking spaces have been provided in accordance with the SEPP (Affordable Rental Housing) 2009. As such, visitor spaces are not required.
	Visitor car parking shall be located between any roller shutter door and the front boundary.	
	Pedestrian and driveways shall be separated.	Complies Pedestrian and driveways are separated.
	Driveways shall be designed to accommodate removalist vehicles.	Not Applicable On-street parking is available for 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.	Not Applicable Side vehicular entrance is not appropriate in this instance.
	Give preference to underground parking	Complies Underground parking has not been 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		

Development Control	Provision	Comment
Over-shadowing	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: - adjoining property to the west at 9am; and - existing RFB to the east at 3pm. Sufficient solar access is provided as all adjoining properties will receive solar access for 3 hours or more.
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 minor variations are proposed to the building setbacks, however these variations are considered acceptable.
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 As discussed previously within this report, the development is able to achieve a high level of amenity, subject to the implementation of noise attenuation measures.
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.

The above assessment has found that the development is generally compliant with the LDCP 2008 and satisfactory. However, it is noted that there are some variations sought to the controls. These include:

Variation to the Side Setback

Part 3.7 of the LDCP 2008, stipulates the following setback requirements:

- Side setback of 8m is required to the portion of the building greater than 10m in height (i.e. this would apply to Level 4 and Level 5 of the proposed development to the western side boundary).

The proposed development provides a side setback of 7.4m between the western side boundary and Levels 4 and 5.

Although the proposed development does not strictly comply with the setback control, the objectives are still met. The objectives are:

- a) To set buildings back from the street and adjacent properties to provide reasonable space for landscaping, open space and solar access.*
- b) To set buildings back from each other to provide visual and acoustic privacy.*
- c) To establish a streetscape of a scale and sense of enclosure appropriate to the locality.*
- d) To provide convenient and unobtrusive vehicle access and car parking without the use of long driveways.*

The variation is considered to be acceptable, given that there would be minimum impact in terms of privacy on future adjoining development as the western elevation does not contain any window openings. Additionally, given the orientation of the site, a reduced setback will not cause any significant overshadowing impacts on the adjoining property.

Given the above, it is considered that the encroachments into the setbacks as proposed is reasonable and appropriate in the circumstances.

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

No planning agreement relates to the site or proposed development.

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

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

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

There are no Coastal Zones applicable to the subject site.

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

(a) Natural and Built Environment

Built Environment

This section of Cartwright is zoned R4 - high density residential and the proposal is therefore considered consistent with the long term future character of the locality.

Natural Environment

The proposed development does not require the removal of any significant vegetation and is unlikely to cause detrimental impact to any endangered and non-endangered species of flora and fauna. The proposed landscape plan shows appropriate planting and establishment of vegetation within the setbacks such that the development is unlikely to result in any detrimental impact upon the natural environment.

(b) Social Impacts and Economic Impacts

The development is likely to result in a positive social impact within the locality as it will be providing 100% of the dwellings within the development as affordable housing. Additionally, SGCH is a committed not-for-profit social housing provider and have recently been announced as participants of the NSW Government's Social and Affordable Housing Fund (SAHF) which aims to deliver 2200 new social and affordable housing dwellings. As part of this program SGCH will create 300 new homes, with the proposed development being the first of these dwellings. The initiative by the NSW Government extends beyond the provision of homes but seeks to provide support to the future occupants, aiding them in finding their independence.

A letter from the applicant is attached which details their involvement in the SAHF Scheme.

The development will also result in a positive economic impact through the employment opportunities generated during the construction phase and on-going maintenance of the development.

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

The site is considered to be suitable for the proposed development. Site constraints such as flooding will be managed through appropriate conditions of consent.

The proposal is generally compliant with the provisions of SEPP (Affordable Rental Housing) 2009, LLEP 2008 and LDCP 2008 as outlined in the report. The identified variations have been considered and are supported as they do not result in any long term adverse impacts. Overall the development is considered to satisfy the relevant controls for site selection.

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

(a) Internal Referrals

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

Department	Comments
Engineering	Engineering have reviewed the concept stormwater drainage plan, and have given their support to the application subject to conditions.
Environmental Health	<p>Environmental Health have reviewed the following aspects of the development and have given their support of the application subject to conditions:</p> <p>SEPP 55 Contamination: The purpose of the contamination assessment was to ascertain whether the site presents a risk to human health and/or the environment arising from any past/present activities at the site or neighbouring properties.</p> <p>The scope of works undertaken include but is not limited to:</p> <ul style="list-style-type: none"> - Desktop Study of the following: <ul style="list-style-type: none"> o Data from NSW EPA; o Data from NSW POEO Register; o Council records and applications; - Review of soils and geological maps; - Site walkover; - Chemical analysis of soil samples by a NATA accredited laboratory; - Preparation of Stage 1 Preliminary Contamination Assessment. <p>Aerial photographs from 1942 till 2015 were obtained which revealed that the site was situated within a farming paddock. Residential dwellings had been erected and remains unchanged since 1951.</p> <p>Perusal of NSW EPA Contaminated Land Register and POEO Public register reveal no notices/orders within the vicinity of the subject premises.</p> <p>The potential for the site to be contaminated from on-site sources and off site sources was considered by Ideal Geotech. Based on the findings of our site inspection and site history review the following actual or potential contamination sources were identified.</p> <ul style="list-style-type: none"> - Fuel, oil, asbestos sheeting, lead based paints and pesticides may have been stored within the garages at some point. - The house construction may include asbestos and lead based paints. <p>No history of dangerous manufacturing utilizing heavy chemicals was documented. No history of heavy chemicals storage was documented.</p>

	<p>Properties bordering the site are residential and not considered to have posed a risk for potential contamination to the site.</p> <p>Samples were taken and results of the chemical analysis indicate that the site does not present a risk to human health or the environment in a 'residential with garden/accessible soil' ('A') setting and is considered suitable for the sites proposed development.'</p> <p>Acoustic Impact: The acoustic assessment have been prepared to assess the potential for noise impact associated with the residential development including construction of carpark and residential units. In addition, to demonstrate compliance with SEPP (Infrastructure) 2007.</p> <p>The assessment have been undertaken in accordance with NSW Department of Planning "Development near rail corridors and busy roads." And Australian Standards.</p> <p>Unattended noise monitoring was undertaken between Tuesday 5th and Monday 11th April 2016.</p> <p>Acouras Consultancy have recommended acoustic treatment to the buildings to achieve internal noise criteria. Acouras concludes that providing the recommendations in this report are implemented, the noise from the proposed development is predicted to comply with acoustic requirements of the LDGP 2008, EPA noise limits, Department of Planning, BCA Part F5 and relevant Australian standards.</p>
Landscaping	Council's Landscape Officer has reviewed the proposed landscaping plan, with no issues raised.
Traffic	Traffic and Transport support the application, subject to conditions. The traffic generation impact from the development will not exceed the capacity of the surrounding road network. Additionally, car parking, access and design comply with the relevant requirements.
Community Planning	<p>Community Planning have commended the applicant for providing 100% of the development to the provision of affordable rental housing for a minimum of 20 years. The addition of 31 new affordable housing dwellings meets an identified community need and is consistent with strategy 2D under Council's Community Strategic Plan which aims at facilitating diverse and more affordable housing options.</p> <p>The development is designed for residents on very low to medium incomes. As such, it is anticipated that some people residing in this development will be experiencing disadvantage to an extent, which requires support from appropriate service providers.</p> <p>The development will be managed by SGCH, a reputable and reliable organisation with many years of experience, who should be able to provide support to those tenants who require assistance. SGCH also manage the adjoining development. This has the advantage of being able to integrate new residents into the neighbourhood and promote socialisation and a safe environment.</p> <p>The application is therefore supported, subject to conditions.</p>
Flooding	The site is located within Cabramatta Creek catchment. The site is not affected by flooding under 1% Annual Exceedance AEP event. However, it is affected by the PMF event. A flood impact assessment was done by FloodMit Pty Ltd for the proposed development (Ref: J1603_R3, dated: August 2016). The flood impact assessment report is satisfactory. However, the proposed development will require provision of water quality treatment facilities. The water quality treatment facilities shall be designed using MUSIC modelling to ensure that stormwater runoffs leaving the site comply with Council's water quality standards. Detailed design and drawings of water quality treatment facilities including water quality report and an electronic copy of the MUSIC model shall be submitted to Council prior to issue of the construction certificate.

	The application is therefore supported, subject to conditions.
Building	The application is capable of complying with the requirements of the BCA without alterations that would necessitate an amendment to the development consent. As such, the application is supported, subject to conditions.

(b) External Referrals

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

Authority	Comments
RMS	Supported, subject to conditions.

(c) Community Consultation

The DA was notified in accordance with the LDCP 2008 from 15 September 2016 to 30 September 2016. No submissions were received.

6.8 Section 79C(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 79C 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 benefit for the community, given the provision of affordable rental housing, which will be managed by a not-for-profit social housing provider.
- The proposed development will have positive impacts on the surrounding area, which are largely anticipated by the zoning of the site.

8 ATTACHMENTS

1. Architectural plans
2. Landscape plans
3. Stormwater drainage plans
4. Survey plan
5. Recommended conditions of consent
6. Clause 4.6 Variation Written Justification to Height

7. Statement of Environmental Effects
8. SEPP 65 Verification Statement, Design Principles and Compliance Table
9. Acoustic Report
10. Waste Management Plan
11. Flood Assessment Report
12. Preliminary Contamination Assessment
13. BASIX Certificate
14. Design Excellence Panel Comments
15. Letter from SGCH